



General Terms and Conditions of Purchase and Ordering for Companies in the Brandt Group

Rev.: 07/2015

1. General Terms and Conditions of Purchase and Ordering

- 1.1 The following General Terms and Conditions of Purchase shall apply to all Brandt Group orders, unless a divergent agreement has been concluded in writing in a particular case.
- 1.2 We shall not be bound by the General Terms and Conditions of the Supplier; these shall be applicable only in exceptional cases where, and to the extent to which, this has been agreed in writing on an individual basis.
- 1.3 The following General Terms and Conditions of Purchase shall also apply to follow-up businesses of commercial businesses partners whose place of business is within the FRG; it shall not be necessary to furnish such businesses with another copy of the Terms and Conditions.
2. **Orders, Contract**
 - 2.1 Only members of the management team or employees of the Purchasing Department shall be entitled to place orders on behalf of the Brandt Group.
 - 2.2 Orders shall generally be placed in writing and appended with a copy of the General Terms and Conditions of Purchase. If orders placed verbally or by telephone are to be binding with immediate effect, the Purchaser shall make this explicitly clear. The details of such an order shall be confirmed by the Purchaser in a subsequent letter of confirmation. A copy of the General Terms and Conditions of Purchase shall be appended to this letter.

Unless a different acceptance period has been specified in the order, the Supplier must undertake to confirm the order within no more than two weeks from the date when the order was placed. Until such time as the contract is accepted, we shall be entitled to cancel an order, provided our notification of cancellation reaches the Supplier before the latter has sent us an order confirmation.
 - 2.3 By accepting the order, the Supplier/Manufacturer also acknowledges the validity of the General Terms and Conditions of Purchase of the Brandt Group. If the details in the order confirmation differ materially from those in the order, renegotiation shall be required. If, despite basic inconsistencies, the goods are delivered and accepted, we shall be entitled to object to non-compliance with the basis of the contract within two weeks of receipt of the goods, and to return the goods on a freight collect basis. Should we decide to keep the goods, the conflicting contractual conditions shall be substituted by the relevant statutory provisions. Disputed prices shall be substituted by the market price; in the absence of a market price, the average of the price quoted in the order and that quoted in the confirmation shall be deemed to have been agreed.
 - 2.4 We must be notified immediately if the range of goods supplied or produced by the Supplier or Manufacturer changes after our order has been received, so that we can make an informed decision.
 - 2.5 Offers, cost estimates and samples provided by the Supplier shall be free of charge to ourselves. No remuneration shall be paid for visits.
 - 2.6 Force majeure, disturbances, industrial disputes and other serious business disruption at the Supplier's place of business or our own places of business shall entitle us to withdraw from the contract if the latter cannot reasonably be amended to take account of the repercussions of the disruption. The same shall apply in the case of disruption of this kind at third companies whose performance is essential to the manufacture of a Brandt product. Should such disruption occur at our own business premises, we shall announce our withdrawal only after we have attempted to settle the matter within a reasonable period. If the disruption is within the area of risk borne by the Supplier, we shall on principle grant the latter a reasonable grace period to remedy the situation in accordance with Art. 323 BGB (German Civil Code); should the grace period elapse with no satisfactory outcome, we shall then announce our withdrawal from the contract.
