

**1. General**

1.1 Only the following Conditions of Purchase shall apply to all our orders, transactions and delivery requests in addition to other contractual agreements. Any other conditions shall not form part of the contract, even if we do not expressly reject them. Amendments and additions, as well as deviating sale and delivery conditions, shall require our prior written consent. The acceptance of deliveries and services or any payment for deliveries and services without reservation by us shall not constitute consent to different conditions of sale of the supplier.

1.2 Our General Conditions of Purchase shall apply to all future transactions with the supplier.

**2. Orders**

2.1 Any contracts, orders, transactions and delivery requests, as well as amendments and additions must be in writing. Delivery requests may also be made electronically and shall be valid without signature. Delivery requests shall only be binding if they are made in writing by the orderer. Correspondence must be with the purchasing department placing the order.

2.2 Oral agreements prior to, on and after signing of the contract shall similarly require written confirmation to be valid. If the supplier does not accept our order within 2 weeks of receipt, we shall be entitled to revoke the order. Delivery requests shall become binding if the supplier does not reject them within 3 days.

2.4 We require a suppliers' declaration, the commodity code and the customs tariff code on the order confirmation. For organisational reasons, we can only record information regarding the origin of goods in this form and not on invoice, delivery notes etc.

2.5 Quotations shall be binding on the supplier and free of charge, unless expressly agreed otherwise.

2.6 Deliveries must conform to the agreed specifications. If a specific agreement is not concluded, the delivery items must be supplied in merchantable quality and – insofar as there are applicable industrial standards and/or regulations or equivalent standards – in compliance with such standards and regulations and with any agreed test certificates. Order standards prescribed by us and drawings including stipulated tolerances shall be valid in each case.

2.7 The Quality Assurance Agreement (QAA), all framework and supply contracts and any applicable delivery and packaging requirements from Burgmaier shall constitute part of all our orders.

2.8 An order may not be assigned to third parties without our consent. Assignment shall entitle us to withdraw from the contract and to compensation.

2.9 The supplier undertakes not to do business with our customers directly or indirectly that falls within the scope of the order.

2.10 If the solvency of the supplier deteriorates to an extent that the contract is at risk of not being performed or if the supplier ceases its deliveries or if insolvency proceedings are initiated on the supplier's assets, we shall be entitled to withdraw from the contract. The right of withdrawal may also be exercised in part only.

**3. Period for delivery & delay in delivery**

3.1 Deviations from our contracts, orders, transactions and delivery requests shall only be admissible with our prior written consent. Agreed delivery deadlines and dates of completion shall be binding. Receipt at the place named by us shall be definitive with regard to compliance with the delivery deadline/date of completion; the punctuality of deliveries with setup/assembly and services shall be determined by performance of the service or the time of acceptance. If delivery is not agreed ex works (DDU or DDP in accordance with Incoterms 2010), the supplier must make the goods available punctually taking into account the typical time to be agreed with the carrier for loading and shipping.

3.2 If it is anticipated that a delivery or service will be delayed and/or is not of the quality laid down in the contract, we must be informed without delay. Without prejudice to more favourable legal provisions, we shall be entitled to withdraw from the contract after a reasonable period of grace and notice to act setting out the consequences of non-compliance. We reserve the right to procure a replacement from a third party and/or to demand damages for non-performance. We shall be entitled to compensation for all additional costs that we incur as a result of late deliveries for which the supplier is responsible. Acceptance of a delayed delivery or service does not constitute a waiver to claims for damages.

3.3 Force majeure, industrial disputes, disruptions to operations, riots, official measures and other unavoidable events shall similarly entitle us – without prejudice to our other rights – to withdraw from the contract in whole or in part if such events are of exceptional duration or result in a significant reduction in demand on our side.

3.4 If a delivery/service is performed before the end of the period for delivery/the deadline for completion, we shall not be obliged to accept. In such a case, we reserve the right to return the supplied goods/to reject the person providing the service. If we do not return a supplied goods/reject the person providing the service in the event of early delivery/performance, the supplied goods shall be stored by us until the agreed delivery date at the supplier's cost and risk / the service shall be deemed performed only once the originally agreed date of completion has been reached. Payment shall be made in accordance with clause 5.2, calculated from the date of the agreed delivery/the deadline for completion.

