

**General Terms and Conditions of Purchase
of the Bürkert Group, Germany,
for Production Material
and other Goods**

1.0 General

1.1 The following Terms and Conditions of Purchase apply to our orders exclusively. They furthermore apply only to business transactions with commercial companies. Any contrary terms and conditions shall only apply if they have been recognised in writing by the Purchaser. If contrary terms and conditions are referred to in the order confirmation, they shall not bind the Purchaser without its express written acceptance. The execution of the order is deemed to constitute acceptance of these Terms and Conditions of Purchase. If the Purchaser accepts the delivery / performance without objection, it cannot be thereby inferred that the Purchaser has accepted the Supplier's terms and conditions of delivery. The respective current version of these Terms and Conditions can be viewed at www.burkert.com and downloaded as a file.

2.0 Placement and acceptance of the order

2.1 Only orders and contracts which have been placed or confirmed in writing (purchase orders/call-offs) are legally binding on the Purchaser. Orders placed verbally or by telephone, including any additions to the same, require written confirmation.

2.2 Following prior written agreement, orders, call-offs and also any changes or additions to the same may also be placed or made by data transmission or by machine-readable data carriers.

2.3 Legal declarations by either party may also be made in electronic form. In this case, the issuer must add its name to the declaration and append a qualified signature to the electronic document in accordance with the Signaturgesetz [*Digital Signature Act*].

In the case of a contract, the parties must each electronically sign an identically worded document in the manner described above.

Unless proof to the contrary is provided, each party shall be bound by the declarations contained in such a digital document, provided the document has been digitally signed in accordance with the requirements of the Signaturgesetz.

2.4 Where the Purchaser, through its order, accepts the Supplier's offer without making any changes, the contract is formed upon receipt of the order. No further confirmation of the order is then necessary on the part of the Supplier.

If the Supplier deviates in its order confirmation from the stipulations contained in the order, the Supplier must clearly draw attention to this. Should the Supplier fail to do so, the contract will be concluded without these deviations.

2.5 If, in exceptional cases, no price is stated in the order, the Supplier must, in the confirmation of the order, state its lowest price, which shall be deemed to be agreed if the Purchaser does not object within 2 weeks.

2.6 The Purchaser may demand changes to the delivery item even after conclusion of the contract, provided this is conscionable for the Supplier. In the case of any such change to

the contract, due account is to be taken of the effects on both sides, in particular with regard to additional or reduced costs as well as the delivery dates.

- 2.7 No remuneration will be paid for visits or for the preparation of offers, projects, etc.
- 2.8 The Supplier shall treat the conclusion of the contract as confidential and may only refer in advertising material to business relations with the Purchaser after the latter has granted its written consent.
- 2.9 The contract parties undertake to treat all commercial and technical details not in the public domain which become known to them through the business relationship as business secrets. A corresponding obligation is to be imposed on any sub-contractors.

Should either of the parties hereto become aware that confidential information has fallen into the possession of an unauthorised third party or that a confidential document has become lost, it shall inform the other party hereto without delay.

3.0 Prices; Shipping; Packaging

- 3.1 The agreed prices are fixed prices and exclude additional claims of any kind.
- Costs for packaging and transport to the delivery address or point of use specified by the Purchaser as well as for customs formalities and customs duties are included in the prices. The agreement on the place of performance shall not be affected by the method of pricing.
- 3.2 Immediately after despatch, each shipment is to be announced by a despatch notice precisely broken down according to type, quantity and weight. Despatch notices, consignment notes, invoices and all correspondence must contain our order number.
- 3.3 The Purchaser will only accept the quantities or number of items it has ordered. Excess or short deliveries are only permissible following prior agreement with it.
- 3.4 Shipment is made at the risk of the Supplier. The risk of any deterioration, including accidental loss, accordingly remains with the Supplier until delivery to the address for shipment or place of use requested by the Purchaser.
- 3.5 The obligation to take back the packaging is governed by the statutory provisions. If, in exceptional cases, the Purchaser is invoiced separately for packaging, it shall be entitled to return packaging which is in good condition to the Supplier, carriage paid, against reimbursement of 2/3 of the value of the same as shown in the invoice. Only environmentally friendly packaging materials should be used.

