

General terms and conditions of delivery, BURGSMÜLLER GMBH, Einbeck

1. Recognition of delivery terms

The supply of delivery items including moveable objects to be manufactured or created according to § 650 German Civil Code (BGB) (contract for labor and materials) by Bürgsmüller GmbH ("Supplier") shall be carried out only on the basis of the following General Supply Terms. The content of all agreements between the Ordering Party and Supplier outside of these General Supply Terms shall require the written confirmation by the Supplier. If individual terms of these General Supply Terms are suspended through the written agreement between the Ordering Party and Supplier, the validity of the remaining terms shall remain unaffected. Other terms, in particular the general business terms and conditions of the Ordering Party, shall also not apply if they were not explicitly rejected by the Supplier or the Supplier accepts or provides performance unconditionally with the knowledge of them.

These General Terms and Conditions of Delivery are intended for use with respect to persons who, when concluding the contract, are acting in the course of their commercial or independent professional activity (entrepreneurs), as well as legal persons under public law or special funds under public law.

2. Offer

The Supplier's offers are non-binding and can be amended by the Supplier without advance notice, insofar as they are not explicitly marked as binding. We reserve the right to sell the item to another customer. Consulting services performed by the Supplier in advance of assignment of the order shall be due according to the standard rates. The Supplier reserves the proprietary and copyrights to its cost estimates, drawings, figures, samples, weight and size measurements as well as other documents including those in electronic form. These documents may only be made available to third parties with the consent of the Supplier. Technical descriptions of the offer are only approximations and to this extent only binding on the Supplier when it expressly declares them to be.

3. Scope of delivery

The written order confirmation shall exclusively control the scope of the delivery. This shall also apply for any safety devices.

The Supplier shall have the right of installment delivery to the extent its acceptance is not unreasonable for the Ordering Party, especially if the delivery of the outstanding goods is secured and no significant additional expenses or significant additional costs arise thereby for the Ordering Party (except if the Supplier declares itself prepared to assume these costs). Every installment delivery can be invoiced separately.

To the extent acceptance is agreed to, the relevant legal requirements of the law on contracts for goods and services shall apply, to the extent no differing terms have been reached in these General Supply Terms.

4. Prices

To the extent not otherwise agreed to, the prices shall be valid for deliveries ex works (Incoterms 2020) of the Supplier or from another address provided by the Supplier, excluding packaging. Any VAT tax due shall be calculated by the legally valid rate and shall be paid by the Ordering Party.

5. Payments

To the extent not otherwise agreed to, the Ordering Party's payments for the deliveries shall be performed to the account of the Supplier without any deductions in the following manner:

50 % of the order value due and payable upon placing the order

50 % of the order value due and payable upon notice of thereadiness of delivery, at the latest however before shipment.

The day of payment shall mean that day on which the Supplier has actual access to the payment amount. The right to retain payments or to set-off with counterclaims shall be available to the Ordering Party only to the extent that its counterclaims are uncontested or have been legally established.

6. Reservation of rights

The Supplier shall retain ownership of the delivery item until the receipt of all payments arising from the supply contract. Insofar as the Ordering Party resells the delivery item, it undertakes to maintain the Supplier's retention of title towards its purchaser.

The Ordering Party hereby assigns to the Supplier, as security and until full settlement of all claims of the Supplier, all claims arising from the resale of the goods against its purchaser, together with all ancillary rights. The Ordering Party is authorised to collect the assigned receivables in its own name, provided that it duly fulfils its payment obligations towards the Supplier. The Supplier reserves the right to disclose the assignment to the purchaser and to collect the receivables itself as soon as the Ordering Party fails to fulfil its payment obligations. In the event of a resale of the delivery item by the Ordering Party, §§ 445a and 445b BGB (German Civil Code) do not apply.

The Supplier undertakes, at the Ordering Party's request, to release any securities to which it is entitled to the extent that the realisable value of such securities exceeds the secured claims by more than 10%.

Furthermore the Ordering Party may not sell, pledge or transfer the reserve title goods as a security without the prior written consent of the Supplier. In case of attachment or seizure or other dispositions of the reserve title goods the Ordering Party shall indicate the proprietary rights of the Supplier to third parties and inform the Supplier immediately.

If the delivery item is processed or transformed by the Ordering Party, such processing or transformation shall be carried out for the Supplier as manufacturer within the meaning of § 950 of the German Civil Code (BGB), without thereby imposing any obligations on the Supplier. The Supplier shall acquire co-ownership of the new item in proportion to the invoice value of the delivery item to the invoice value of the other processed items. If the delivery item is combined or mixed with other items not owned by the Supplier, the Supplier shall acquire co-ownership of the new item in proportion to the invoice value of the delivery item in relation to the other combined items at the time of such combination. In the event of a

breach of contract by the Ordering Party, in particular in the case of default in payment, the Supplier shall be entitled, in accordance with the statutory requirements, to withdraw from the supply contract and to demand the return of the delivery item. Further statutory claims of the Supplier shall remain unaffected.