 - 2.7 Orders may not be subcontracted to third parties in whole or in part without the written authorisation of the Purchaser; a contravention of this provision shall entitle us to withdraw from the contract in whole or in part and to exact compensation. Even if we consent to such a practice, the Supplier shall remain fully liable for the order.
 - 2.8 Over- or under delivery for any material is arranged at the purchasing documents (contract, order). Without any information: max. 5% over delivery, max. 0% under delivery.
3. **Prices, Transfer of risk, Insurance, Shipping, Packaging, Despatch**
 - 3.1 Prices are fixed and exclude VAT.
 - 3.2 Prices shall be duty paid, and shall include delivery to the point of use, packing and packaging, insurance and assembly.
 - 3.3 We are entitled to require the Supplier to dispose of the packaging free of charge.
 - 3.4 Goods are shipped at the Supplier's risk.
 - 3.5 In the case of machinery and mechanical equipment, the price shall include satisfactory installation and commissioning, as well as staff induction. The Supplier must ensure that any waste materials (building rubble, packaging, etc.) are properly disposed of at his own expense.
 - 3.6 We must be supplied with a despatch note for each consignment. If delivery ex works or ex a specified place of despatch has been agreed, the Supplier must give notification that the goods are ready for shipping at least two days in advance. Each consignment shall be accompanied by a delivery note itemising every detail of our entire order.
4. **Receipt of goods, Physical checks, Notification of defects**
 - 4.1 Goods can only be correctly allocated and recorded in our incoming goods department if the delivery note contains our order number, the order item and article number and the batch number in full. If this data is omitted, our incoming goods department is entitled to return the goods on a freight collect basis.
 - 4.2 Our statutory duty to conduct a physical check of the goods shall not be applicable if we have previously agreed an individual testing protocol and time schedule with the Supplier apropos the quality of the goods. Our inspection of incoming goods shall, moreover, be deemed to have been made in good time provided no more than seven working days have elapsed since receipt of the goods. We are entitled to make notification of defects within a period of up to 14 working days from receipt of the goods or, in the case of hidden defects, from the time of their discovery.
 - 4.3 Any delays on our part in inspecting the incoming goods and providing notification of defects shall be excused, provided we submit such a notification within a month of receipt of the goods or of discovery of any hidden defects, and the notification is accompanied by a written statement offering a reasonable explanation for the delay.
 - 4.4 In the case of contracts for work and materials, if we have also agreed assembly and a final inspection, only a general visual examination shall be carried out upon delivery; all functional checks shall be conducted within the framework of the agreed final inspection.
5. **Delivery deadlines and periods**
 - 5.1 Any agreed delivery deadlines and periods are binding. The date of receipt of goods at our premises and/or the date on which machinery/equipment is properly installed and commissioned on site by the Supplier shall be decisive when determining whether delivery has met the deadline.
 - 5.2 We must be notified immediately of any circumstances which might result in a postponement of the delivery date, and given an explanation of the causes of the delay.
 - 5.3 Failure to complete the delivery by the given deadline or within the given period shall entitle us to withdraw from the contract if, after a reasonable grace period, delivery has still not been made. This shall be without prejudice to our further-reaching statutory rights as they relate to default of delivery.
 - 5.4 In the case of delayed delivery, we are entitled to levy a contractual penalty amounting to 0.5% of the delivery value for each full week of the delay; this shall not, however, exceed 10% of the delivery value for any one incident of delay. We are entitled to claim this contractual penalty in

