

General Terms & Conditions

for Supplies And Services To Clients Of Bauwatch Projekt Service GmbH

1. Scope

1.1 These General Terms and Conditions (hereinafter referred to as: "Terms and Conditions") regulate the legal relationships between the Bauwatch Projekt Service GmbH (hereinafter referred to as "BauWatch") and its Clients with regard to the supply of systems for the protection of construction sites via CCTV (CCTV towers including accessories such as software for video recording and wireless transmission of videos – hereinafter referred to as "BauWatch systems") and related services (evaluation of alarm messages in an alarm receiving centre and if necessary, forwarding them to the Clients, the police or a security service).

1.2 Contractual services of BauWatch are always carried out based on these Terms and Conditions. BauWatch does not accept the Client's General Terms and Conditions of Purchasing, even if BauWatch does not expressly object to them.

1.3 These Terms and Conditions apply to all current and future business relations between BauWatch and the Client, provided that the Client is a trader. A trader means a natural or legal person or a partnership with legal personality who or which, when concluding a legal transaction, acts in exercise of their trade, business or profession.

2. Quotes, orders

2.1 Unless BauWatch explicitly states otherwise, all its quotes for contractual services are subject to change. Verbal subsidiary agreements are not binding to BauWatch.

2.2 Contracts and contractual services between the Client and BauWatch are concluded through orders from the Client based on the quotes of BauWatch or through order confirmation or order performance by BauWatch upon receipt of an order from the Client.

3. General implementation provisions

3.1 For the implementation of the contractual services, the Client shall name one or several contact partners at the request of BauWatch. The contact partners shall be authorised by the Client to make and receive statements regarding technical and organisational contract execution.

3.2 BauWatch shall render the contractual services itself or by involving third parties as sub-contractors. If BauWatch commissions third parties as sub-contractors, BauWatch shall be liable for their job in accordance with these Terms and Conditions to the same extent as for its own conduct.

4. Dates, deadlines, delays and impossibility

4.1 The deadlines and dates agreed with the Client are standard deadlines and dates without a fixed obligation character.

4.2 Compliance with deadlines and dates for contractual services requires the timely receipt of all documents to be provided by the Client, necessary authorisations, approvals as well as compliance with the agreed Terms of Payment and other obligations by the Client. If these requirements are not fulfilled, the performance period shall be extended accordingly.

4.3 Except in case fixed dates have been agreed or in the event of an unjustified refusal to perform, BauWatch is only in default of performance if the Client has warned BauWatch of the missed deadline and has set a reasonable deadline for the provision of the contractual service.

5. Supply & installation of BauWatch systems

5.1 The Client shall receive the BauWatch systems for the agreed term. In accordance with the agreement concluded with the Client, the system is handed over either

(a) by delivery of the BauWatch systems for subsequent installation by BauWatch to the agreed construction site location of the Client or

(b) by shipment to the agreed delivery address for subsequent installation by the Client. If location and time of installation and delivery are not specified in the Contract, they shall be communicated with a lead time of two business days.

5.2 The Client is responsible for creating the structural, technical, organisational and other requirements that are necessary for the proper installation and operation of the BauWatch systems. This applies especially to the following:

(a) obtaining all official permits required to set up and use the BauWatch systems as well as approvals from property owners, works councils, employees and other third parties;

(b) selecting a suitable location on the construction site that provides adequate stability and optimal perspective allowing for an effective surveillance of the construction site;

(c) in case a BauWatch system is used that operates with external power supply – providing corresponding power supply connections to supply power to the BauWatch system.

5.3 If it is agreed that the BauWatch systems are to be installed by BauWatch, the following shall apply:

(a) The rented BauWatch systems are delivered and installed by BauWatch at its own risk.

(b) The Client shall ensure that its designated operating personnel are present to be instructed at the time of installation.

(c) If this is requested by BauWatch, the Client shall sign a commissioning protocol confirming successful commissioning.

5.4 If it is agreed that the BauWatch systems are to be installed by BauWatch at the construction site, the following shall apply:

(a) The BauWatch systems are shipped to the agreed delivery location at the expense and risk of the Client.

(b) Immediately upon handover at the delivery location, the Client shall check the BauWatch systems for apparent external damage, in particular, transport damage and report any deficiencies to BauWatch without delay.

(c) Upon handover at the delivery location, the Client shall install the BauWatch systems at the agreed construction site location without delay. BauWatch shall be notified in writing about the completion of the installation. Commissioning may only take place with the consent of BauWatch and after instructing the operating personnel named by the Client.

