

General Terms and Conditions of Bachofen Ltd

These General Terms and Conditions govern the relationships between the Customer and Bachofen Ltd (hereinafter referred to as "BACHOFEN"). They serve as a basis for deliveries. Deliveries may consist of products and services, hardware or software, or the integration of different services. Depending on the type of business, these General Terms and Conditions may be supplemented by amendments or special clauses in the corresponding contracts.

1 Conclusion of contract and Validity of the T&Cs

These General Terms and Conditions (T&Cs) shall apply if they are expressly or implicitly acknowledged by the Parties. Amendments shall only be effective when confirmed in writing by BACHOFEN. The applicability of other terms and conditions sent by the Customer or found on customer documentation shall be excluded unless expressly agreed in writing.

Binding conclusion of contract shall take place upon delivery of the written order confirmation or upon delivery to the Customer.

2 Means of communication

The Parties shall communicate with each other verbally, in writing, or by means of electronic data exchange.

In writing refers to letters, protocols, drawings, plans, faxes, emails and other forms of transmission that can be verified by way of text or image. Under-signed means that a signature by one's own hand or an appropriate electronic signature is necessary.

3 Scope of service/Place of performance

The scope and execution of the products and services shall be determined by the order confirmation, or where no such confirmation exists, by the offer made by BACHOFEN. Services not expressly agreed therein, notably documentation, programming, customising, installation, commissioning, training and application support, shall not be included in the scope of service. Amendments to the order confirmation by BACHOFEN shall be permitted in so far as the products fulfil the same functions or the services fulfil the same purposes. BACHOFEN shall, however, not be obliged to make any such amendments to products and services that have already been produced or delivered.

Unless a specific place of performance has been agreed or results from the nature of the business, BACHOFEN shall make the products and services available at its offices.

4 The Customer's duty to inform

The Customer shall make BACHOFEN aware of any specific technical requirements as well as any provisions established by law, by order of authorities or otherwise that are applicable at the destination of delivery in good time, in so far as these requirements and regulations are of importance.

5 Documentation

The Customer shall be entitled to a copy of the user documentation. BACHOFEN shall be entitled to issue separate invoices for any additional copies or documentation required in languages that are not already available. Deviations in the documentation, namely in descriptions and illustrations, shall be permitted in so far as the documents fulfil their purpose.

6 Intellectual property

Right of title and copyright to software developed by BACHOFEN, other work results (such as drawings, drafts) and expertise shall remain with BACHOFEN. Unless otherwise stipulated, the Customer shall be granted an unrestricted usage right to these.

The Customer shall take the necessary measures to protect against the undesired access to or misuse of computer programmes, work results and documentation by unauthorised parties. The Customer may make the necessary backup files. It shall label these backup files correspondingly and store them separately and securely.

7 Use

The Customer shall bear responsibility for using the services and products and for combining these with other commodities, namely with computer equipment or electronic devices and systems. In doing this, it shall exercise the necessary care and comply with all instructions given in the user documentation.

The Customer shall be obliged to provide users with all information that is relevant to security in a suitable form.

8 Disposal

The Customer shall dispose of the delivered products at its own expense after use or shall bind its buyers with this duty of disposal.

The Customer shall exempt BACHOFEN from all duties of disposal, namely any possible duty to take back goods, disposal costs and any corresponding claims of third parties.

9 Delivery dates

Only delivery dates agreed in writing shall be binding. Such delivery dates may be extended appropriately

a) if BACHOFEN does not receive information, samples or materials, which are necessary for execution, on time or if the Customer subsequently alters them;

b) if the Customer is behind schedule with the work to be performed or in default in the performance of its contractual obligations, particularly if it does not adhere to the conditions of payment;

c) if obstacles occur, which lie outside of BACHOFEN's responsibility, such as natural disasters, mobilisation, war, insurgency, epidemics, accidents and illness, substantial breakdowns, work disputes, delayed or faulty deliveries or measures initiated by order of authorities.

In the event of delays, the Customer shall grant BACHOFEN an appropriate period, in writing, for subsequent performance.

In the event that this grace period passes and further delays are not acceptable for the Customer, it may cancel the contract, provided that it gives notification of this within three working days of the expiry of the grace period.

Claims for compensation as a result of delays shall be excluded.

10 Acceptance

Unless a specific acceptance procedure has been agreed, the Customer shall check all products and services itself.

On receipt of the delivered products, the Customer shall immediately check them with regard to identity, quantity, documents, damage during transportation and accompanying documentation. The Customer shall also check the products and services for further defects as soon as possible.