7. Transfer of risk

To the extent not otherwise agreed, the delivery items shall be delivered ex works of the Supplier or from another address provided by the Supplier. The risk shall also pass to the Ordering Party even in the case of partial deliveries or the Supplier has assumed other performance, i.e. assumption of shipping costs, delivery and assembly. The risk shall also pass to the Ordering Party in the case of the Ordering Party's delay of acceptance.

Where acceptance is required, such acceptance shall be decisive for the transfer of risk. It must be carried out without undue delay on the acceptance date or, alternatively, after notification by the Supplier that the delivery item is ready for acceptance. The acceptance of the delivery item may not be refused due to immaterial defects. If dispatch or acceptance is delayed or does not take place due to circumstances not attributable to the Supplier, the risk shall pass to the Ordering Party on the day of notification of readiness for dispatch or acceptance.

8. Notice of defects

The Ordering Party's defect rights require that the Ordering Party inspect the delivery item immediately after delivery and properly provide notice of defects according to § 377 of the German Commercial Code (HGB). Objections shall be effected immediately and in writing for specific information of the defect. Objections due to incomplete delivery and other recognizable defects shall be notified to the Supplier in writing at the latest within five working days after delivery of the delivered item, concealed defects at the latest within five working days of their discovery. The acceptance of the delivery item may not be refused due to immaterial defects. Claims from delayed reported of the defect shall be precluded.

To the extent acceptance has been agreed to, § 640 of the German Civil Code (BGB) shall apply. Five working days shall be deemed an appropriate deadline in the meaning of § 640 paragraph 2 sentence 1 German Civil Code (BGB).

If the Supplier has engaged a third party ("Transporter") with the transport of the delivery item on the request of the Ordering Party, the Ordering Party shall in the presence of the Transporter record and confirm any noticeable transport damage. If transport damage was not recognizable from the outside upon delivery, the Ordering Party shall immediately report to the Transporter in writing upon its discovery, not later than five days after its delivery. The Ordering Party shall inform the Supplier immediately in writing of the transport damage and the report. Claims from improperly recorded or untimely notice of transport damage shall be precluded.

The costs of the inspection of the delivery item shall be borne by Ordering Party.

9. Delivery Deadline and Force Majeure

The delivery periods stated in the offer are non-binding. Compliance by the Supplier with any delivery period agreed as fixed shall require that all commercial and technical issues between the contracting parties have been conclusively clarified at the time the delivery date is agreed and that the Ordering Party has fulfilled all obligations incumbent upon it in due time. If this is not the case or if subsequent modifications to the delivery item are agreed, the delivery period shall be extended appropriately. This shall not apply insofar as the Supplier is solely responsible for the delay.

Compliance with the delivery period shall be subject to correct and timely delivery to the Supplier by its supplier.

The delivery period shall be deemed complied with if the delivery item has left the Supplier's works before expiry of such period or, in the case of agreed collection by the Ordering Party or default in acceptance by the Ordering Party, notification of readiness for dispatch has been given. The delivery period shall be extended appropriately in the event of unforeseen obstacles beyond the Supplier's control, irrespective of whether such obstacles occur at the Supplier's works or at those of its sub-suppliers, such as operational disruptions, strikes, reject production, labour disputes, etc. The Supplier shall notify the Ordering Party as soon as possible of the commencement and the anticipated end of such circumstances.

If shipment is delayed upon the request of the Ordering Party or it is found to be in acceptance delay, the Ordering Party shall be charged for the resulting storage costs of at least 1% of the invoice amount for each started month when stored at the Supplier's facility, unless the Ordering Party can evidence a lesser damage. The Supplier may however dispose of the delivery item after the expiration of a fixed appropriate grace period.

If the Supplier is deemed to be in delay – due to reasons Supplier is responsible for - and damages result to the Ordering Party, the Ordering Party may demand lump sum compensation for all of the Ordering Party's claims based on the delayed delivery. This shall amount to 0.3 % for each full week of delay, in total however a maximum of 3 % of the value of the delayed part of the total delivery. The delay compensation shall not be due if the delay does not last longer than ten working days.

In the event that the Ordering Party grants the Supplier found to be in delay a reasonable deadline for performance, under consideration of any legal exceptions thereto, and if such extension is materially breached, the Ordering Party shall be entitled to withdraw from the contract in accordance with statutory provisions. The Ordering Party shall be required to inform the Supplier in writing within 30 calendar days from the end of the extension that it will exercise this right.

