

**1. Scope**

The following General Terms and Conditions of Business (hereinafter "GTCB") of Boegli-Gravures SA (hereinafter "BG") are applicable to all contracts concluded between BG and its customers, save where and insofar otherwise stipulated by written agreement. By concluding any contract with BG, the customer acknowledges these GTCB and specifically waives the right to enforce any General Terms and Conditions of Business of his own. The latter are valid only to the extent that they have been specifically accepted in writing by BG.

**2. Offers**

Offers of BG are made in principle without obligation. Where offers are specifically designated in writing as binding by BG, BG is bound by them for a maximum of three months.

**3. Orders / Conclusion of the contract / Scope of performance**

A contract between BG and the Customer is concluded when the contract document has been signed by both parties or in the absence of such a document by the issue of the written order confirmation by BG and, if there is likewise no such confirmation, by the delivery. The content of the contract is definitively defined by the contract document signed by both parties, in the absence of such signed contract document by the order confirmation by BG and, if there is likewise no such order confirmation, by the delivery note. Information given in brochures, catalogues and technical documents is not binding unless agreed to the contrary in writing. Variations from the order are deemed to be compliant with the contract insofar as they do not seriously impair essential characteristics of the deliveries and services.

**4. Secrecy and prohibition of the use of confidential information**

The Customer acknowledges the fact that all confidential information about BG which comes to his attention in the course of the business relationship with BG is to be treated in absolute confidence while the accompanying rights owned by BG remain entirely vested in BG and the Customer acquires no rights whatsoever therein in the absence of a written agreement to the contrary. The term "Confidential Information" means, irrespective of the manner of its disclosure and regardless of whether or not it was marked as confidential, all information disclosed by or about BG, in particular all technical, scientific and commercial information concerning the products, processes and procedures developed or delivered by BG, together with the accompanying offers, plans, drawings, calculations, data sets, training documents and technical specifications etc. The Customer will treat the confidential information in strict confidence, refrain from distributing it internally without good reason, making it available to third parties and using it without the prior written authorisation of BG, either for his own purposes or for third parties beyond the scope of the purpose for which BG made it available to the Customer, in particular not for the copying, modification or own development or further development of the material offered or delivered either by the Customer or by third parties. The above obligation of secrecy does not apply to information which demonstrably (i) at the time of disclosure to the Customer was already in the public domain or fell into the public domain thereafter without any breach of this obligation, or (ii) was already known to the Customer before disclosure by BG, or (iii) was lawfully notified to the Customer by third parties who lawfully came into the possession of such information, or (iv) was developed by the Customer without making use of the confidential information made available to him by BG.

**5. Entitlement to pre-existing intellectual property rights and development outcomes**

Regardless of their eligibility for protection Intellectual property rights of BG which already existed before the entry into force of the contract between BG and the Customer belong exclusively to BG, as do the intellectual property rights created by BG during the performance of the contractual activity and, in the absence of a mutual written agreement to the contrary, the Customer acquires no rights whatsoever therein. In the case of development contracts, BG has sole title to the development outcome and the Customer only acquires rights in the development outcome only to the extent that this is specifically agreed in writing. In case of acquisition of products of BG, which make use of intellectual property rights of BG, the Customer simply acquires a non-exclusive licence to use such intellectual property rights limited to use of the products acquired from BG. The Customer respects all the intellectual property rights of BG and shall desist from any form of action, contrary to the protection or existence of the intellectual property rights or of applications for intellectual property rights made by BG. The Customer shall procure products developed by BG exclusively from BG and shall neither manufacture them himself nor procure them from third parties without the consent of BG.