The Customer shall provide written notification of any defects immediately after their discovery. Products and services shall be deemed to have been accepted once they have been exploited economically, but no more than 10 working days following receipt of the delivery.

Written notification of hidden defects, which could not have been identified when carrying out an ordinary inspection, shall be sent immediately upon their discovery.

11 Guarantee

BACHOFEN warrants that it will apply the necessary care and that its products and services fulfil the warranted properties.

BACHOFEN shall accept no liability for the results that the customer wishes to achieve with the products and services.

Faults and disruptions for which BACHOFEN is not responsible, such as natural wear and tear, force majeure, improper handling, interventions by the Customer or third parties, excessive use, unsuitable equipment, disruptions caused by other machines and equipment, instable power supply, particular climatic conditions or unusual environmental influences, shall be excluded from the guarantee.

The Customer shall assert no claims on the basis of negligible defects. Negligible defects are namely those that do not impair the use of products and services.

In cases of substantial defects, the Customer shall grant BACHOFEN an appropriate grace period for their correction (rectification or replacement delivery). BACHOFEN shall correct the defects at its discretion, at its own premises or those of the Customer, which must grant BACHOFEN unrestricted access for this purpose. The costs for disassembly and assembly, transportation, packaging, travel and accommodation shall be borne by the Customer. Replaced parts shall become the property of BACHOFEN.

The guarantee and limitation periods shall be 12 months from delivery or provision of service.

If a defect cannot be corrected, the Customer shall be entitled to claim an appropriate price reduction. In this case, it may only withdraw from the contract if it is unreasonable for it to accept this reduction. The assertion of claims for compensation as a result of withdrawal is excluded.

12 Liability

Within the scope of its liability insurance, BACHOFEN shall assume liability for personal injuries and damage to property incurred by the Customer, which can be proven to have been caused by BACHOFEN. Further claims, namely for the behaviour of vicarious agents, are excluded. Compensation for indirect damage such as lost earnings, in particular, and other financial losses are likewise excluded.

13 Prices and Conditions of payment

Unless otherwise stated, the prices are given in Swiss Francs exclusive of VAT, taxes, customs duties, transport, postage, packaging, insurance, permits, certifications, installation, commissioning, training and application support. They shall be payable, net, within thirty days of date of invoice.

The Customer may only offset counterclaims with the undersigned consent of BACHOFEN.

Should the Customer not meet the payment deadline, it shall pay annual interest of six percent from the due date of payment, without the need for a reminder.

In the event of default in payment, BACHOFEN shall be entitled to

- a) declare that all payments arising from the business relationship with the Customer are due immediately, even where such payments do not result from the same legal relationship;
- b) set the Customer an appropriate grace period for all due payments and, if the Customer does not settle the total sum outstanding within this period, declare the contracts cancelled and demand the return of the products delivered and services rendered;
- c) predicate further performance of services (including defect correction) on suitable Customer securities, including advance payment, even where such services do not result from the same legal relationship.
- d) charge the customer for the expenses incurred in collecting the amount due. In addition, a handling fee of CHF 200 shall be due.

14 Special provisions applicable to online orders

An electronic confirmation of receipt shall be issued immediately for each online order. In the case of products that are available immediately, acceptance of the order shall take place upon dispatch of the delivery; in the case of all other products, this acceptance shall take place upon dispatch of the written order confirmation within approx. five days.

The following delivery conditions for packaging and/or freight shall apply in the case of online orders:

- For a net goods value >CHF 200.00 and weight <30kg and max. edge length of 1m: Free delivery
- For a net goods value <CHF 200.00 and weight <30kg: all-inclusive rates as indicated in check-out
- Weight >30kg or edge length >1m: Packaging / freight at cost.

15 Discretion

Both Parties undertake to not disclose to a third party any information arising from the business area of the other, which is neither generally accessible nor commonly known. The Parties likewise undertake to make every effort to prevent third parties from accessing this information. In contrast to the foregoing, either Party may further use any knowledge gained in conducting this business within its own core activities.

The Parties shall extend this confidentiality obligation to all their staff, employees and authorised representatives.

16 Export

The Customer shall be responsible for complying with all pertinent national and foreign export regulations.

17 Performance by third parties

BACHOFEN shall be entitled to involve third parties for the performance of the Contract or to assign part or all of the performance to third parties.

18 Governing law and Place of jurisdiction

This legal relationship shall be subject to Swiss law, to the exclusion of the CISG.

The place of jurisdiction shall be the place of BACHOFEN's head office. BACHOFEN shall also be entitled to bring legal proceedings at the court of the Customer's head office.

As at: June 2023