

General Terms and Conditions of Purchasing and Ordering

1. Scope of applicability

- 1.1. These General Terms and Conditions of Purchasing and Ordering (GTC) shall apply exclusively; any terms and conditions of the supplier that contradict, supplement or deviate from the terms and conditions of BURG F.W. Lülting KG (hereinafter referred to as "User" or "we") shall only be acknowledged with express written consent. Our GTC shall also apply where, in awareness of any contradictory, supplementary or deviating terms and conditions of the supplier, we accept delivery without reservation.
- 1.2. These GTC shall apply for all purchase agreements and contracts for work and materials and for all other contractual agreements on the basis of which our supplier is obligated to supply us with goods or provide services. These GTC shall also apply for all future purchase agreements and contracts for work and materials and for all other contractual agreements on the basis of which our supplier is obligated to supply us with goods or provide services.
- 1.3. These GTC shall only apply for suppliers to the extent that such are entrepreneurs (Section 14 BGB [German Civil Code]), legal persons under public law or special funds under public law.
- 1.4. Specific agreements concluded in individual cases with the suppliers (including ancillary agreements, amendments and alterations) shall, in all cases, take precedence over these GTC.
- 1.5. Any references to the application of statutory provisions shall be for the purposes of clarification only. The statutory provisions shall also apply in the absence of such clarification, insofar as they are not directly amended or explicitly excluded in these GTC.

2. Conclusion of the contract

- 2.1. The provision of samples and offers by the supplier shall be non-binding and free of charge for us. Our order shall only be deemed binding where said order has been placed in writing or confirmed.
 - 2.2. Our order shall either be confirmed by the supplier in writing or executed without reservation through dispatch of the goods (acceptance) within a period of 2 weeks. The belated written acceptance shall otherwise constitute a new offer and requires acceptance by us.
- ### 3. Documents, provision of tools and secrecy
- 3.1. We shall reserve ownership rights and copyrights to illustrations, drawings, calculations and other documents (hereinafter referred to as Documents) and to all items of any kind whatsoever such as samples, tools, models, material and similar (hereinafter referred to as Supplied Items), which are provided by us to the supplier in order to execute the order.
 - 3.2. Documents and Supplied Items of all kinds, such as samples, drawings, tools, models and similar, which are provided by us to the supplier, must be returned to us free of charge without request as soon as such are no longer needed for the purpose of executing the order. Such Documents and Supplied Items may not be used by the supplier for its own purposes nor may they be made accessible to third parties. The supplier shall only be entitled to rights of retention with regard to Supplied Items owned by us in the presence of claims against us which have been acknowledged or established with legally binding effect.
 - 3.3. Results produced on the basis of Documents created by us (such as drawings, models and similar) or according to our confidential specifications or using our Supplied Items or copied Supplied Items may not be used by the supplier or offered or delivered to third parties.
 - 3.4. The supplier shall be obligated not to disclose to third parties any details of our order such as quantity, technical design, terms and conditions etc., or any Documents received. The name of our company may only be added to a reference list and our order may only be used for advertising purposes where our written consent has been obtained. These may only be disclosed to third parties with our express consent. The confidentiality obligation shall only expire if and to the extent that the knowledge contained in the provided Documents has become known to the general public.
 - 3.5. The supplier shall be obligated to pay a contractual penalty amounting to € 25,000 in the event that this confidentiality obligation is breached. We shall otherwise be entitled - in the event of particularly severe breaches - to withdraw from the entire contractual relationship with the supplier with immediate effect and without compensation and, where applicable, to request the refund of any payments that have already been made. A particularly severe breach shall be deemed to have occurred, in particular, where the supplier forwards knowledge acquired or received by it to third parties that are in competition with us.

4. Retention of title

- 4.1. Any goods produced for us and paid for by us shall become our property once payment has been made in full. Instead of

transferring ownership, the supplier shall store the goods for us free of charge with the due care of a prudent businessman. Supplied Documents and Items and any goods produced and stored on our behalf shall remain our property. The supplier shall store any Documents and Supplied Items owned by us and any goods produced for us separately from other items and documents that do not belong to us. The Documents and Supplied Items and any goods produced for us must be marked as our property and indicated accordingly in the accounting records.

