

**General Terms and Conditions of Purchase (GTCP)**  
of  **Burger Industrierwerk GmbH & Co. KG, 78136 Schonach**

**1. Scope of application**

Our following General Terms and Conditions of Purchase (GTCP) shall apply exclusively to the purchase of goods or services by us; we will not recognize any terms and conditions of the supplier that conflict with or deviate from our GTCP, unless we have expressly agreed to their validity in writing. Our GTCP shall also apply, if we accept deliveries or other services without reservation in the knowledge, that the supplier's terms and conditions conflict with or deviate from our GTCP. These GTCP are based on all future contracts between us and our suppliers. Our GTCP shall only apply to legal relationships with entrepreneurs (§14 BGB) or legal entities under public law and special funds under public law (§ 310 para. 1 BGB).

**2. Binding effect of declarations, written form, withdrawal**

**2.1** If an offer is made in response to our inquiry, the supplier shall comply with quantity, quality and design and, in the event of deviations, expressly refer to them. The preparation of offers shall be free of charge for us.

**2.2** Purchase contracts (our purchase orders or orders as well as the declarations of acceptance from our suppliers) and call-offs for deliveries or services as well as their amendments and supplements thereto must be made in writing. Orders placed verbally or by telephone shall only become legally binding with the issuance of our written order.

**2.3** We shall be entitled to revoke our purchase orders or orders free of charge if the supplier does not confirm them unchanged within two weeks after receipt. If the order confirmation of the supplier deviates from the purchase order or the order, a contract shall only come into effect, if we have expressly agreed to the order confirmation. Our delivery or service call-offs shall become binding at the latest, if the supplier does not object within one week of receipt.

**2.4** At our request, the supplier shall carry out any changes to the delivery item design and execution or other performance ordered. Effects, in particular with regard to any additional or reduced costs as well as the delivery or performance dates shall be settled appropriately and by mutual agreement.

**2.5** If the supplier violates a contractual obligation or does not fulfill such an obligation to the full extent, we shall be entitled to withdraw from the contract after granting a reasonable grace period.

**3. Delivery and performance dates and deadlines, default**

**3.1** The dates and periods of performance contained in our orders and contracts shall be binding. The receipt of the goods or the provision of the service by us is decisive for compliance. Impending delays are to be reported from our suppliers to our ordering or commissioning department as soon as they become known. In the case of call-off orders, we reserve the right to determine the individual call-off dates for the partial deliveries. This shall be done by means of delivery call-offs.

**3.2** Non-compliance with agreed delivery or performance dates or periods shall entitle us after setting a reasonable grace period to withdraw from the contract or to claim damages. This shall also apply, if we have accepted delayed deliveries or services without reservation.

**3.3** In the event of a delay in delivery or performance, the supplier shall bear the costs of delay including any freight costs incurred.

**3.4** For quantities, weights and dimensions, unless proven otherwise, the values determined by us during the incoming goods inspection shall be authoritative.

**4. Partial deliveries, under- and over-deliveries, early performance**

**4.1** Partial deliveries or services may only be made with our approval and shall not constitute performance. The acceptance of a partial delivery or a partial service does not constitute such approval.

**4.2** In the event of an under-delivery of no more than 5 %, we shall be entitled to accept the delivery and to cancel the missing quantity of the delivery. In the event of an over-delivery of at least 5 %, we reserve the right to return the entire delivery to the supplier at the supplier's expense.

**4.3** Deliveries or services prior to the agreed date are only possible with our consent. We reserve the right to reject prematurely delivered goods or to value the relevant invoice accordingly.

**5. Right of withdrawal in cases of force majeure**

Lockout, strike, operational disturbance, official orders and other events, for which we are not responsible, shall entitle us to withdraw from the contract in whole or in part after prior notice, as far as they result in a considerable delay in our needs.

**6. Packing and dispatch**

In the absence of any agreement to the contrary, goods to be delivered are to be delivered in a customary manner and properly packaged. At our request, goods to be delivered shall be provided with special packaging in accordance with our instructions. The supplier shall be liable for any damage resulting from inadequate packaging. The supplier shall take back packaging material upon our request.

