

## General Terms and Conditions of Purchase

### 1. Validity

Our terms and conditions of purchase shall apply exclusively; we shall not recognise terms and conditions of the supplier that conflict with or deviate from our terms and conditions of purchase unless we have given our explicit written consent to their application. Our terms and conditions of purchase shall also apply even if we accept the supplier's delivery unconditionally despite knowledge of terms and conditions of the supplier that conflict with or deviate from our terms and conditions of purchase. This shall also apply for all future transactions with the supplier.

### 2. Quotations

The inquiry is a request to the supplier to submit a quotation. Quotations, advice, demonstrations as well as technical documentation and sample deliveries are free of charge for the customer. The supplier shall submit the final quotation in writing. The quotation shall be binding for three months from the date of submission.

### 3. Orders

Orders are only valid if placed in writing. Verbal agreements require our subsequent written confirmation. Orders must be confirmed or refused immediately, at the latest within 6 working days. The contract shall be deemed concluded as soon as the confirmation is received by the customer. If the confirmation is not received by the customer within the said period, the customer shall consider this as refusal of the order and shall be entitled to conclude the contract with another supplier.

### 4. Delivery date

The agreed delivery date (arrival of the goods at the place of destination) is binding. If a calendar week has been agreed as delivery date, the last working day of the calendar week confirmed for the delivery shall apply as the latest date for receipt of the goods. In the event of delivery after this date, the supplier shall be in default without the need for a special reminder. The supplier is obliged to inform us immediately in writing if circumstances arise or become apparent which mean that the agreed date cannot be adhered to.

We are entitled to refuse acceptance of goods delivered before the delivery date stated in the order and to return the goods delivered prematurely or store them with a third party at the expense and risk of the supplier.

### 5. Delivery quantity

In terms of quantity, the supplier is entitled to under-deliver by 5% and to over-deliver by 10%. If the supplier under-delivers by more than 5%, he shall also be in default for the missing amount without the need for a reminder. The explicit written consent of the customer must be obtained for partial and advance deliveries. Additional costs resulting from failure to comply with instructions, incomplete or late provision of dispatch documents requested or from incorrect delivery shall be for the account of the supplier.

### 6. Default

A contractual penalty of 0.5% of the order amount shall be due for each working day by which the delivery is delayed. The order amount is calculated on the basis of the order quantity stated and the respective article price of the delivery. The level of the contractual penalty is, however, limited to 5% of the order volume. Additional costs for consignments requiring expedited delivery as a result of fault on the part of the supplier shall be for the account of the supplier.

Failure to comply with the agreed delivery times shall entitle us – following unsuccessful reminder and expiry of an appropriate period of grace – to refuse acceptance of the performance and to rescind the contract, or to claim damages as a result of non-fulfilment. Acceptance of the delayed delivery or performance shall not constitute renunciation of claims for damages. If it is clear even before the due date that the supplier cannot

adhere to the delivery date, the customer can rescind the contract and waive the delivery. The customer shall also be entitled to rescind if it becomes foreseeable during the manufacturing process that the delivered item will not be suitable. Claims of the customer for damages are reserved.

### 7. Dispatch

Form of transport and route will be agreed at the time of conclusion of the contract. Consignments for which we are required to bear the freight costs – either in part or in full – must be transported by the supplier at the most favourable freight tariffs or in accordance with our dispatch regulations. The supplier must have the load secured by the collecting carrier in order to avoid transport damage as a result of missing or defective load securing.

The supplier shall be liable for all damage and costs resulting from insufficient observance or non-observance of our regulations. Even if dispatch has been agreed, the risk shall not pass to us until handover of the goods at the agreed place of destination. The processing of transport damage is the responsibility of the supplier. The obligations as per Incoterms 2000 shall apply for foreign suppliers.

### 8. Packing

All deliveries must be packed such that damage through transport and during handling of the parts is excluded. Upon request by us, the supplier must take back the packing at his expense

### 9. Delivery notes and invoice

Each consignment must be accompanied by a delivery note in duplicate containing all fundamental features of the order. The invoice must also include the origin of the goods for customs purposes. If information is missing and this results in delayed processing by us within the scope of our normal business dealings, payment periods shall be extended by the duration of the delay.

### 10. Defects

The customer's obligation to check and complain immediately as per Art. 201 of the Swiss Code of Obligations is excluded from the contract. Bircher Reglomat AG can assert claims for defects during the entire warranty period. We are entitled to the full statutory defect claims; irrespective of this, we are fundamentally entitled to demand removal of defects or replacement delivery by the supplier at our discretion. In such cases, the supplier is obliged to bear all costs necessary for removal of the defects or the replacement delivery. The right to damages, in particular to damages instead of performance, is explicitly reserved.

If the supplier fails to comply with his obligation to provide immediate replacement delivery or does not carry out the necessary repairs immediately such that the delivery meets our quality requirements, we shall also be entitled to carry out the necessary repairs ourselves or to have these carried out by a third party. The resulting costs shall be for the account of the supplier. The right to claim damages as a result of non-fulfilment is reserved. In the event of defects to the goods delivered not becoming apparent until during processing, we reserve the right to assert damages, including for farther-reaching damages

### 11. Warranty

The supplier guarantees that the delivered item is free from any defects which impair its value or suitability for the presupposed use, that it has the assured features and corresponds to the prescribed performances and specifications. The delivered item must comply with the public-law regulations at the place of destination.

In the absence of any agreement to the contrary, the warranty period is 24 months from successful commissioning, use etc., including in multiple-shift operation. In cases in which statutory or normal industry standards provide for longer warranty periods, these shall apply.

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If it becomes apparent during the warranty period that the delivery or parts thereof does/do not achieve the assured performance, the supplier shall be obliged to rectify the defects on site at his own expense or to have these rectified.