3.5 In the event of delay in delivery by the supplier, we shall be entitled to demand liquidated damages for delay of 0.8% of the order value for each working day, but not to exceed 10% of the applicable delivery value. We reserve the right to claim greater damages.

The supplier is entitled, notwithstanding, to prove lesser damages.

Any claim to damages shall be offset by the contractual penalty that is paid.

The right to demand that a contractual penalty is paid shall not be forfeited by virtue of the fact that the contractual penalty was not expressly reserved on acceptance of late delivery, as long as the contractual penalty is claimed prior to and until final payment.

3.6 The values recorded by us during goods inward inspection shall be definitive for number of units, weights and dimensions, subject to evidence otherwise. We shall only accept the ordered quantities and number of units. Excess or underdeliveries are only permitted following prior arrangement with us (in writing).

3.7 In the case of deliveries of steel, the straightness of the bars must guarantee that the steel can be worked free of defects. Cracks, grooves, decarbonisation and other surface defects are not permitted. Macroscopic internal defects such as blowholes and non-metallic inclusions are not admissible for the intended use.

Measures must be taken according to the state of the art to avoid such defects.

3.8 In addition to the right to use software that is part of the scope of product delivery, including its documentation, we shall also have the right, to the extent permitted by law (Section 69a ff. of the Copyright Law (UrhG)), to use such software with the agreed performance characteristics and to the extent required to use the product in accordance with the contract. We shall also be entitled to create a backup copy without express agreement.

3.9 The supplier must package the goods appropriately or in accordance with separate agreements with us. We expect the supplier, as the distributor of the goods, to have extensive knowledge of any hazards associated with the goods with regard to shipping, packaging, storage etc.

**4. Prices, shipping & passing of risk**

4.1 The prices on the order shall be binding. If there is no agreement otherwise, the prices are stated delivered duty paid (DDP, Incoterms 2010) on our named place, including packaging and insurance, but excluding VAT. Otherwise, the supplier must provide the goods punctually taking into account the time to be agreed with the carrier for loading and shipping.

4.2 The risk shall pass to us when the goods are accepted by us or our agent after unloading at the place named by us at which the goods are to be delivered as per the order or at which the service is to be performed in accordance with the agreement. This clause shall also apply where our personnel assists in unloading. Goods are accepted during the goods receiving hours specified by us. Clause 3.4 remains unaffected.

**5. Terms of payment**

5.1 Unless there is agreement otherwise in writing, our payments shall be made either within 45 days at a 3% discount or within 90 days of receipt of invoice net, whereby a condition of payment by us is that the supply/service is free of defects and the supplier has transferred to us in advance, in full and in legible condition, all the documents owed under the contract (e.g. certificates, documentation, factory certificates, other test reports and similar). If, exceptionally, goods are received after receipt of invoice, the period for payment shall commence on the date of receipt of goods. Payment is made subject to invoice verification. Delays caused by incorrect invoices shall not reduce the agreed discount periods.

5.2 We shall not fall into arrears in the event of minor negligence. Our obligation to compensate for damage caused by delay shall be limited to damage typically incurred.

5.3 In the event of early delivery/performance of service, the due date shall be based on the originally agreed delivery deadline.

5.4 If the supplier reduces its prices applicable to standing orders, the price reduction must be passed on to us.

5.5 A single copy of the invoice stating invoice number and other identifiers from our orders must be sent to the address printed on the invoice. The invoice must not under any circumstances be enclosed directly with the shipments.

**6. Investigation of defects, warranty & intellectual property**

6.1 The supplier shall be responsible for outgoing inspection of goods and therefore for defect-free deliveries. We shall not be obliged to inspect goods on receipt, but shall nonetheless make every effort as soon as possible in the ordinary course of business to inspect the goods for defects, in particular for correctness, completeness and fitness for purpose, by taking random samples. The application of Section 377 of the Commercial Code (HGB) is excluded to the extent permitted by law. In all cases, notification within 30 days of discovery of a defect or other issue shall be deemed punctual. The supplier expressly waives the right to object to late notification of defects. The supplier must insure this provision for limited goods inward control under its business and product liability insurance. We hereby expressly note that cover may hereby be jeopardised. The supplier must therefore enter into a corresponding agreement with its insurer to extend cover. Evidence of such cover must be submitted to the orderer.