**6. Performance dates**

Compliance with performance dates imposed upon BG presupposes compliance by the Customer with his contractual obligations. They shall be extended by an appropriate amount,

- if BG does not receive information needed by it to perform the contract in a timely manner or if the Customer subsequently amends such information;
- if obstacles are encountered which BG cannot avert, even by applying the necessary diligence, regardless of whether they occur at BG, at the Customer or at a third party. Such obstacles include in particular substantial disruptions of business, accidents, labour conflicts, late or defective delivery of the necessary raw materials, semi-manufactured and manufactured goods, rejection of important workpieces, official actions or omissions, natural occurrences and other cases of force majeure;
- if the Customer or third parties are behind in the performance of work to be done by them or late in the performance of their contractual obligations, in particular if the Customer fails to comply with the payment terms.

In the event of failure by BG to respect the performance dates imposed upon it, after setting a reasonable period of grace (14 days for stock and standard goods, 30 days for other goods and services) without action being taken, the Customer is entitled solely to withdraw from the contract. All further claims of the Customer on grounds of failure to meet the performance dates, in particular the enforcement of claims for compensation, are specifically declined.

**7. Withdrawal from works contracts or orders**

If the Customer has ordered works he may, as long as the works have not been completed and even if BG has not exceeded any performance dates, withdraw from the contract at any time while compensating BG in full (Art. 377 Swiss Code of Obligations, SCO). The compensation is equivalent to the full remuneration to which BG would have been entitled upon performance of the agreed works, less such expenditure which BG has been able to save because of the withdrawal of the Customer. BG may at its own discretion provide evidence of the amount specifically payable or instead require a flat-rate payment of the following component of the agreed full remuneration: (i) 50%, if BG has not yet ordered any material and has not yet begun to perform the works, (ii) 75%, if BG has already ordered materials and/or already begun to perform the works (iii) 100%, if the works have been largely completed.

If a mandate (Art. 394ff SCO) has been placed, this shall be deemed to have been prematurely terminated if notice of termination is given less than one month before the planned start. In that case, the Customer shall be liable for a contractual penalty. This amounts to: (i) 50% of the mandate value if the notice takes effect less than one month before the planned start; (ii) 75% of the mandate value if the notice takes effect after performance of the order has begun. The Customer acknowledges the reasonable nature of this contractual penalty. Evidence and enforcement of further claims are specifically reserved.

**8. Prices**

Save where otherwise indicated, all prices of BG are understood to be in Swiss francs, net, excluding value added tax. All ancillary costs etc. incurred, such as insurance, tax, value added tax, levies, customs duties, fees for approvals or attestations shall be additionally charged to the Customer.

**9. Payment terms**

Payments are to be made at the domicile of BG in Swiss francs, net, without any deduction of discounts, expenses, taxes, charges, fees, customs duties and so forth. If no special payment terms have been agreed between BG and the Customer, billing shall be effected, in the case of deliveries, at the time when delivery is made and, in the case of services, at the time when the substantial part of the service has been performed. The payment date is thirty (30) days from the date of the invoice. Once the payment date has expired, the consequences of arrears shall be incurred automatically, i.e. without the need for a warning. From that point in time onwards the Customer shall be required to pay interest on arrears at the rate of 10% p.a. The enforcement of compensation, immediate cessation of all deliveries and services of BG to the Customer and – after a reasonable period of grace has expired – withdrawal from the contract and from other or all contracts existing between the Customer and BG remain specifically reserved. The Customer may only withhold his payments and offset potential counterclaims against claims of BG if his counterclaims are uncontested or have been established in a legally enforceable manner and are based on the same contractual relationship.

**10. Terms of delivery**

Save where otherwise agreed in writing, deliveries of BG shall be made ex-works Marin (EXW Marin, Incoterms 2020). If the Customer fails to accept the delivery as agreed, BG is entitled to determine further action unilaterally and the Customer must compensate BG for the additional costs incurred by reason of non-acceptance. Save where otherwise agreed in writing, the usual packaging is included in the price. Disposal of the packaging is a matter for the Customer.