If complete repair cannot be expected within a period that is convenient for the customer, the supplier must provide and assemble defect-free replacement.

If the supplier is not in a position to rectify the defects immediately, the customer shall be entitled to remove the defects himself or to have these removed, or to obtain a replacement – in all cases at the expense of the supplier. Transport costs and any travel expenses for warranty work shall be for the account of the supplier.

The supplier shall be liable for his suppliers in the same way as for his own performances. He is responsible for ensuring the perfect quality of third-party products supplied by him. If the supplier produces goods especially for the customer in accordance with the latter's drawings and specifications, the supplier must not forward this order on to subcontractors – either in part or in full - without the written consent of the customer. The supplier's own companies also apply as subcontractors.

### 12. Quality assurance/product liability

The supplier undertakes to monitor his processes continuously using statistical methods

- for the constant improvement of his processes and thus of his products
- for partnership-like cooperation in all matters of relevance to quality

The supplier shall enable authorised parties of our company to carry out a product-related process audit prior to the start of series production, in order to assess the supplier's quality assurance measures. In this respect, special checks can be agreed which will be fixed by us in written audit instructions and adherence to which must be documented by the supplier. We are entitled to inspect these documents at any time; as a fundamental rule, random checks must produce a result of zero, i.e. no defective part must be found. Should defective parts be found, our quality assurance department must be informed immediately. Under no circumstances must the goods be delivered without prior written approval of the deviations.

Complaints concerning deliveries will be made in writing. The supplier must comment on complaints in writing within 7 days indicating improvement measures and implementation deadlines.

If the supplier is responsible for product damage, he is obliged to indemnify us against claims of third parties for damages at the first request in so far as the cause lies within his sphere of organisation and control, and he is liable himself in an external relation. In this context, the supplier is also obliged to refund any expense resulting from or in connection with a recall action carried out by us.

### 13. Protected privileges

The supplier hereby guarantees and gives an assurance that no third-party rights will be violated in connection with his delivery, unless he demonstrates that he is not responsible for the violation of obligations.

In the event of us being claimed against by a third party in this context, the supplier shall be obliged to indemnify us against these claims upon our first written request. The obligation of the supplier to indemnify covers all expenses necessarily incurred by us from or in connection with the claim against us by the third party.

### 14. Tools

Tools, samples, gauges, drawings and other documents that we provide or have produced by the supplier for the manufacture of our articles are our property. This shall also apply for materials, parts, containers and special packing provided by us. Agreement exists to the effect that we shall become

joint owners of the products manufactured using our materials and parts in the ratio of the value of the goods provided to the value of the overall product; as such, the supplier shall safekeep these products for us.

These must be treated and stored with care as well as insured against disasters such as fire, water, theft, loss and other damage at the expense of the supplier. Evidence of the insurance is required. These documents must only be made available to third parties with our explicit written authorisation and must be returned to us automatically following processing of the order.

### 15. Confidentiality

The supplier undertakes not to pass on any knowledge or information, which he obtains in connection with the cooperation with Bircher Reglomat AG or obtains otherwise as a result of the cooperation, to third parties, either directly or indirectly, and not to use such himself for own or other purposes. No information, drawings, technical terms and conditions of delivery etc., handed over to the supplier by the customer for production of the delivered item, must be used for other purposes, reproduced or made accessible to third parties. The customer shall be entitled to any copyright.

Upon request, all documents, including all copies or reproductions, must be handed over to the customer immediately. If no delivery materialises, the supplier must hand the documents to the customer automatically. The supplier must treat the order and the related work or deliveries as confidential.

If the supplier wishes to advertise with the present contractual relation or publish on it, this requires the written consent of the customer. The confidentiality requirement shall continue to apply after ending of the contractual relation.

### 16. Performances by third parties

If the supplier does not provide the performance (including tools) himself but rather appoints third parties, this requires our prior, written consent.

### 17. Drawings and operating instructions

Prior to the start of production, the customer must, upon request, be provided with detailed drawings for approval. Approval by the customer shall not release the supplier from his responsibility for the functional suitability and practicability. The definitive execution plans, maintenance and operating instructions as well as lists of replacement parts for correct maintenance of the delivered item, must be handed over to the customer free of charge and in duplicate upon delivery.

### 18. Force majeure

Exceptional occurrences such as war, industrial unrest (strike and lock-out), operational disturbances as well as limitations of operations and similar cases which result in a reduction in consumption, shall entitle us to rescind the contract either in part or in full. The supplier will be informed immediately of the occurrence of such events.

### 19. Prices and price alterations

In the absence of any explicit, written agreement to the contrary, the agreed prices are fixed prices. They do not include value added tax. Any form of retrospective price alterations, even if they result from changes to the execution of the order requested by us, require our written approval. If no agreement is reached we shall be entitled to rescind the contract. With deliveries from abroad, the price covers all delivery obligations as per Incoterms 2000, DDP clause. If the supplier is also obliged to provide assembly, this is included in the agreed price, unless special remuneration has been agreed explicitly and in writing.

### 20. Payment

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If our orders are delivered prior to the prescribed date, the latter shall still apply for determination of the payment date. The agreed payment period shall begin on the date of receipt of the invoice and complete delivery. Our payments will be either 30 days with 3% discount or 60 days net, provided nothing to the contrary has been agreed in writing. The claims to which the supplier is entitled from the order must not be assigned or pledged without the prior written consent of the customer.

### **21. Place of jurisdiction and applicable law**

Place of jurisdiction and place of performance for both parties is Schaffhausen. Nevertheless, Bircher Reglomat AG is also entitled to take legal action against the supplier at his registered office. Swiss Law is applicable subject to exclusion of the Vienna Sales Convention of the United Nations.

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