6.2 Our claims to compensation for defects or to damages shall expire by limitation under the purchase contract a total of 36 months after delivery of our products manufactured using the supplied products, but not later than 60 months after delivery to us and, in the case of services or works, a total of 60 months after acceptance of the services or works. This provision shall only apply to the extent that no longer or later commencing period of limitation is provided for by law. If acceptance is delayed through no fault of the supplier, the warranty period shall be a maximum of 60 months from the date the delivery item was made available for acceptance.

6.3 The supplier shall be liable for defects such that we, without prejudice to our other legal rights, shall be entitled to demand, at our discretion, replacement delivery, rectification of defects or a reasonable price reduction. If the supplier does not rectify the defect or make replacement delivery within a reasonable period set by us or if it is not possible to rectify the defect or if the attempt to rectify fails, we shall be entitled to withdraw from the contract and to demand compensation in lieu of performance. If the same goods are delivered again and are defective, we shall be entitled to withdraw from the contract after written warning if the delivery is defective once more, including with regard to the scope of delivery not yet performed.

6.4 The supplier shall also indemnify us against any claims by third parties in the event of defects of title. A period of limitation of ten years shall apply to defects of title. We shall be entitled, having regard to the duty of care of a prudent businessperson, to obtain authorisation to use the applicable delivery items and services from the authorised person/entity at the supplier's expense.

6.5 The supplier shall guarantee that the delivery items are unencumbered by third-party intellectual property rights. The supplier shall in particular indemnify us against third-party claims in respect of infringements of intellectual property. If we and/or our customers are prohibited from manufacturing and/or supplying as the result of intellectual property infringements, the supplier shall compensate us for any damage which has arisen and shall either acquire a license from the holder of the intellectual property rights or take back the goods supplied at our discretion.

6.6 The period of limitation shall recommence at the time at which the supplier has fully satisfied our claims for subsequent performance for any parts of delivery, machines, systems and equipment that are serviced or repaired within the period of limitation of our claims for defects.

6.7 The supplier shall bear any necessary costs if overall control measures exceed usual goods inward control measures or if transport, travel, work, material or assessment costs etc. arise, due to defective deliveries. We shall be entitled to inspect the goods by taking random samples and, without prejudice to our other claims, to reject the goods completely if the admissible critical quality values have not been met or, at the supplier's cost and risk, to inspect the goods in entirety and to demand replacement of defective parts.

6.8 In urgent cases (e.g. to avoid interruptions to production), we shall be entitled to remedy the identified defects on our own initiative at the supplier's expense, including without fixing a deadline.

6.9 We shall be entitled to demand from the supplier compensation for the expenditure we incur from our customers because they have a right to reimbursement from us of the expenditure required for supplementary performance, in particular for transport, travel, work, material and assessment costs etc.

**7. Product liability & indemnity**

7.1 The supplier hereby indemnifies us against claims for damages by third parties that arise from defects in the delivered goods or the performed service/work, to the extent that the supplier is responsible for the damage.

If a claim is brought against us by third parties on grounds of no-fault liability pursuant to provisions which are not subject to the disposition of the contracting parties, the supplier shall indemnify us as though the supplier were directly liable. The principles of Section 254 of the Civil Code (BGB) apply accordingly to the division of damages between us and the supplier.

7.2 The supplier shall bear product liability to us for defects in the products supplied/processed by the supplier. The supplier shall bear all the resulting costs, including the cost of any legal dispute or any necessary mass product modification or product recall and shall obtain sufficient product liability and product recall insurance cover. The supplier must provide us with applicable evidence of such cover.

**8. Supply by the orderer & retention of title**

8.1 Materials, parts, containers, shapes, forms, tools, devices and special packaging supplied by us shall remain our property and may only be used for the intended purpose and not for deliveries to third parties. It has been agreed that we shall be joint owners of products that have been produced using our materials and parts, according to the value of the materials supplied relative to the value of the total product, which in this respect the supplier stores on our behalf. The supplier must provide adequate compensation for reduction in value or loss. Suppliers that perform contract processing on our behalf must also agree to insure damage and consequential damage arising from professional or occupational activity on or with the property under their business and product liability insurance and must provide us with evidence of such cover.

