

General Terms and Conditions of Purchase of Buchholz Hydraulik GmbH

1. Scope, Form

- (1) These General Terms and Conditions of Purchase (ToP) shall apply to all business relations with our business partners and suppliers ("Seller"). The General Terms and Conditions of Purchase shall apply only, if the Seller is an entrepreneur (Art. 14 BGB / German Civil Code), a legal entity under public law or a special fund under public law.
- (2) The General Terms and Conditions of Purchase shall specifically apply to contracts for the sale and/or delivery of movable goods ("goods"), irrespective of whether the Seller manufactures such goods itself or buys them from suppliers (Art. 433, 650 BGB). Unless otherwise agreed, the ToP effective when the order is placed by us shall apply as a master agreement also to similar future contracts without us being required to specifically refer to them in each individual case.
- (3) These ToP shall apply exclusively. Any deviating, conflicting or additional General Terms and Conditions of the Seller shall only become part of the contract, if and insofar as we have given our express written consent to their effectiveness. This requirement of consent shall apply in any case, e.g. also if we, with knowledge of the Seller's General Terms and Conditions, accept its shipments without reservation.
- (4) Individual agreements made with the Seller in individual cases (including subsidiary agreements, amendments and modifications) shall always prevail over these ToP. The binding content of such agreements shall be evidenced by a written contract or our written confirmation, subject to evidence to the contrary.
- (5) Any relevant legal statements and information given by the Seller with respect to the contract (e.g. deadline, reminder, withdrawal) must be given in writing, i.e. in written form or text form (e.g. letter, email, telefax). Any formal legal requirements and further evidence, especially in case of doubt regarding the issuer's legitimation, shall remain unaffected.
- (6) References to applicable legal regulations shall have a clarifying effect only. Hence, the legal regulations shall apply also in the absence of such clarification, unless directly amended or expressly excluded in these ToP.

2. Conclusion of Contract

- (1) Our purchase order shall be binding, at the earliest, after being placed or confirmed in writing. The Seller shall notify us of any obvious errors (e.g. typing and calculation errors) and incompleteness of the purchase documents for correction or completion before accepting the purchase order; otherwise the contract shall be deemed not concluded.
- (2) The Seller shall confirm our purchase order in writing within two weeks (acceptance). Delayed acceptance will be considered a new offer and require our acceptance.
- (3) We shall be entitled to change the time and place of delivery as well as the type of packaging at any time by written notification no later than at least seven calendar days prior to the agreed delivery date. The same shall apply to modifications of product specifications, if these can be implemented in the Seller's production process without considerably higher effort; in these cases, a notification period of at least seven calendar days, as specified in the preceding sentence, must be observed. We will reimburse the Seller for any reasonable additional costs incurred as a result of such modification and evidenced by it. If such changes result in delays in delivery which the Seller cannot avoid with reasonable effort in its normal production and business operations the originally agreed delivery date shall be postponed accordingly. The Seller shall notify us in writing of the expected additional costs or delayed delivery in good time prior to the date of delivery, however, no later than three workdays after receipt of our notification according to paragraph (1).
- (4) We shall be entitled to withdraw from the contract, at any time, by written notification stating the reason for withdrawal, if we can no longer use the products ordered or if we can only use them in our business operations with considerable additional effort due to reasons caused by the Seller occurring after conclusion of the contract or if, after conclusion of the contract, the Seller's financial situation deteriorates in a way that contractual delivery of the goods cannot be expected.

3. Delivery Period and Default in Delivery

- (1) The delivery period indicated in our purchase order is binding. The Seller is obliged to notify us in writing, if it expects agreed delivery periods – for whatever reason – to be delayed. Earlier delivery may be accepted after consultation with us. For blanket orders we shall be entitled to call off such orders and determine their volume according to our operating conditions without the Seller being entitled to claim damages and invoice any deferred quantities to us.
- (2) If the Seller fails to deliver or does not deliver within the agreed delivery period or is in default of delivery, our rights – in particular with regard to withdrawal and damages – shall be governed by the applicable legal regulations. The provisions in (3) shall remain unaffected by this.
- (3) If the Seller is in default, we may – besides further legal claims – claim a lump sum for compensation of the damage caused by default. Such lump sum amounts to 1% of the net price for each completed calendar week, with the maximum being 5% of the net price of the goods delivered late. We reserve the right to evidence that greater damage was caused. The Seller reserves the right that no damage at all or only substantially less damage occurred.

