

Additional Terms and Conditions for the use of the ‘National List of Construction Equipment (‘Baugeräteleiste’/BGL) and the Austrian national list of construction equipment (‘Österreichische Baugeräteleiste’/ÖBGL)

Preamble

These Additional Terms and Conditions (‘**Additional Conditions**’) for the use of BGL and ÖBGL on www.bgl-online.de (‘**BGL-Website**’) govern the contractual relationships between the customer and the Bauverlag BV GmbH (‘**Bauverlag**’) and shall apply in addition to the General Terms and Conditions of Business and Delivery for the Online Shops of Bauverlag BV GmbH (‘**Online-Shops GTC**’). The Additional Conditions shall apply at the time of the order by the customer in its respective current version.

The BGL/ÖBGL is a catalogue of the building construction and construction site facilities with corresponding structural elements according to the ‘EUROLIST’ such as (sub-) assemblies for equipment, type of equipment, technical key parameters and non-proprietary average original value of the equipment and the wear parts catalogue.

These Additional Terms and Conditions complement the Online Shops GTC. In the event of conflict between these, Additional Conditions shall prevail the Online Shops GTC.

With registration as customer of BGL/ÖBGL you accept both the Online Shops GTS and the Additional Conditions. Both shall also apply to all future services and offers even if this has not been agreed upon separately. Authoritative is the version being in force at the time of the conclusion of contract. The Online Shops GTC and these Additional Conditions can be accessed, printed and/or downloaded at any time on BGL-Website.

1. Subject matter

- 1.1. These Additional Conditions govern the use of BGL/ÖBGL services with a paid and registered account.
- 1.2. BGL and ÖBGL are offered on the BGL-Website and as data in csv-format. The customer can register for the use of BGL/ÖBGL on the BGL-Website and/or at the website of the Bauverlag shop on www.bauverlag-shop.de.
- 1.3. The customer’s access to the BGL/ÖBGL content is provided password-protected using the provided access data by the Bauverlag. The customer is obliged to limit the access to the database according to entitled number of customers of the subscription. The customer is obliged to keep secret all access data and password and to protect them from unauthorized access by third parties; the customer ensures that the respective user complies with that obligation as well.
- 1.4. The customer is responsible to meet the technical requirements for the use of the BGL/ÖBGL services. By using BGL/ÖBGL online services the customer does not purchase BGL/ÖBGL content; only access to the content and database are granted.
- 1.5. The fee for the paid use of BGL/ÖBGL shall be immediately due for advance payment with registration and transmission of the registration data for the period of one year.
- 1.6. The customer may pay access to BGL/ÖBGL by invoice.
- 1.7. The customer agrees and consents that the account may be adjusted from time to time to customer’s requirements.

2. Customer’s right of use

- 2.1. Customer will be granted for the term of this contract and in accordance with the provisions of the Online Shops GTC and Additional Conditions the non-exclusive, non-transferable right to use the BGL/ÖBGL content, the database and the underlying computer programs for own, in-house purposes.

- 2.2. Unless otherwise agreed, each registered customer may only use one (1) license for using BGL and/or ÖBGL. Any further license must be ordered separately. The customer ensures that the access per license will not be made available for unauthorised recipients.
- 2.3. The customer is not allowed to copy and set-up a database with BGL/ÖBGL content and the imitation of the query system. It is not allowed to change, to add, to copy, to use, to distribute, to publish, to make it public available to third parties or to use BGL/ÖBGL content, database and/or computer programs of the BGL/ÖBGL online platform in an unauthorized manner. 'Third parties' in the meaning of these provisions refers to anyone not covered by the agreed number of users. It is prohibited to transfer to third parties BGL/ÖBGL content, database and/or computer programs either in whole or in parts, on electronic form or via remote transmission, to grant access for third parties, to upload or post content on the internet/intranet etc. and to use it for industrial information brokering. The customer is liable for infringement of rights of third parties whom he granted access to BGL/ÖBGL content of the Bauverlag unless he can prove that he is not responsible for the infringement of the third party. The customer can obtain upon written request an additional license by the Bauverlag to use BGL/ÖBGL content for further uses as agreed.
- 2.4. The customer shall omit any action or behavior that is likely to infringe the rights of Bauverlag.
- 2.5. The customer shall pay a contractual penalty fee of 4.000,00 Euro for each case of the culpable infringement of section 2.1 to 2.4. If Bauverlag is entitled to claim damages as a result of the same matter, the contractual penalty shall be considered to be the minimum amount. The right to assert additional damages shall be reserved.
- 2.6. In the event the customer uses data and information contrary to the law or to the Online-Shops GTC and/or there Additional Conditions, Bauverlag shall be entitled to terminate the contract to block the user account without notice. In the event of any further infringement the Bauverlag shall be entitled to terminate the contract and the registration.