**11. Verification of deliveries and services of BG / Complaints**

The Customer must verify deliveries and services of BG within 5 working days of delivery of goods or notification of completion of the works and shall notify any defects to BG in writing within that time limit, failing which the deliveries and services shall be deemed to have been approved. Notification of completion of the works is equated with commencement of use of the works by the Customer. If acceptance of the works has been agreed, this must be effected within one month of notification of completion or commencement of use. If acceptance does not take place before the expiry of the time limit through no fault of BG, the works shall be assumed to have been approved. If defects which could not have been detected, even by a careful examination, come to light subsequently within the guarantee period, the Customer must notify such defects in writing to BG immediately after their discovery, failing which the deliveries and services shall be deemed to have been likewise approved in relation to these defects.

**12. Warranty**

BG warrants that its deliveries and services have the assured characteristics and are free from defects. BG only warrants that its deliveries and services are suitable for a particular purpose and only accepts responsibility for the system or equipment if this has been specifically agreed in writing. Save where otherwise agreed in writing, the warranty period is one year and, in the case of mandates, begins at the time when they are performed, in the case of deliveries upon notification of readiness for delivery by BG and, in the case of the performance of works, at the time at which the works are approved or deemed to have been approved. However, in the case of the performance of works, the warranty period shall end regardless of the time of approval and in the absence of any other written agreement, in every case no later than 18 months after delivery of the appliances concerned by BG. BG performs its warranty obligation by, at its own discretion, either repairing defective parts free of charge or by making replacement parts available free of charge ex-works. Different and more far-reaching claims are excluded to the extent permitted by law, in particular excluded are any claims of the Customer to:

- cancellation of the contract, reduction of the price or compensation for damages;
- compensation for damage caused by incorrect use, lack of care, accidents, force majeure or normal wear and tear;
- compensation for damage caused by equipment designs and manufacture, which do not reflect the determining state of the art and also through failure to comply with the technical directives of BG concerning design, assembly, commissioning, operation and maintenance or through unsatisfactory work of third parties;
- compensation for consequential and indirect damage, loss of use and loss of profit etc. caused by the use of, or defects in products delivered or services provided by BG.

The warranty given by BG presupposes that the Customer has settled the agreed payments in full. The warranty obligation of BG lapses,

- if a defect is not reported to BG without delay in writing;
- if specific instructions of BG are not respected;
- if, without the express written consent of BG, modifications or repairs are made by third parties to the products delivered by BG and/or to work done by BG.

Finally, components which undergo natural wear and tear are excluded from the warranty.

**13. Limitation of liability**

Save where otherwise specifically stipulated in these GTCB, the liability of BG is confined to damage caused by deliberate intent or gross negligence and shall in no case exceed the amount of the order sum agreed by contract and all contractual and non-contractual liability of BG for minor and average negligence is specifically excluded to the extent permitted by law. This exclusion applies in particular to material damage, damage to assets and damage caused by late performance, claimed on any legal grounds whatsoever, and also to indirect or consequential damage, loss of profit, loss of earnings and failure to make savings etc. In addition, the liability of BG for any fault on the part of servants is specifically declined.

**14. Data protection**

BG attaches importance to data protection and data security. In the BG privacy notice that can be consulted at [www.boegli.ch/legals/](http://www.boegli.ch/legals/), BG informs customers and all third parties of the nature, scope and purpose of personal data processing by BG. BG may amend the privacy notice at any time; we therefore advise you to consult the BG website regularly.

**15. Amendments**

Amendments to these GTCB and all additions to the GTCB which become necessary are valid only if they are made in writing.

16. Applicable law/Place of performance/Place of jurisdiction

All contracts between BG and the Customer and all matters collateral thereto shall be governed exclusively by Swiss law with the exception of the United Nations Convention on Contracts for the International Sale of Goods, concluded at Vienna on April 11, 1980. The place of performance shall be Marin. **The place of jurisdiction shall be Marin, Switzerland. BG however may likewise take legal action against the Customer in Bern, Switzerland, at the place where the Customer has his registered office or at any other legal place of jurisdiction.**