4.0 Delivery dates; Delay in delivery; Force majeure

- 4.1 The agreed delivery dates are binding. The relevant date for ascertaining whether the Supplier has complied with the delivery date or delivery period shall be the date of receipt of the goods at the place of receipt or use specified by the Purchaser or the successful and timely acceptance of the goods.
- 4.2 If the Supplier becomes aware that an agreed date cannot be met for whatever reason, it shall notify the Purchaser hereof in writing without delay, stating the reasons and the expected duration of the delay.

- 4.3 If the Supplier is in default of delivery, the Purchaser shall be entitled to the statutory claims.
- 4.4 Following the fruitless expiration of a reasonable time limit set by it, the Purchaser shall be entitled, at its option, to demand damages in lieu of performance and/or to obtain substitute performance from a third party or to rescind the contract. The claim to delivery/performance shall be lost as soon as the Purchaser demands damages in lieu of performance or serves notice of rescission of the contract.
- 4.5 The Supplier may only invoke the absence of necessary documents to be supplied by the Purchaser if it has sent a written reminder for the documents and has not received them within a reasonable period of time.
- 4.6 Force majeure and industrial disputes shall release the contract parties from their obligations of performance for the duration of the disruption in the scope of their effect. The contract parties shall be obliged to provide the necessary information without delay in so far as can reasonably be expected and to adapt their obligations to the changed circumstances in good faith.
- The Purchaser shall be released, either in whole or in part, from its obligation to accept the delivery/performance ordered and shall be entitled to rescind the contract to the extent that the delay caused to the Purchaser by the case of force majeure or industrial action makes the delivery/performance no longer viable for it, taking into account economic aspects.
- 4.7 In the event of delivery earlier than the date agreed; the Purchaser reserves the right to return the goods at the Supplier's expense. If the goods are not returned where delivery is made ahead of schedule, they will be stored at the Purchaser's premises at the expense and risk of the Supplier until the agreed delivery date. In the event of delivery ahead of schedule, the Purchaser reserves the right to make payment only at the due date agreed.
- 4.8 Partial deliveries will only be accepted by the Purchaser following express agreement. In the case of agreed partial shipments, the remaining quantity still outstanding is to be indicated.

5.0 Liability for material defects

- 5.1 The Supplier warrants that all deliveries / performances will be free from defects, i.e. in particular that they will possess the characteristics described in the order and will enable appropriate, safe and fault-free operation and also comply with the latest standards of technology and the relevant legal provisions and guidelines issued by authorities and professional and trade associations.
- 5.2 If, in individual cases, deviations from any such regulations are necessary or if the Supplier has concerns in respect of the type of execution requested by the Purchaser, these are to be notified to the Purchaser without delay in writing.

The Purchaser's incoming goods inspection is limited to checks for transport damage, random checks and to obvious defects. The Purchaser will notify the Supplier without delay in writing of any obvious defects in the delivery/performance as soon as they are discovered in the normal and proper course of business, but no later than within 5 calendar days following receipt of the consignment by the Purchaser. Defects not detected by the Purchaser during random checks shall be regarded as hidden defects.

- 5.3 Unless otherwise agreed in the order, the warranty period for the delivery / performance shall be 24 months from delivery.