3. Responsibility and Liability of Bauverlag

- 3.1. Any content and data that are available on the BGL-Website is supplied by third parties and will be inserted into the online platform of Bauverlag without making the content and data its own. Bauverlag does not review, check or examine this content and data. Bauverlag uses its best endeavours to perform according to the latest state-of-the-art. Bauverlag shall not be held liable for the completeness, topicality, correctness, usability of the BGL/ÖBGL content nor for the accuracy of the content or the technical absence of defects.
- 3.2. Bauverlag shall not be liable for the applicability or usability of any BGL/ÖBGL content and services for a particular purpose. Bauverlag shall not be liable that the BGL/ÖBGL content and services meet customer expectations and/or that a particular objective might be reached with the BGL/ÖBGL content. The customer is solely and exclusively responsible for the selection, use and application of the BGL/ÖBGL content. The customer commits to exercise in the use of the BGL/ÖBGL content at least the due diligence in terms of a plausibility check. Bauverlag shall not be liable for an incorrect selection of BGL/ÖBGL content, miscalculations etc. and its possible consequences e.g. claims for damages.
- 3.3. According to the current state of the art, errors of the BGL/ÖBGL software and/or other faults of the BGL/ÖBGL database cannot be entirely excluded. Bauverlag shall not be held liable for any damages that do not occur on the subject matter of this contract, in particular consequential damage or lost profits. Exceptions from this shall be liability for damages as a result of intent or gross negligence.
- 3.4. The customer acknowledges that it is technically not possible to provide 100% availability of the online services. Bauverlag uses its best endeavours to maintain availability of online services as constant as possible. Bauverlag reserves the right of temporary restrictions of the contractual services with regard to safety measures e.g. maintenance work or capacity limits.
- 3.5. Strict liability for defects already in existence at the time the contact was entered into (§ 536a Abs. 1, 1. Alt. BGB) is expressly excluded.

4. Right of withdrawal for consumers

If the customer orders access to BGL and/or ÖBGL of the Bauverlag on the BGL-Website for a purpose which is outside the purposes of his trade or profession, he has the following right of withdrawal as a consumer in the meaning of Sec. 13 of the German Civil Code (BGB).

Right of withdrawal for the ordering of digital content

Right of withdrawal

You have the right to withdraw from this contract within fourteen days without giving any reasons.

The withdrawal period will expire fourteen days from the day on which the contract is concluded.

To exercise your right of withdrawal, you must inform us - Bauverlag BV GmbH, Avenwedderstr. 55, 33311 Gütersloh, tel.: 05241 80 2791, fax: 05241 80 9582, e-mail: info@bauverlag.de - by means of an unequivocal statement (e.g. a letter sent by post, a fax or an e-mail) about your decision to withdraw from this contract. You can use the attached model withdrawal form, but this is not mandatory.

To meet the withdrawal deadline, it is sufficient for you to send your communication concerning your exercise of the right of withdrawal before the withdrawal period has expired.

Effects of withdrawal

If you withdraw from this contract, we shall reimburse to you all payments received from you, including the costs of delivery (with the exception of the supplementary costs resulting from your choice of a type of delivery other than the least expensive type of standard delivery offered by us), without undue delay and in any event not later than 14 days from the day on which we are informed about your decision to withdraw from this contract. We will carry out such reimbursement using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of such reimbursement.

- End of the instructions on withdrawal for the ordering of digital content -

MODEL WITHDRAWAL FORM

(Complete and return this form only if you wish to withdraw from the contract).

- To Bauverlag BV GmbH, Avenwedderstr. 55, 33311 Gütersloh, tel.: 05241 80 2791, fax: 05241 80 9582, e-mail: info@bauverlag.de:
- I/We (*) hereby give notice that I/we (*) withdraw from my/our (*) contract of sale of the following goods (*)/for the provision of the following service (*)
- ordered on (*)/ received on (*)
- Name of consumer(s)
- Address of consumer(s)
- Signature of the consumer(s) (only if this form is notified on paper)
- Date

(*) Delete as appropriate.

5. Term and termination

- 5.1. Paid use ends after the agreed period of use of twelve (12) months. Afterwards, the membership will be automatically extended for further twelve (12) months unless the contract will be terminated in written by one party three (3) months before expiration. The right to termination for material reason shall remain unaffected.
- 5.2. Bauverlag shall be entitled to terminate the contract for material reason in the event
 - 5.2.1. that the customer violates statutory regulations,
 - 5.2.2. that customer violates substantially and/or persistently contractual duties,
 - 5.2.3. the image of the Bauverlag will be damaged by the customer or such a damage is imminent,
 - 5.2.4. an application for the commencement of insolvency proceedings has been filed,
 - 5.2.5. the customer is in default of advance payment for a period exceeding 2 months.
- 5.3. Upon notice upon material reason, Bauverlag is entitled to delete the account of the customer and to prohibit a new registration. In these cases the repayment of any payment already made is excluded.

6. For the rest, the provisions of the Online-Shops GTC apply.

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