addition to fulfillment. We undertake to notify the Supplier within no more than ten working days from receipt of the delayed delivery that we reserve the right to charge contractual penalty.

6. **Quality, Rights arising from defects, Quantity errors, Expiration of warranty**
 - 6.1 The Supplier undertakes to ensure that all deliveries comply with current statutory and official regulations and the relevant EU directives.
 - 6.2 When delivering raw materials and packaging materials, the Supplier guarantees in particular that they shall be of the appropriate food grade and odour neutrality specified in the latest regulatory standards.
 - 6.3 The Supplier undertakes to ensure that all machinery and technical equipment which he supplies shall be state of the art, comply with the relevant statutory regulations and the provisions and directives of authorities, professional associations and trade associations, and conform to the prescribed and/or agreed functions and specifications.
 - 6.4 The Supplier guarantees that the EAN code shall be properly printed and legible.
 - 6.5 In the case of defective delivery, statutory rights shall apply. If we opt for repair or replacement, the Supplier must provide subsequent fulfillment immediately. In the event that this is not the case and/or that an initial attempt at remediation fails, we shall be entitled to acquire non-defective goods either ourselves or through a third party at the expense of the Supplier, and to return the defective or wrong goods at the latter's expense and risk. In the case of capital goods, we shall be entitled, after first allowing the Supplier a reasonable period in which to provide subsequent fulfillment, to remedy the defect ourselves and require the Supplier to reimburse us for any necessary costs incurred, based on the hourly rate charged internally within the Brandt Group. Even if no such grace period is granted, we shall be entitled to demand the reimbursement of expenses arising from our own remedial work if we have repaired minor defects in goods or capital goods ourselves, or had them repaired, or if it was necessary for us to carry out the work ourselves for reasons of exigency, in particular to minimise further damage.
 - 6.6 Our approval of invoices, printed material, sketches, etc. does not discharge the Supplier from responsibility for the design, execution, functioning and quality of the goods, and does not imply any abdication of the Supplier's liability.
 - 6.7 Only deviations in quantity of 1 % either way shall be deemed insignificant within the meaning of the statutory regulations.
 - 6.8 Unless we have agreed longer guarantee terms in individual contracts, the warranty covering us for defects in machinery, equipment and associated components shall expire five years after satisfactory commissioning; the statutory warranty periods for defects pursuant to the German Civil Code shall also apply.
7. **Payment**
 - 7.1 Invoices shall be settled within sixty days of receipt of the invoice and of all of the goods included in the order, or in the event of payment within thirty days, we shall deduct a discount of 3%, if there is no deviant agreement.
 - 7.2 We shall return any invoices which we are unable to process properly because of insufficient information. The period allowed for payment shall commence only upon receipt of an invoice containing all of the required information.
8. **Third-party industrial property rights**
 - 8.1 The Supplier is responsible for ensuring that delivery and performance do not infringe third-party rights.
 - 8.2 If third-party rights are nonetheless infringed, the Supplier must indemnify us from any liability whatsoever.
 - 8.3 We are entitled to obtain the beneficiary's consent to use the delivery item or service at the Supplier's expense.
9. **Protection of proprietary rights and copyright, Non-disclosure, Confidentiality**
 - 9.1 All documents and items which we entrust to the Supplier for the purpose of completing our order shall remain our own property and may not be surrendered to a third party without our written consent.
 - 9.2 Such documents and items must be properly insured and returned to us without prompting as soon as the order has been completed.
 - 9.3 The Supplier shall undertake to observe confidentiality vis-à-vis our recipes as well as with regard to any commercial and technical details which are not in the public domain and to which he becomes privy as a result of his collaboration with us. Subcontractors must be placed under a similar obligation. The Supplier undertakes to pay a contractual penalty of Euro 10,000 for each proven contravention of the confidentiality requirement; the maximum amount payable shall be Euro 50,000 per calendar year.
10. **Product liability**
 - 10.1 The Supplier shall indemnify us against any claims asserted against us by third parties because of the products which he has supplied.
 - 10.2 Evidence of product liability insurance and a recall policy is to be presented to us upon request. Failure to do so shall entitle us to cancel our order and terminate for just cause the contractual relationships we have concluded.
 - 10.3 If, for reasons of product stewardship, a recall or other measure is taken which restricts trading, the Supplier shall undertake to compensate us for any resulting loss or damage to the extent to which such measures are required because of product defects which can be attributed to his original area of responsibility.
11. **Data protection**
 - 11.1 We shall store the Supplier's business data with the latter's consent for use in the course of business.
12. **Tools**

Tools and stand-alone technical parts provided by us shall remain our property and must be labelled as such so that they remain clearly recognisable. If the Supplier develops special tools at our expense in order to fulfil his manufacturing and supply obligations, and if these tools remain in his possession, constructive possession pursuant to Art. 930 of the German Civil Code shall be deemed to have been agreed once we have paid for the tools in full. Our tools are to be handled with the utmost care and covered by the Supplier's insurance policies.
13. **Place of performance, Legal venue, Applicable law**
 - 13.1 Unless otherwise agreed, the place of performance shall be the commercial headquarters of the Purchaser.
 - 13.2 The legal venue shall either be the Local or Regional Court with jurisdiction for the Purchaser's commercial headquarters, Hagen Local or Regional Court, or the competent court with jurisdiction for the business premises or registered office of the Supplier; the choice of court shall be at our discretion.
 - 13.3 National German law shall apply in addition to these Terms and Conditions.
14. **Severability clause**

Should individual provisions of these Terms and Conditions of Purchase be or become ineffective, this shall not affect the validity of the remaining provisions. The contractual partners must undertake to substitute an ineffective provision with another which approximates as closely as possible to the commercial intent of the original.