- 5.4 If defects occur in the item delivered within the warranty period, the Purchaser shall have the right, at its option, to demand that the Supplier remedy such defects without delay in agreement with the Purchaser through elimination of the faults and/or supplying a replacement free of charge and that the Supplier bear all additional costs caused thereby, in particular material and labour costs for the replacement of the defective deliveries.
- 5.5 If the Supplier fails to remedy the defect properly and/or to make a replacement delivery within a reasonable period despite having been set a reasonable time limit,
- or if the Supplier adamantly refuses performance or supplementary performance without legal grounds,
 - or if the supplementary performance has been unsuccessful,
 - or if the Purchaser cannot reasonably be expected to accept supplementary performance,
 - or if, due to particular urgency, it is no longer possible to inform the Supplier of the defect and the impending damage and to set it a reasonable deadline to remedy the defect itself, the Purchaser may, at its option:
 - remedy the defect and / or procure a replacement itself or have the same carried out by third parties. The costs of this measure shall be borne by the Supplier. Its obligations under the warranty shall not be affected by any such substitute performance;
- or
- demand a reduction in the agreed price
- or
- claim compensation for the full amount of the loss incurred by the Purchaser as a result of the defects in the item delivered, including any loss incurred other than to the item delivered, as well as for any expenditure incurred in vain. This shall not apply where the Supplier was not responsible for the defect;
- or
- rescind the contract. The Purchaser may also rescind the contract and demand damages in addition. It may likewise rescind the contract if special circumstances exist which, taking into account the interests of both parties, justify immediate rescission of the contract.
- 5.6 In the case of the supply of devices, machinery and systems, the warranty period shall commence upon acceptance. Should acceptance be delayed through no fault of the Supplier, the warranty period shall amount to 24 months after the item delivered has been made available for acceptance. The warranty period for buildings and building materials amounts to 5 years.
- 5.7 Warranty claims arising during this warranty period shall lapse by limitation 2 years after they arise.
- 6.0 REACH / RoHs / Product safety**
- 6.1 The Supplier shall on its own responsibility ensure that the production material and the goods comply with the relevant provisions of the EU regulations, in particular the

Chemicals Regulation REACH (Regulation (EC) No. 1907/2006), the RoHS Directive (2011/65/EU), the Regulation on the Restriction of the Use of Hazardous Substances in Electrical and Electronic Appliances (*ElektroStoffVerordnung*) and the Product Safety Act (*Produktsicherheitsgesetz*) in the respectively valid version.

Should the Supplier deliver products which by reason of legislation are subject to substance restrictions and/or requirements to provide information about the substances used, the Supplier shall declare these substances in the Bürkert template (BürkertCDC) no later than at the time of the first delivery of the products. Should the REACH candidate list be updated, the Supplier must likewise provide an updated declaration in the Bürkert template.

7.0 Product liability; Breach of duty; Indemnity

7.1 The Supplier shall indemnify the Purchaser against claims arising under manufacturer's liability and under the Produkthaftungsgesetz [*Product Liability Act*] in so far as the damage was caused by a defect in the item delivered. In this respect, the Supplier shall bear all costs and expenses, including the costs of legal defence and any recall campaign, unless the cause of the defect did not lie within its sphere of responsibility. The Purchaser shall inform the Supplier of the content and scope of any recall measures to be carried out prior to their implementation.

7.2 Should the Supplier culpably breach any obligation arising from or in connection with the order, the Purchaser may claim compensation for the damage resulting herefrom, including any loss incurred other than to the item delivered. However, in deviation from the foregoing provision, the Purchaser will only assert claims for loss of production or loss of profit where the Supplier is guilty of wilful misconduct or gross negligence or where claim is made in turn against the Purchaser by customers or third parties on this account or where such damage is covered by an insurance policy taken out by the Supplier.

7.3 If claim is made against the Purchaser for breach of public safety or product liability provisions in connection with any supplies or performances from the Supplier, the Supplier shall, without prejudice to any other rights which the Purchaser may have under the contract or on any other legal grounds, indemnify the Purchaser and its employees against all costs, expenses, losses and any other damage arising from such breach, unless the Supplier proves that it is not responsible for the breach.

7.4 Without prejudice to any other rights which the Purchaser may have under the contract or on any other legal grounds, the Supplier shall indemnify the Purchaser against all liability, losses, costs or material damage or personal injury arising through defective supplies and/or performances or through any breach of the contract (= including any delay in supplies or performances) by the Supplier or its own suppliers or through negligence, wilful non-performance or unlawful acts or omissions on the part of the Supplier or its own suppliers.

8.0 Invoicing and payment

8.1 Following delivery, invoices are to be sent to the Purchaser separately in duplicate and in proper form together with all pertinent documents and data. Incorrectly submitted invoices will only be deemed to have been received by the Purchaser as from the date on which they are correctly issued.

8.2 Payment will be made in the manner customary in the trade, either within 14 calendar days with a 3% prompt payment discount or after 30 calendar days net without any discount,

calculated from delivery/performance and receipt of the invoice.