If the Supplier is hindered in the fulfillment of its contractual obligations on the basis of force majeure such as mobilization, war, terrorism, insurrection, natural catastrophes, fire or other unforeseeable circumstances not caused by the Supplier such as strikes or lawful lockouts, operational disruptions, transportation shortages, difficulties procuring raw materials or lack of supply caused by its deliverers, the agreed upon delivery deadlines shall be extended by the duration of the hindrance including an appropriate start up period at the maximum however by three months. The conditions cited are also not the attributable to the Supplier if

they occur in the course of an existing delay. The Supplier shall inform the Ordering Party as soon as possible of the start and foreseeable end of such conditions.

If the hindrance lasts three months or longer, both parties may withdraw from the contract.

10. Installation and initial operation

Installation, assembly or initial operation of the delivery item shall be performed by the Supplier only if it is specially agreed to and only in accordance with the installation specifications of the Supplier.

Place and time of the initial operation shall be agreed upon by the parties. Initial operation, depending on the complexity of the delivery item, may require up to six months. Prior to the expiry of this period, additional periods may only be set if the Ordering Party has a legitimate interest and the legal consequences resulting therefrom in the event of failure by the Supplier to comply with such period may only be exercised if the Ordering Party has a substantially prevailing interest.

The Ordering Party shall be obliged to notify the Supplier in writing within thirty (30) days following the expiry of the additional period granted as to whether and which legal remedy it intends to assert.

11. Warranty

With respect to defects in quality and legal defects of the delivery, the Supplier shall provide warranty as follows, to the exclusion of further claims – subject to Clause 12:

The warranty period for new delivery items shall be twelve (12) months from delivery. Guarantees, in particular guarantees as to quality, shall be binding upon the Supplier only to the extent that they (i) are contained in an offer or order confirmation, (ii) are expressly designated as a "guarantee" or "guarantee as to quality", and (iii) expressly stipulate the obligations resulting therefrom for the Supplier.

The Supplier shall, at its option, provide subsequent performance by remedying the defect or by delivering a defect-free item (subsequent performance) with respect to all parts which prove to be defective as a result of a circumstance existing prior to the transfer of risk. Such defects and their anticipated effects shall be notified to the Supplier in writing without undue delay. Replaced parts shall become the property of the Supplier. For the purpose of subsequent performance, the Ordering Party shall, after consultation with the Supplier, grant the Supplier the necessary time and opportunity and permit unhindered access to the delivery item; otherwise, the Supplier shall be released from liability for the resulting consequences. Only in urgent cases where operational safety is endangered or in order to avert disproportionately large imminent damage shall the Ordering Party have the right, in coordination with the Supplier, to remedy the defect itself or have it remedied by third parties and to demand reimbursement from the Supplier of the necessary expenses.

Of the costs arising from subsequent performance, the Supplier shall bear – to the extent that the complaint proves to be justified – the costs of the replacement item, including shipping, as well as the reasonable costs of removal and installation. For the purpose of subsequent performance, the Ordering Party shall provide the Supplier free of charge with any available tools and lifting equipment as well as fitters and auxiliary personnel.

No warranty shall be assumed in particular in the following cases: unsuitable or improper use, faulty assembly or commissioning by the Ordering Party or third parties, natural wear and tear, faulty or negligent handling, improper maintenance, unsuitable operating materials, defective construction work, unsuitable building ground, chemical, electrochemical or electrical influences – insofar as they are not attributable to the Supplier. Wear parts are excluded from the warranty.

If the Ordering Party or a third party carries out improper subsequent performance, the Supplier shall not be liable for any resulting consequences. The same shall apply to any modifications made to the delivery item without the Supplier's prior consent.

For services rendered in the course of subsequent performance, warranty shall be provided in the same manner as for the delivery item, however only for a period of six (6) months from completion of the subsequent performance. The Supplier may refuse to remedy defects for as long as the Ordering Party has not fully fulfilled its obligations under the supply contract. If the use of the delivery item results in an infringement of industrial property rights or copyrights within Germany, the Supplier shall, at its own expense, procure for the Ordering Party in principle the right to continue using the delivery item or modify the delivery item in a manner reasonably acceptable to the Ordering Party such that the infringement of intellectual property rights no longer exists.

If this is not possible on economically reasonable terms or within a reasonable period, the Ordering Party shall be entitled to rescind the contract. Under the aforementioned conditions, the Supplier shall also be entitled to rescind the contract.