4.2. The processing, mixing or combining (further processing) of Supplied Items by the supplier shall be done on our behalf. The same shall apply for the further processing by us of the goods delivered to us, so that we are deemed a manufacturer within the meaning of Section 950 BGB.

4.3. If the Supplied Items provided by us or the goods delivered to us are processed, inseparably mixed or combined with other items that do not belong to us, we shall gain ownership of the new item in a proportion that is consistent with the ratio of the invoice value of the purchase item to the total value at the time the processing, mixing or combining occurred. If the processing, mixing or combining takes place in such a way that the supplier's item constitutes the main item, it is hereby agreed that the supplier shall assign proportional joint ownership to us. The supplier shall safeguard the sole or joint ownership on our behalf.

5. Prices and payment terms

5.1. The price specified in the order shall be binding. In the absence of any written agreement to the contrary, the price shall include free delivery and packaging. We shall only be obligated to return the packaging on grounds of a specific written agreement to this effect. If a special price has been agreed for reusable packaging, the supplier shall refund 2/3 of the price of packaging in the event that the packaging is returned freight-paid.

5.2. Statutory VAT is included in the specified prices.

5.3. Unless otherwise agreed, invoices shall be settled by us within 14 days of receipt of goods and invoice with a 3 % discount, or within 30 days of receipt of goods and invoice.

5.4. The supplier shall only be entitled to a set-off right and right of retention on account of counterclaims that have been established by law or are undisputed.

5.5. The supplier shall not be entitled to assign its claims against us from delivery and/or service to third parties. Any assignment in violation of this prohibition shall be ineffective.

6. Delivery time and delivery quantity

6.1. The delivery time stated in our order shall be binding. If circumstances arise which would make timely delivery impossible, or if the supplier becomes aware of such circumstances, the supplier shall be obligated to inform us of this in writing without delay.

6.2. If the supplier is in default of delivery, we shall be entitled to demand a flat-rate compensation for delay of 0.5% of the delivery and performance value per full week of delay, however no more than 10 % of the delivery and performance value; further statutory claims shall remain unaffected. Both the supplier and ourselves shall be entitled to prove that that damage caused by the delay was non-existent, lesser or greater. In the latter case, we shall also be entitled to assert a claim for said greater damage.

6.3. Statutory provisions shall apply in the event of default of acceptance on our part, whereby a written offer by the supplier is necessary in all cases.

6.4. With regard to the number of items and size and weight of a delivery, the figures determined by us during the incoming-goods inspection shall be decisive. Partial deliveries shall only be permitted where we have agreed to such in writing and if such are reasonable. Short and excess deliveries shall be permitted within the tolerance range for short and excess delivery specified in the order.

6.5. Each delivery must include a delivery note stating our order no., our order code, type of packaging, quantity and weight of the delivery.

6.6. In the case of performance of services, the hours worked and the material provided by the supplier must be confirmed by one of our plant representatives.

7. Transfer of risk

Unless otherwise agreed, delivery/performance of service must be made freight-paid to the destination specified in the order. If no destination has been specified and no other agreement has been made, delivery shall be made to our place of business. The respective place of destination shall also be the place of fulfillment. Risk shall be transferred to us where delivery has been duly made to the specified place of destination or has been accepted by us.

8. Copyright/third-party rights

8.1. Where service contracts of any type whatsoever (e.g. research and development contracts) are awarded, we shall be fully and