**7. Origin of goods and preferences**

**7.1** The supplier shall be obligated to submit a long-term supplier's declaration for all goods delivered by him to us, in which he declares the preferential status of the goods ("goods with EU preferential origin status" or "Goods without EU preferential origin status").

**7.2** The supplier shall be liable in the event of non-compliance with this obligation or in the case of incorrectly issued declarations, for all damages resulting therefrom, including additional claims by foreign customs authorities, fines customs authorities, fines, etc.

**8. Prices, invoicing and terms of payment**

**8.1** Prices stated in our purchase orders or orders shall be binding. Unless otherwise agreed in individual cases, these prices shall include all services and ancillary services of the supplier and all ancillary costs (in particular for packaging, transport and insurance).

**8.2** In the absence of any agreement to the contrary, the price shall include delivery "free domicile" or the performance of the service at our premises.

**8.3** We can only process invoices, if these - in accordance to the specifications in our order - contain the order and part number indicated therein; the supplier shall be responsible for all consequences arising from non-compliance with this obligation, consequences of non-compliance with this obligation, unless he can prove that he is not responsible for them.

**8.4** In the absence of any agreement to the contrary, invoices shall be payable to us either within 30 days with a discount of 3 % or within 60 days without deduction. The period shall run from the date on which both the invoice and the delivery are received by us or the service is rendered. Payments shall be made subject to audit.

**9. Transfer of risk, ownership, retention of title**

**9.1** The risk shall be borne by the supplier until the goods arrive at the place of performance determined by us. The transfer of risk shall generally take place by handing over the goods to us.

**9.2** Ownership shall pass directly to us upon handover of the goods; we do not recognize any retention of title.

**10. Obligation to examine and give notice of defects, warranty**

**10.1** We shall, in accordance with the circumstances of a proper course of business conduct an examination of the goods received only with regard to identity, quantity and possible transport damage. We shall notify any defects discovered in the course of such inspection without delay; the complaint shall be deemed to have been made in good time, if it is received by the supplier within a period of 14 working days, calculated from the date of receipt of the goods or, in the case of hidden defects, from the date of discovery..

**10.2** We shall be entitled to convince ourselves of the contractual execution of the deliveries ordered, during normal business hours to take part in inspections of the supplier's goods or to carry out such inspections ourselves after prior notice.

**10.3** The supplier warrants that its deliveries and services comply with the recognized rules of technology and the statutory regulations (in particular safety at work and environmental protection) and that they have the contractually agreed properties. He shall furthermore stand up for the quality of the materials used, the professional design and execution of the goods delivered by him as well as for the specified and agreed performance. The supplier undertakes to comply with the requested quality inspections or quality certificates deliveries and services, and to deposit the requested evidence (test reports, documentation, initial sample test reports, certificates, etc.).

**10.4** If a quality assurance agreement exists between the supplier and us, this shall become an integral part of the contract.

**10.5** We shall be entitled to the statutory warranty rights in full; Independently of this, we shall be entitled, at our decision, to demand removal of defects or replacement delivery (§ 439 BGB). The supplier shall be obliged to bear all expenses necessary for the purpose of rectifying the defect or to reimburse us for all expenses incurred for the purpose of rectification of the defect or in particular for packaging, freight, export, disassembly and installation and necessary travel. We expressly reserve the right to assert claims for damages.