Depending on the automatic payment runs at the Purchaser, these periods may be extended by a maximum of 5 working days without the loss of the Purchaser's right to a prompt payment discount.

- 8.3 In so far as test certificates for materials have been agreed, these shall form an integral part of the delivery and are to be sent to the Purchaser together with the consignment. However, they must be received by the Purchaser no later than 10 calendar days following receipt of the invoice. The payment period for invoices shall only commence once the agreed certificate has been received.
- 8.4 In the event of defective delivery, the Purchaser shall be entitled to withhold payment in proportion to the value until proper performance has been made.
- 8.5 Where advance payments are made, the Supplier shall, upon demand, provide adequate security, e.g. a bank guarantee.

9.0 Industrial property rights

- 9.1 The Supplier warrants that all deliveries will be free from industrial property rights or any other rights of third parties and, in particular, that no patents, licences or other industrial property rights of third parties will be infringed through the delivery and use of the objects of delivery.
- 9.2 The Supplier shall indemnify the Purchaser and its customers against any claims by third parties arising from any infringements of industrial property rights and shall also bear all costs incurred by the Purchaser in this connection.
- 9.3 The Purchaser shall be entitled at the expense of the Supplier to obtain permission from the entitled party to use the relevant objects of delivery or the relevant performances.
- 9.4 The same arrangement shall apply in the event that a claim is asserted against the Purchaser by a third party on grounds of a flaw in legal title for which the Supplier is responsible.

10.0 Deliveries made in accordance with specifications, drawings and models supplied by the Purchaser

Where the goods are manufactured in accordance with specifications, drawings or models supplied by the Purchaser, the goods and the special equipment, matrices and such like connected with their manufacture may only be supplied to third parties with the express consent of the Purchaser.

The Purchaser alone shall be entitled to the right of disposition over order-related production equipment and tools, in particular in regard to joint use, modification or destruction.

Models, samples, drawings and technical documents of any kind shall remain the property of the Purchaser and are to be kept secret; following completion of the order, they are to be returned together with any copies made.

Should any improvements be made by the Supplier in connection with the execution of the

order, the Purchaser shall have a non-exclusive right of use of the improvement and of any industrial property rights free of charge.

Should the Supplier, in the case of delivery according to the specifications, drawings and models supplied by the Purchaser, have any reservations concerning the intended method of execution, selection of materials or processing methods, the Supplier shall inform the Purchaser without delay in writing, where possible before the start of production.

11.0 Materials provided by the Purchaser

Material provided by the Purchaser shall remain its property. It reserves ownership of the materials provided by it to the intent that the Supplier manufactures the items to be delivered to the Purchaser on its behalf; in this respect, the Purchaser shall be the manufacturer within the meaning of the statutory provisions. The Purchaser shall be entitled to ownership of these items in their respective state of production. The Supplier shall store these items free of charge on behalf of the Purchaser.

Any waste and shavings resulting from the processing of the Purchaser's material shall remain the property of the Purchaser and shall be returned together with the parts manufactured.

12.0 Final provisions

12.1 Should individual sections of these Terms and Conditions of Purchase be legally invalid, this shall not affect the validity of the remaining provisions.

12.2 The Supplier is not permitted to delegate the order or significant parts of the order to third parties without the prior written consent of the Purchaser.

12.3 The Purchaser will handle the personal data of the Supplier in accordance with the Bundesdatenschutzgesetz [*German Federal Data Protection Act*].

12.4 Claims arising from this contract may only be assigned by the Supplier with the prior consent of the Purchaser.

The Purchaser shall be entitled to transfer rights and/or claims under this contract to another company of the Bürkert Group.

The Purchaser may set off any claims which the Supplier has against the Purchaser against claims which the Purchaser or any other company of the Bürkert Group has against the Supplier.

12.5 Unless expressly agreed to the contrary, the place of performance in regard to the obligation of delivery shall be the delivery address or place of use requested by the Purchaser; for all other obligations on both sides, Künzelsau is agreed as the place of performance.

12.6 The court venue shall be Künzelsau where the Supplier is a businessman. However, the Purchaser reserves the right to assert its claims at any other permissible court venue.

12.7 These Terms and Conditions of Purchase shall be governed exclusively by the law of the Federal Republic of Germany. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.

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