8.2 The supplier is obliged to inspect items supplied by us for obvious defects on transfer, e.g. with regard to identity, quantity and transport damage and to inform us immediately of defects. We must be informed without delay of defects that are discovered during processing in the items supplied by us.

8.3 Tools, forms, patterns, models, profiles, drawings, test specifications, standard specifications, templates and measuring tools as well as items manufactured using them may not be passed on to third parties or used for purposes other than our contractual purposes without our written consent. The supplier is obliged to perform maintenance and repairs on items supplied by us in accordance with our specifications. Items provided to the supplier may only be reproduced for operational purposes and in accordance with copyright terms.

8.4 All items provided by us must be returned to us after the order has been rejected or processed.

**9. Performance of work**

9.1 Persons who perform work on our factory premises pursuant to the contract must observe the applicable site rules. Liability for accidents suffered by such persons on the factory premises is excluded unless injury has been caused intentionally or by grossly negligence on the part of our legal representatives or agents.

**10. Secrecy**

10.1 All business and technical information provided by us, including characteristics that may be extracted from any items, documents or software provided, as well as other knowledge and experience, must be kept secret from third parties for as long as and to the extent that it is not evidently publicly known and such information may only be made accessible in the supplier's operations to such persons as require such information for the purposes of delivery to us and who are also subject to the obligation of secrecy – all such information remains our property.

10.2 Products that are manufactured in accordance with our designs, such as drawings and models, or in accordance with our confidential specifications or with our tools, including tools manufactured under licence, may not be used by the supplier itself or offered or supplied to third parties. This also applies analogously to printing orders.

10.3 Irrespective of any potential claim for damages, the supplier undertakes to pay a contractual penalty of €100,000.00 to Burgmaier for each and every culpable breach of this secrecy clause.

10.4 The supplier is only permitted to advertise its business relationship with Burgmaier with written consent.

10.5 The supplier shall remain obliged to maintain secrecy after the end of the business relationship.

**11. Spare parts for discontinued production**

11.1 The supplier undertakes to supply us with replacement parts at reasonable prices for a period of 10 years after the end of the serial production. We shall consent to early discontinuation of delivery readiness at the earliest after 5 years if contingency stocks are economically justifiable and demand can be predicted in advance.

**12. Assignment of claims & exclusion of set-off**

12.1 Claims may only be assigned with our written consent.

12.2 We shall be entitled to refuse, offset and retain payment to the extent permitted by law. The supplier shall only be entitled to offset and retain payment if the counterclaim that is the basis for refusing, offsetting or retaining payment is undisputed or res judicata.

**13. Place of performance & place of jurisdiction**

13.1 The place of performance for services and deliveries is the Burgmaier site to which the goods are to be delivered under the order.

13.2 The place of jurisdiction for all legal disputes arising directly or indirectly from contractual relations with us is the court in Ulm with jurisdiction for our registered office. However, we shall also be entitled at our discretion to sue the supplier either at its registered office or place of business or at the competent court for the place of performance.

**14. Export control & REACH**

14.1 The supplier is obliged to inform us on its offers, order confirmations and invoices of any approval requirements for exports of its goods under German, European and US export and customs regulations and the export and customs regulations of the country of origin of its goods.

14.2 The supplier undertakes to observe the provisions of European Regulation (EC) No. 1907/2006 (REACH). The supplier guarantees that its products are registered in accordance with that Regulation with respect to the use known to the supplier. The supplier shall fulfil its obligations e.g. to create and distribute a safety data sheet without delay and without explicit intervention by us.

**15. General provisions**

15.1 The law of the Federal Republic of Germany excluding private international law shall apply to disputes arising from this contract and to all contractual relations with us. The applicability of the Hague Uniform Laws on International Sale of Goods, the Uniform Sales Law of the UN and of other conventions on the law of the sale of goods is excluded.

15.2 If a provision of these terms and conditions and of the other agreements that are concluded is or becomes invalid, the validity of the remaining provisions shall remain unaffected. The parties to the contract shall be obliged to replace the invalid provision with a provision that comes as close as possible to the economic effect of the invalid provision.