- 10.6** In the event of minor defects, in the event of a delay in delivery as well as in the event of a the supplier is in default with the rectification of the defect, we shall be entitled in urgent cases (in particular in the event of a risk to operational safety, to avert exceptional damage or our own delay in delivery), after prior information and expiry of a reasonable period of grace, we shall be entitled to period of grace, to remedy the defect and any consequential damage caused by the defect, or to have the defect remedied by a third party.
- 10.7** The warranty period shall be 24 months from the date of handover in the case of purchase contracts or acceptance in the case of contracts for work and services. If the goods ordered are passed on directly to third parties or are part of an assembly delivered by us to a third party, the period shall commence with the handover of the assembly to the third party.
- 10.8** The supplier shall be liable for any fault, including that of his vicarious agents, suppliers and subcontractors
- 10.9** Furthermore, the supplier warrants that all goods delivered are free from third party rights (in particular liens, other creditor positions from assignment creditor positions arising from the assignment of claims or loan securities and property rights).
- 11. Product liability - indemnification - liability insurance coverage**
- 11.1** Insofar as the supplier is responsible for damage to a product, he shall be obliged to indemnify us against claims for damages by third parties at first request, insofar as the cause lies within the supplier's and organizational sphere and he himself is liable in relation to third parties.
- 11.2** In such cases, the supplier shall bear all costs and expenses, including the costs of any legal proceedings or recall action. We shall inform the supplier of the content and scope of the recall measures to be carried out - as far as possible and reasonable - and give him the opportunity to comment. Other legal claims remain unaffected.
- 11.3** The supplier undertakes to take out an appropriate product liability insurance against product liability, to maintain adequate product liability insurance and to prove this to us upon request by submitting an insurance policy.
- 11.4** If we are entitled to further claims for damages, these shall remain unaffected.
- 12. Provision of material**
- 12.1** Material provided by us (substances, parts, containers, special packaging, etc.) shall remain our property and shall be provided by the supplier free of charge and with the diligence of a prudent businessman separately from his other objects and to mark them as our property. It may only be used for the execution of our order. Damage to or loss of the material provided shall be compensated by the supplier.
- 12.2** If the material provided is processed, transformed, combined or mixed with other items, we shall acquire title to the resulting item in the proportion the resulting object in the ratio of the value of the material provided by us to the total value of the materials.
- 13. Technical documents, means of production, tools**
- 13.1** Technical documents and means of production provided by us or manufactured at our expense such as drawings, models, samples, profiles, standard sheets, printing templates, artwork, gauges, etc., as well as tools shall remain in our property; all copyrights, industrial property rights and rights of exploitation shall remain with us. The technical documents, means of production or tools may not be passed on to third parties or used for purposes other than the fulfillment of the order. They must be secured against unauthorized inspection or use. Subject to further rights, we shall be entitled to demand their return as soon as the supplier violates his obligations.
- 13.2** The supplier shall carefully store the aforementioned items and insure them at its own expense against fire, theft or other loss. He shall return them to us immediately after completion of the order without being requested to us immediately after completion of the order without keeping copies, duplicates, etc.. Duplication of the aforementioned items is only permitted to the extent that necessary for the execution of our order.
- 14. Confidentiality of information obtained, copyrights and exploitation rights**
- 14.1** The supplier undertakes to keep confidential all information (in particular copyrights and exploitation rights) with us (in particular offers, descriptions, designs and technical know-how) and not to disclose it to third parties or to use it in any other way. This shall also apply after termination of the business relationship.
- 14.2** We reserve the sole copyright and exploitation rights to the information. The information may not be made accessible to unauthorized persons without our consent, nor used outside the business with us - in particular in the context of deliveries to third parties.
- 14.3** The documents and information shall be returned to us on request at any time, at the latest after the end of the business relationship without being requested to do so.
- 14.4** The parties shall notify each other in writing without undue delay if claims are asserted against one of them of industrial property rights are asserted against one of them.

**15. Place of performance, place of jurisdiction, applicable law, contractual language**

- 15.1** Unless otherwise stipulated in our order, the place of performance shall be our place of our registered office in D-78136 Schonach shall be the place of performance.
- 15.2** Any disputes arising in connection with the purchase of goods or services by us shall be subjected to the exclusive jurisdiction of the courts having jurisdiction for our registered office in D-78136 Schonach. Notwithstanding the foregoing, we shall, however, be entitled to bring an action against the supplier before the courts having jurisdiction for the supplier's registered office.
- 15.3** All legal relationships between us and our suppliers shall be governed exclusively by German law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).
- 15.4** The language of the contract and correspondence shall be German.

**16. Final provision**

Should any of the above provisions be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions of these GTCP. An invalid provision shall be replaced by a valid provision, which comes as close as possible to the meaning of the sense of the invalid provision.

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