5.5 If commissioning is delayed due to circumstances for which BauWatch is not responsible, the Client shall - to a reasonable extent - bear costs for waiting times and additional travel required by BauWatch and BauWatch employees deployed for commissioning.

6. Terms & Conditions of Use for BauWatch systems

6.1 Within the scope of what is reasonable for the Client, BauWatch is authorised to exchange the rented BauWatch systems during the rental period for other BauWatch systems of the same size and with comparable performance features.

6.2 BauWatch is authorised to place or have placed advertisements for its own purposes on the rented BauWatch systems.

6.3 The Client undertakes

(a) not to remove the rented BauWatch systems from the agreed construction site location without prior written consent of BauWatch;

(b) to treat the BauWatch systems properly in compliance with applicable accident prevention and occupational safety and health as well as traffic regulations;

(c) to only have responsible employees operate BauWatch systems who have been trained to do so;

(d) to adequately protect the BauWatch systems from any dirt at the construction site, especially in case of painting, welding and cleaning work involving acids.

6.4 The Client is not authorised to sublet or pass on the rented BauWatch systems to any third parties without the consent of BauWatch.

6.5 If during the term of the Contract, deficiencies arise on the rented BauWatch systems, or damage occurs - regardless of the reason - or if they go missing, the Client shall notify BauWatch accordingly without delay.

7. Operational services of the reporting points

7.1 In order to receive and evaluate alarm messages, which are automatically transmitted wirelessly from the construction site location to the reporting centre by the rented BauWatch systems, BauWatch maintains one or more reporting points within the EU during the contract term, which are continuously (24/7) occupied by trained personnel during the contract term.

7.2 The operational services of the reporting points of BauWatch extend exclusively to alarm messages that concern suspected criminal behaviour by people (in particular theft and / or damage to property) to the detriment of the protected objects agreed with the Client in the detection area of the BauWatch systems. For any other objects - even if located within the detection area of the BauWatch systems - BauWatch is not obliged to carry out any surveillance-related activities. BauWatch ensures that the reporting points review incoming alarm messages and if apparent suspicions are detected, forward these accordingly to the contact person agreed with the Client - police or private surveillance service. Contact persons are named by the Client in writing in the alarm report to be submitted at the installation of the respective BauWatch system.

7.3 The obligations of BauWatch within the scope of Section 7 shall be fulfilled if, upon detection of apparent suspicions in accordance with Section 7.2, BauWatch has reached the appointed contact person by phone or after two failed attempts to get in contact with the same by phone. BauWatch does not assume any liability for the use of contact persons at the construction site.

8. Compensation and terms of payment

8.1 The Client shall pay the weekly rent agreed in the Client Contract plus the statutory VAT in the respectively applicable amount for the rented BauWatch systems.

8.2 Unless agreed otherwise in the Client Contract, payments by the Client shall be due without deduction within 30 days upon receipt of the invoice.

8.3 In case of a default in payment by the Client, BauWatch shall be entitled to demand flat-rate default damages amounting to 10 percentage points above the basic rate interest (§ 247 of the German Civil Code (BGB)). The Client is permitted to prove that BauWatch suffered less damage or no damage at all; the flat rate shall then be reduced or cancelled accordingly. The right of BauWatch to claim default damages in excess of the flat rate shall remain unaffected.

9. Contract term, termination

9.1 If a fixed or minimum term has been agreed in the Contract, it shall only be possible to terminate the Contract for cause during the fixed term or the minimum term.

9.2 If no fixed term has been agreed or an agreed minimum term has expired, both Contractual Parties are entitled to terminate the Contract with a notice period of 5 business days.

9.3 The right to terminate the Contract for cause remains unaffected. Such cause for termination by BauWatch shall exist, in particular, if the Client

(a) carries out changes to the rented BauWatch systems without the consent of BauWatch;

(b) defaults on payment of an amount due by more than 14 days;

(c) repeatedly or continuously violates the Terms and Conditions of Use in accordance with Section 6;

(d) violates any other essential provision of this Contract.

10. Obligations in case of termination

10.1 In case of the termination of the Contract, the Client shall undertake to promptly return the rented BauWatch systems to BauWatch.

10.2 If the return of the rented BauWatch systems is delayed for a reason for which the Client is responsible, BauWatch shall be entitled, without prejudice to further rights, to demand a flat-rate compensation for use from the Client in accordance with the remuneration rates agreed for the Contract term for the period of delay until the system is returned to BauWatch. The Client is entitled to prove that BauWatch suffered no or lesser damage as a result of the delayed return; the compensation for use is no longer applicable or is then reduced accordingly.