Furthermore, the Supplier shall indemnify the Ordering Party against undisputed or finally adjudicated claims asserted by the respective holders of such intellectual property rights. Subject to Clause 12, the aforementioned obligations of the Supplier shall be exhaustive in the event of an infringement of intellectual property rights or copyrights. They shall only apply if:

- a) the Ordering Party does not admit or recognize to a third party the existence of a legal injury,
- b) The Ordering Party immediately informs the Supplier in writing of asserted infringement of property right or copyright claims,
- c) the Ordering Party supports the Supplier to an appropriate extent in the defense of the asserted claims and/or enables the Supplier to effect modification measures as described above,
- d) all defensive measures included out of court settlements remain reserved for the Supplier at its discretion,
- e) the injury of the property or copyright is not based on a statement from the Ordering Party and
- f) the injury to the property or copyright was not caused by the Ordering Party or a third party engaged by the Ordering Party carrying out their own changes to the delivery item or using it together with products not made available by the Supplier or using it together with products not recommended by the Supplier or the delivery item is used in manner not foreseen by the Supplier.

12. Liability

If, due to fault on the part of the Supplier as a result of omitted or faulty performance of proposals and consultations provided before or after conclusion of the contract, or as a result of the breach of other contractual ancillary obligations, in particular instructions for the operation

and maintenance of the item, the delivery item cannot be used by the Ordering Party in accordance with the contract, the provisions of Clauses 11 and 12 b.) shall apply accordingly to the exclusion of further claims of the Ordering Party.

The Supplier shall be liable for damages not occurring to the delivery item itself – on whatever legal grounds – to the exclusion of further claims only in the following cases:

- a) intent or gross negligence on the part of the Supplier, its executive bodies or senior employees; or
- b) culpable injury to life, body or health; or
- c) defects fraudulently concealed by the Supplier or the absence of which the Supplier has guaranteed; or
- d) defects of the delivery item insofar as liability exists under the Product Liability Act for personal injury or property damage to privately used items.

In the event of a culpable breach of material contractual obligations, the Supplier shall also be liable in cases of gross negligence by non-executive employees and in cases of slight negligence; in the latter case, liability shall be limited to the contract-typical, reasonably foreseeable damage. The Supplier's liability shall be limited in amount to the value of the respective order. Further claims shall be excluded.

13. Limitation period

All claims of the Ordering Party – on whatever legal grounds – shall become time-barred within twelve (12) months from delivery of the delivery item. In cases of intentional or fraudulent conduct as well as in respect of claims under the Product Liability Act, the statutory limitation periods shall apply.

They shall also apply to defects in a building or to delivery items which, in accordance with their customary use, have been used for a building and have caused its defectiveness.

14. Software use

To the extent software is included in the delivery the Ordering Party shall be granted a non-exclusive and non-licensable right to use the software that is delivered, including the documentation.

It is provided for use on the designated delivery item. Use of the software on more than one system is prohibited. The Ordering Party may reproduce, modify, translate or convert the software from object code into source code only to the extent permitted by law (§§ 69 a ff UrhG).

The Ordering Party undertakes not to remove or alter any manufacturer's information – in particular copyright notices – without the Supplier's prior express consent.

All other rights to the software and the documentation, including copies, shall remain with the Supplier or with the software supplier. It shall not be permitted to loan, rent, grant or sublicense the software to third parties.

15. Ordering party's right of cancellation

The supplier may completely or partially withdraw from the contract if an insolvency proceeding is applied for or opened upon the assets of the Ordering Party or there is any other significant deterioration in the financial circumstances.

To the extent the delivery item is not a fungible, manufactured or a movable object to be produced according to § 650 of the German Civil Code (BGB), the Ordering Party can cancel the contract at any time up to completion of the work only then when an important reason exists according to § 648 of the German Civil Code (BGB). The Supplier shall in this case be entitled to the agreed remuneration. However, the Supplier must allow the deduction of expenditures which it saves as a result of cancellation of the contract or of income which it acquires, or maliciously omits to acquire, by using its labour and equipment elsewhere.

16. Compliance with applicable law and export

The Ordering Party shall comply with all legal regulations and official requirements as well as all other applicable laws and in particular export provisions and the laws of the country in which the Ordering Party will do business. The Ordering Party shall timely obtain all required authorizations and licenses as well as all other required approvals which are required according to applicable laws for the use and/or export of the delivery item. In the event of a breach of the aforementioned obligations the Ordering Party shall exempt the Supplier from all third-party claims.

The Supplier may withhold its performance from the Ordering Party, if the Ordering Party would breach such applicable laws or if all of the required authorizations have not been obtained and it is not due to the fault or responsibility of the Supplier.

17. Applicable law, jurisdiction, place of performance

All legal relationships between the Supplier and the Ordering Party shall be governed exclusively by the laws of the Federal Republic of Germany. The exclusive place of jurisdiction for all disputes arising out of or in connection with this contract shall be the Supplier's registered office. However, the Supplier shall also be entitled to bring legal action at the Ordering Party's principal place of business.