4. Performance, Delivery, Passage of Risk, Default in Acceptance

- (1) Without our prior written consent, the Seller shall not be entitled to have the goods and services owed by it provided by third parties (e.g. subcontractor). The Seller will bear the procurement risk for all goods to be supplied by it, unless otherwise agreed in individual cases (e.g. limitation to stock).
- (2) In Germany the goods shall be delivered "free domicile" to the place indicated in the purchase order. If the place of delivery is not indicated and nothing else has been agreed, delivery shall be made to our registered office in Schwentental. The place of delivery also represents the place of performance for delivery and subsequent performance (obligation to perform).
- (3) A delivery note stating the date (of issue and dispatch), the contents of the shipment (article number and quantity) and our order identification (date and order number) must be enclosed with the shipment. If the delivery note is missing or incomplete, we will not be responsible for any resulting delays in processing and payment.
- (4) The risk of accidental loss and accidental deterioration of the goods shall pass to us upon delivery of the goods at the place of performance. If approval has been agreed, such approval will be decisive for the passage of risk. Apart from that, the statutory regulations governing work and service contracts shall apply accordingly to agreed approval. The items will be deemed delivered and/or approved, if we are in default of acceptance.
- (5) Our default in acceptance shall be governed by the statutory regulations. The Seller shall, however, also offer its performance of the contract to us, if our action or cooperation (e.g. provision of material) has been agreed for a defined or definable calendar period. If we are in default of acceptance, the Seller may claim reimbursement of its additional expenses according to the legal regulations (§ 304 BGB). If the contract relates to a unique item to be manufactured by the Seller (made-to-order production), the Seller shall only have further rights, if we have undertaken to cooperate and are responsible for our denial of cooperation.

5. Prices and Terms of Payment

- (1) The price quoted in the purchase order is binding. All prices are inclusive of statutory value-added tax, unless otherwise stated.
- (2) Unless otherwise agreed in individual cases, the price shall include all services and ancillary services (e.g. assembly, installation) provided by the Seller as well as all ancillary costs (e.g. proper packaging, transport costs including transport and liability insurance, as required). If it has been agreed that the packaging is not included in the price and the price for the packaging – not provided on loan only – has not been expressly quoted, it shall be charged at the evidenced cost price. At our request, the Seller must take back the packaging at its own cost.
- (3) Unless otherwise agreed, the invoice shall be settled within 30 calendar days of complete delivery and performance (including approval, if agreed) and receipt of a proper invoice and delivery note. If we effect payment within 14 calendar days, the Seller shall grant us 3% discount for prompt payment on the invoiced net amount. Payment by bank transfer shall be considered made in time, if our transfer order is received by our bank prior to expiry of the payment deadline; we will not be responsible for any delay which is the responsibility of the banks involved in the payment process.
- (4) All order confirmations, shipping documents and invoices must state our order number, the article number, delivered quantity and delivery address. If one or several of these details are missing and cause a delay in document processing in our ordinary business operations, the payment periods according to (3) will be extended by the period of such delay. The invoice shall be made out immediately as a single copy with precise indication of the order drawing and position number of each single item, separately for each purchase order. Invoices and test certificates must not be enclosed with the shipment. Any required test certificates shall be passed on to us without extra charge.
- (5) We shall not owe any interest after due date. Default in payment shall be governed by the statutory regulations.
- (6) We shall be entitled to assert offset and retention rights and a plea of non-performance in accordance with statutory regulations. In particular, we shall be entitled to withhold due payment as long as we have claims against the Seller due to incomplete or deficient performance.
- (7) The Seller shall only be entitled to offset and retention rights within the limits of legally established or undisputed counterclaims.
- (8) The Seller shall provide a complete breakdown of production costs (inclusive of but not limited to the shares of material, staff and process costs), i.e. the costs of all basic elements of the delivered part, and disclose all other costs of the process steps, at our first request, to allow for a transparent and comprehensible representation of price changes.