- exclusively entitled to the work results and the related intellectual property rights. We shall be solely entitled to decide whether or not to register intellectual property rights. The supplier shall be responsible for ensuring that no intellectual property rights, such as patent or utility models rights, other rights or third-party business and trade secrets, are violated through use of the delivered goods. In this respect, the supplier shall indemnify us from any third-party claims so that the goods can be used or resold without violating any third-party rights.
- 8.2. In addition, the supplier shall be liable for any and all further direct or indirect damage resulting from a violation of such rights. Should third parties assert any rights with regard to the delivered goods/performed service, in particular industrial property rights, the supplier shall support us fully with regard to any legal representation that may be required, and provide us with all necessary documentation.
- 8.3. This right shall not apply where the supplier produces goods solely according to our drawings and models and was not aware or could not be aware that the production of these goods was in violation of third-party rights.
9. **Duty of the supplier to inform**
The supplier shall inform us so far in advance of any modifications to production processes, materials or supplier parts for the products, relocation of production sites and further modifications of processes or facilities for the purpose of inspecting the products or other quality assurance measures that we are able to check if these modifications could have a negative effect. The supplier shall also obligate any third parties consulted by it for the purpose of fulfilling its obligations to us accordingly. Where upstream suppliers have been agreed on, these shall be deemed to be an integral part of the contract and may not be replaced without our prior consent.
10. **Warranty**
- 10.1. The supplier shall be liable in accordance with statutory regulations for ensuring that the delivered goods are, or the performed service is, of the agreed quality. The product description and the specifications given to the supplier shall constitute the agreement on the quality.
- 10.2. The supplier shall warrant, upon handing-over the delivery item to us or our customers, that said item is free of material defects and defects of title and that it corresponds to the current state of technology and is in compliance with the relevant laws, protection requirements and accident prevention regulations as well as the customary and technical quality assurance standards (e.g. DIN, VDE, VDI, TÜV, and the Employers Liability Insurance Association ex guidelines). The German version shall be decisive in the event that these standards differ.
- 10.3. We shall be entitled to the full statutory warranty claims. If the supplier is unable to provide supplementary performance by way of replacement delivery or rectification of the defect or if such is unreasonable for us, we shall be entitled to provide

As at August 2014

- supplementary performance ourselves after a reasonable period set for this purpose has expired fruitlessly. The supplier shall bear the costs of such.
- 10.4. The warranty period shall be 3 years.
11. **Product liability, indemnification and insurance cover**
- 11.1. Where the supplier is responsible for damage caused by the goods, in particular damage under the Product Liability Act, it shall be obligated to indemnify us from third-party compensation claims upon initial request if the cause of the damage lies within its sphere of control or organisation and it is personally liable towards third parties.
- 11.2. Within this context, the supplier shall also be obligated, in accordance with Sections 683 and 770 BGB, to refund any expenses incurred from or in connection with the assertion of any third-party claims, including any product recalls undertaken by us. To the extent possible and reasonable, we shall inform the supplier of the content and scope of any such product recall and give it the opportunity to comment.
- 11.3. The supplier shall be obligated to hold product liability insurance with coverage of € 10 million per case of personal injury/material damage; where we are entitled to any claims for damages in excess of this, these shall remain unaffected.
- 11.4. The supplier shall ensure that the Supplied Items and the goods produced and stored for us are adequately insured against fire and water damage and theft at its own expense. At the same time, the supplier shall at this stage assign all and any compensation claimed on the insurance to us; we hereby accept the assignment. The supplier shall be obligated to service and inspect our Supplied Items where necessary and to carry out all maintenance and repair work on them at its own expense in good time. It must report any incidences to us immediately; should it culpably fail to do so, this shall not affect any compensation claims.
- 11.5. Where the security interest to which we are entitled exceeds the purchase price of all goods still unpaid for by us by more than 10 %, we shall be obligated to release the security interest at our own discretion at the supplier's request.
12. **Place of performance, applicable law and place of jurisdiction**
- 12.1. Unless otherwise agreed, the place of fulfilment for all reciprocal obligations arising from our orders shall be our place of business.
- 12.2. The procedural and substantive laws of the Federal Republic of Germany shall apply exclusively to these GTC and all business relationships with us. Applicability of the CISG (UN Convention on Contracts for the International Sale of Goods) and Rome I and II Regulations shall be excluded.
- 12.3. Insofar as the supplier is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, exclusive place of jurisdiction for all disputes arising from this contractual relationship shall be our company's place of business. We shall, however, also be entitled to sue the supplier at its general place of jurisdiction.