11. Product ownership, access right

11.1 The BauWatch systems provided to the Client are and remain the property of BauWatch.

11.2 The Client undertakes to notify BauWatch immediately about any measures or events that affect BauWatch's ownership of the BauWatch systems, in particular theft, damage and the assertion of ownership rights or liens by third parties.

11.3 During regular operating hours of the Client, BauWatch is entitled to view and inspect BauWatch systems or have them inspected by anyone commissioned to do so. The Client shall provide BauWatch with the necessary access to the construction site.



12. Rights of use of footages

12.1 Footage recorded by the rented BauWatch systems, the transmission of which to the and the play back and storage at the reporting point of BauWatch are carried out exclusively at the order and risk of the Client. BauWatch undertakes to only use the footage for the purpose of rendering the contractual services in accordance with Section 7 (reporting point). Any use for different purposes is subject to the approval by the Client.

12.2 The Client is responsible for ensuring that the recording, transmission, play back and storage of the footage via the rented BauWatch systems and the reporting point complies with the legal provisions, in particular, the data protection law and the protection of personal rights (in particular the right to one's own image). To the extent permitted by law, the Contractual Parties shall notify each other without delay if third parties or authorities assert to them that the recording, transmission, play back and storage of the footage via the rented BauWatch systems and the reporting point violates legal and/or official regulations and/or the rights of third parties are violated. Except in case of a violation of Section 12.1 Sentence 2, the Client shall exempt BauWatch from any claims of third parties to the extent that the recording, transmission, play back and/or storage of the footage created within the scope of BauWatch rendering its services violate the rights of third parties or infringe statutory regulations, and third parties or authorities raise claims against BauWatch. The exemption relates to all claims of the third party as well as to the resulting own expenses required for legal prosecution and/or defence.

13. Service quality and material defect claims

13.1 BauWatch provides a warranty for the rented BauWatch systems in accordance with the statutory provisions.

13.2 The Client shall report to BauWatch any defects of the Bau-Watch systems arising after handover immediately after the defect has been discovered.

13.3 If the rented BauWatch systems have a material defect, Bau-Watch shall be entitled and obliged to remedy the defect by repair, replacement delivery or new production, at BauWatch's discretion. The Client's right to reduce the remuneration for the duration of the disruption of use due to the defect remains unaffected.

13.4 The limitation period for the Client's claims for defects is 1 year from the statutory start of the limitation period.

13.5 In all cases of this Section 13, the Client can only demand compensation and reimbursement of expenses in accordance with the provisions of the following Section 14.

14. Limitation of liability

14.1 Unless otherwise expressly stipulated between the Contractual Parties or in these Terms and Conditions, the Client's claims for

damages and for reimbursement of expenses - regardless of the legal basis - in particular due to breach of obligations arising from the contractual relationship and from unlawful acts, are excluded. BauWatch is not liable for the loss of profits, lost opportunities of use, claims from third parties and/or any other indirect and consequential damages.

14.2 The exclusion of liability in accordance with Section 14.1 shall not apply

(a) in case of intentional or grossly negligent behaviour by BauWatch or its vicarious agents;

(b) in case of death, personal injuries or damage to the health of a person;

(c) if BauWatch is liable for personal injury or material damage to private personal assets in accordance with mandatory provisions of the applicable product liability law; and/or

(d) insofar as BauWatch has exceptionally assumed guarantee liability for the quality of contractual services.

14.3 The exclusion of liability in accordance with Section 14.1 shall also not apply in case of a violation of essential contractual obligations by BauWatch. In case of a violation of essential contractual obligations, the liability of BauWatch is, however, limited to foreseeable and contract-typical damage. The liability of BauWatch in accordance with Section 14.2 remains unaffected.

15. Assignment, offsetting

15.1 The Client is not authorised to assign its rights under this Contract to third parties.

15.2 Offsetting by the Client is only permitted with undisputed or legally established claims.

16. Publications

16.1 To advertise the services of BauWatch in marketing media, the Client allows BauWatch to refer to the Client as reference client, especially in product presentations for third party clients.

16.2 Furthermore, BauWatch shall not disclose the collaboration with the Client to third parties without the prior written consent of the Client.

17. Applicable law, place of jurisdiction

17.1 The law of the Federal Republic of Germany applies to the contract with the Client, excluding the Vienna UN Convention on the International Sale of Goods.

17.2 The courts in Düsseldorf are the place of jurisdiction for all disputes arising from or in connection with contracts between the Client and BauWatch. Each Contractual Party is also entitled to make claims against the other Contractual Party at its registered office. Except for cases of remedial relief, aforementioned jurisdiction agreements are final.