6. Confidentiality and Reservation of Title

- (1) We reserve ownership rights and intellectual property rights to all illustrations, plans, drawings, calculations, instructions, product descriptions and other documents. Such documents shall be used exclusively for contractual performance and returned to us upon completion of the contract. Any copies made by the Seller shall then be destroyed, except for documents saved pursuant to the statutory obligation to preserve records as well as for backup data required for regular data backups. The documents shall not be disclosed to any third parties, even after termination of the contract. The obligation of secrecy shall only expire when and insofar as the knowledge passed on with the documents has become generally known.
- (2) The above provision shall apply accordingly to substances and materials (e.g. software, finished and semi-finished products) as well as tools, templates, samples and other items provided by us to the Seller for production. The Seller shall store such items – as long as they are not processed – separately at its own cost, mark them as our property, and appropriately insure them against destruction and loss.

- (3) The Seller shall process, mix or combine (further process) items provided by us on our behalf. The same shall apply to our further processing of the delivered items, so that we will be deemed the manufacturer and, according to statutory regulations, acquire ownership of the product when processing it at the latest.
- (4) The assignment of the products to us shall be unconditional and irrespective of the payment of the price. If, however, in individual cases we accept an offer by the Seller requiring payment of the purchase price, the Seller's reservation of title shall expire, at the latest, with payment of the purchase price for the delivered goods. In the ordinary course of business, we shall be entitled, also before payment of the purchase price, to resell the products with advance assignment of the claim resulting therefrom (alternatively, application of simple reservation of title extended to resale). Any other forms of reservation of title, in particular the extended and the passed-on reservation of title and the reservation of title extended to further processing, shall be excluded.

7. Defective Delivery

- (1) Our rights regarding material defects and defects of title of the goods (including wrong deliveries and short deliveries as well as improper installation, faulty installation instructions, operating instructions or user manuals) and other violations of obligations by the Seller shall be governed by statutory regulations, unless otherwise stipulated below.
- (2) Pursuant to the statutory regulations, the Seller shall, in particular, be responsible for the agreed quality of the product at the passage of risk to us. In any case, the product descriptions – as stated and referenced in our purchase order – forming an integral part of the relevant contract or having been included in such contract, such as these ToP, shall be deemed agreements on the quality, irrespective of whether such product description originates from us, the Seller or the manufacturer.
- (3) Notwithstanding Art. 442 Sec. 1 Sentence 2 BGB we shall also be entitled to unlimited claims for defects, if such defect remained unknown to us due to gross negligence when the contract was concluded.
- (4) With regard to the obligation to inspect the goods and give notice of defects (Art. 377, 381 German Commercial Code/HGB), the statutory regulations shall apply as follows: our obligation to inspect the goods shall be limited to defects becoming obvious during the visual check in our incoming goods inspection including the inspection of the shipping documents (e.g. transport damage, wrong deliveries, short deliveries) or found by random sampling in our quality control process. If approval has been agreed, there will be no obligation to inspect the goods. Apart from that, it will depend on whether an inspection is feasible considering the individual circumstances in the ordinary course of business. Our obligation to give notice of any defects discovered later shall remain unaffected. Notwithstanding our obligation to inspect the goods, our notice of defects shall be deemed given without delay and in a timely manner, if it is sent within five workdays of discovery or, in case of obvious defects, of delivery.
- (5) We will not waive any warranty claims by accepting or approving of any samples or specimen presented to us. The same shall apply to advance payment and down payment. This shall not constitute any recognition that the goods or services were provided according to the terms of the contract.
- (6) Subsequent performance shall include the deinstallation of the defective product and its reinstallation, if the item was integrated into another item or attached to another item according to its kind and intended purpose; our legal claim for reimbursement of the expenses involved shall remain unaffected. The Seller shall bear the costs incurred by inspection and subsequent performance, even if it is ascertained that in fact there was no defect. Our liability for damages in cases of unjustified requests for elimination of defects shall remain unaffected; insofar we shall only be liable if we recognized or, in gross negligence failed to recognize, that there was no defect.
- (7) Notwithstanding our statutory rights and the provisions in (6), the following shall apply: If the Seller fails to fulfil its obligation of subsequent performance – by elimination of the defect (rework) or delivery of a non-defective item (replacement), at our option, – within a reasonable deadline set by us, we may remove the defect by ourselves and claim reimbursement of the necessary expenses or an appropriate down payment from the Seller. If subsequent performance by the Seller failed or is unacceptable for us (e.g. due to exceptional urgency, risk to operational safety or imminent disproportionate damage), setting a deadline shall not be required; we shall notify the Seller of such circumstances without delay, if possible in advance.
- (8) Apart from that, with regard to material defects and defects of title, we shall be entitled to reduce the purchase price or withdraw from the contract according to statutory regulations. Furthermore, we shall be entitled to damages and reimbursement of expenses according to statutory provisions.
- (9) Upon receipt of our written notice of defects by the Seller, the limitation period for warranty claims shall be suspended until the Seller refuses our claims or declares the defect eliminated or otherwise refuses to continue negotiations on our claims. With delivery of replacements and elimination of defects the warranty period for such replaced and reworked parts shall recommence, unless in view of the Seller's behaviour we must assume that it did not regard this measure as an obligation, but replaced the products or eliminated the defects only as a gesture of goodwill or for similar reasons.
- (10) We tested and approved of the purchased parts at a particular point in time. If the Seller intends to change the design, the materials used, the production process, the location or make other changes affecting their design or function with respect to the original version or has made such changes since they were last procured, it shall be obliged to notify us of such changes when receiving our purchase order.

8. Recourse against the Supplier

- (1) Apart from claims for defects, we shall be fully entitled to statutory recourse claims within a supply chain (recourse against the supplier pursuant to Art. 445a, 445b, 478 BGB). In particular, we shall be entitled to specifically demand the kind of subsequent performance (rework or delivery of replacements) from the Seller owed by us to our customer. Our statutory right of choice (Art. 439 Sec. 1 BGB) shall not be limited by this.
- (2) Before recognizing or meeting any claims for defects (including reimbursement of expenses pursuant to 445a Sec. 1, 439 Sec. 2 and 3 BGB) asserted by our customer, we will notify the Seller accordingly and, based on a brief description of the situation, request a written comment from it. If a substantiated statement is not received within a reasonable deadline and no amicable solution is received either, the

claim for defects actually granted by us shall be deemed owed to our customer. In this case the Seller reserves the right to produce counterevidence.

- (3) Our claims resulting from recourse against the supplier shall also apply, if the defective products were further processed by us or another entrepreneur, e.g. by installation in another product.

9. Intellectual Property Rights

- (1) The Seller guarantees, in accordance with paragraph (2), that the products supplied by it do not infringe any intellectual property rights of third parties in the countries of the European Union or other countries in which it produces the products or has them produced.
- (2) The Seller shall indemnify us against any and all claims asserted against us by third parties due to the intellectual property right infringement mentioned in (1) und reimburse us for all necessary expenses relating to such assertion of claims. This shall not apply, if the Seller evidences that it is not responsible for the infringement of intellectual property rights and ought not to have known of such infringement at the time of delivery when acting in a business-like manner.
- (3) Any further statutory claims which may be asserted by us due to defects of title regarding the products supplied to us shall remain unaffected.

10. Spare Parts

- (1) The Seller undertakes to provide us with spare parts for the products supplied to us for a period of at least 10 years after delivery.
- (2) If the Seller intends to cease the production of spare parts for the products supplied to us, it shall notify us immediately after its decision to discontinue production. Such decision must be made – subject to the provisions in (1) – at least 12 months prior to the end of production, while allowing for a “last order”.

11. Manufacturer's Liability

- (1) If the Seller is responsible for a product damage, it shall indemnify us against any third-party claims insofar as the cause originates from its own sphere of control and organization and it is itself liable in relation to third parties.
- (2) Within the scope of its indemnification obligation the Seller shall reimburse expenses pursuant to Art. 683, 670 BGB arising in connection with the use of third-party services including expenses resulting from product recalls carried out by us. We shall notify the Seller about the content and scope of such recall measures – as far as possible and reasonable – and give it the opportunity to comment. Further legal claims shall remain unaffected.
- (3) The Seller shall take out product liability insurance with a lump-sum coverage of 10 million EUR minimum per personal injury/material damage, maintain such insurance for the duration of the limitation period for potential claims and produce written evidence at our request.

12. Statute of Limitations

- (1) Mutual claims of the contractual parties shall be subject to a limitation period according to the statutory provisions, unless otherwise stipulated below.
- (2) Notwithstanding Art. 438 Sec. 1 No. 3 BGB, the general limitation period for claims for defects shall be 3 years from the passage of risk. If approval has been agreed, the limitation period shall commence with approval. The three-year limitation period shall apply accordingly to claims arising out of defects of title whereby the statutory limitation period of claims for restitution in rem by third parties (Art. 438 Sec. 1 No. 1 BGB) shall remain unaffected; claims arising out of defects of title are not subject to a limitation period as long as the third party may still assert its right – in particular in the absence of a limitation period – against us.
- (3) The limitation periods of sale of goods law including the above extension shall apply – to the statutory extent – to all contractual claims for defects. As far as we are also entitled to non-contractual claims for damage claims due to a defect, the regular statutory limitation period (Art. 195, 199 BGB) shall apply, unless the application of limitation periods of sale of goods law results in a longer limitation period in an individual case.

13. Assignment

The Seller shall not be entitled to assign its claims from the contractual relationship to any third parties. This shall not apply to monetary claims.

14. Energy Management

Our procurement principles are based on our energy management according to ISO 50001 and stipulate that our purchasing decisions are also made from an energetic perspective. Energy efficiency and energy consumption represent crucial criteria for decision-making. The Seller shall also offer energy-efficient alternatives in enquiries, offers and cost estimates.

15. Compliance with Legislation

- (1) The Seller shall observe all statutory regulations and provisions relevant to it in the contractual relationship. In particular, this applies to anticorruption and money laundering legislation as well as to anti-trust law, labour law and environmental law regulations.
- (2) The Seller shall ensure that the products supplied by it meet all relevant requirements regarding their putting into circulation in the European Union and in the European Economic Area. If requested, it shall evidence conformity to us by producing appropriate documents. In particular, this applies to CE marking, GS marking and compliance with the requirements of ISO 14001 and ISO 50001.
- (3) The Seller shall take reasonable efforts to ensure that its sub-suppliers comply with the Seller's obligations specified in this section 15.

16. Compliance with internal Rules/Regulations

- (1) In connection with the contractual/order relationship, the seller is obliged to comply with our internal provisions/regulations applicable to him in each case. This applies in particular to the BF-85 company regulations, which must be viewed on our homepage under the link www.buchholz-hydraulik.de before commencing the execution of an order at our premises and are deemed to be understood and accepted at the time of entry.

17. Applicable Law and Jurisdiction

- (1) These General Terms and Conditions of Purchase and the contractual relationship between us and the Seller shall be governed by and construed in accordance with the laws of the Federal Republic of Germany to the exclusion of international uniform law, in particular UN CISG.
- (2) If the Seller is a merchant according to the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive – also international – venue of jurisdiction for any and all litigations arising directly or indirectly out of the contractual relationship shall be Kiel. This shall apply correspondingly, if the Seller is an entrepreneur according to Art. 14 of the German Civil Code (BGB). In any case we shall, however, also be entitled to institute legal proceedings at the place of performance of the delivery obligation, pursuant to these ToP or an overriding individual agreement, or at the Seller's venue of jurisdiction. Any prevailing legal regulations, in particular regarding exclusive jurisdiction, shall remain unaffected.

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