

# General Terms and Conditions for Contracts with Suppliers of ARBURG GmbH + Co KG

## (Terms and conditions of purchase)



Applicable to business transactions with companies and legal entities under public law

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### § 1 General provisions

- 1.1 These terms and conditions of purchase apply only to companies and legal entities under public law. They do not apply vis-à-vis consumers. In any case, individual agreements made in individual cases with the contractual partners take precedence over these terms and conditions of purchase. The content of such agreements is governed by a written contract or our confirmation in text form.
- 1.2 These terms and conditions of purchase exclusively apply to all existing or future agreements on the provision of goods/products or services ("Supply Contract") by Supplier, or company affiliated with Supplier, to ARBURG GmbH + Co KG or company affiliated with ARBURG („ARBURG“) without the need of repeated reference to them in each individual case. Supplied goods are hereinafter referred to as "products" or "delivery item". Conflicting or terms and conditions of Supplier not included in these terms and conditions of purchase do not apply unless explicitly acknowledged by us, even if we accept or pay deliveries or services without reservation in the knowledge of such terms and conditions. Collateral agreements, supplements and special agreements must be confirmed by us in writing.
- 1.3 The separate Quality Assurance Guideline for Suppliers (QAG) by ARBURG is part of these terms and conditions of purchase and therefore integral part of any supply contract. The regulations of a quality assurance agreement (QAA) if any override the regulations of these terms and conditions of purchase. The regulations of a (framework) purchase agreement override the quality assurance agreement and the terms and conditions of purchase.

### § 2 Conclusion of contract and contract amendment

- 2.1 In the offer, Supplier is obliged to comply with our inquiry and to specify any deviations explicitly. Quotations are free of charge for ARBURG. Drawings and other documents made available for the preparation of the quotation must be returned to us upon submission of the quotation. All inquiries and documents are trade secrets and must be treated with the strictest confidentiality.
- 2.2 Orders, contracts and forecast delivery schedules of ARBURG ("Order") as well as any amendments and supplements must at least be in text form. Oral orders or orders made over the phone are only binding if they are confirmed by subsequent submission of the orders in text form.
- 2.3 The supply contract becomes effective with the confirmation of the order or the commencement of the deliveries or the provision of services. Deviations from our order must be explicitly confirmed in at least text form to become a part of the contract. In the event that Supplier does not accept the order within 10 (ten) calendar days, we are no longer bound by the order. ARBURG has the right to revoke the order at any time until the acceptance of the order. At the latest, forecast delivery schedules become binding in case Supplier does not object within three (3) work days after receipt.
- 2.4 Within reasonable limits, ARBURG can demand Supplier to change construction and design of the delivery item. The parties undertake to settle any resultant lesser or greater costs, as well as supply deadlines, reasonably by mutual agreement.
- 2.5 The specifications provided by us in the individual case (drawings, data sheets, technical descriptions, specifications and other technical requirements) including tolerance notes are binding. With the acceptance of the order, Supplier acknowledges that they have informed themselves about the method of execution and the scope of performance by studying the existing documents. Supplier immediately verifies if the specification provided by ARBURG is incorrect, unclear, incomplete, or different from the sample. In the event that Supplier realizes that this is case, Supplier will inform ARBURG immediately in at least text form.

### § 3 Delivery dates and delivery times

- 3.1 The agreed delivery times and delivery dates must be strictly observed. Unless otherwise agreed, all deliveries are DAP Loßburg (INCOTERMS 2020); decisive for meeting the delivery time is the day the product receipt by ARBURG. Suppliers take out a transport insurance at their own expense, the proof of which will be forwarded to ARBURG upon request.
- 3.2 In case the agreed delivery date is not met, ARBURG is entitled to statutory rights. The unconditional acceptance of a delayed delivery or service does not constitute a waiver of these rights. If Supplier anticipates difficulties with respect to production, precursor material supply or other circumstances that could interfere with Supplier's ability to deliver in time or the agreed quality, Supplier immediately notifies ARBURG in at least text form stating reasons and the expected duration of the delivery delay to obtain our decision in at least text form on maintaining the order.
- 3.3 If Supplier is in arrears with the delivery, ARBURG, without prejudice to statutory rights, is entitled to claim lump-sum liquidated damages to the amount of 0.5 % of the net order value per commenced week, but no more than 5% of the net order value. The right to furnish proof of a higher or lower damage remains unaffected.
- 3.4 We are entitled to refuse the acceptance of incomplete deliveries or products delivered before the delivery date stated in the order and can return them at the expense and at the risk of Supplier. The contractual partner is not entitled to partial deliveries without our prior consent.
- 3.5 Unless evidence to the contrary is presented, the values ascertained by us upon product receipt are decisive for quantities and weights.

### § 4 Product specifications, documentation

- 4.1 Supplier guarantees that all statutory provisions, regulations and standards relevant for the delivery item, in particular all provisions regarding product safety, materials, and environmental protection (e.g. the "Regulation concerning the Registration, Evaluation, Authorization and Restriction of Chemicals" (REACH) and "The Restriction of Hazardous Substances Directive", as well as the CE conformity, are met.
- 4.2 A detailed product documentation with information and drawings on the design, construction and functioning of the products and parts lists for the spare parts identification are included in the delivery scope. Supplier undertakes to forward both a print and a PDF file version of the complete product documentation in line with the statutory provisions in German, English and the national language specified in the order at the latest upon delivery of the product to ARBURG. ARBURG is entitled to use this documentation in particular for product documentations, trainings or other publications, as well as to edit, store and combine the works with other works, distribute them in digital networks and make them available to end users including

the right to make copies of the data and store them on other data carriers. This technical documentation is an integral part of the delivery scope and ARBURG is entitled to retain 10% of the order value until shipment to ARBURG.

### § 5 Transport, packaging

- 5.1 Shipments must have the required clearly visible transport documents attached to the outside of the product. They must be suitable to identify the product, particularly a delivery note with the following information (if any): the order or customer purchase order number, product type and product designation, the ARBURG material number, the quantity supplied, a partial delivery note, the Supplier article number.
- 5.2 The product is delivered in a suitable, environment-friendly packaging.

### § 6 Force majeure

In case contractually owed performances are impossible due to force majeure, the parties are exempted from the impossible obligation for the duration of the force majeure. If the events have a more than insignificant duration and waiting is not acceptable for ARBURG, particularly to ensure a punctual fulfillment of delivery obligations, ARBURG is entitled to withdraw from the contract fully or partially. Events falling within the meaning of force majeure include, for instance, natural disasters such as fires, floods, earthquakes, hurricanes or other extreme natural events, unrest, wars, sabotage, terrorist attacks, pandemics, epidemics, official orders and other, similarly unpredictable and unavoidable events.

### § 7 Price setting and transfer of risk

- 7.1 Unless otherwise agreed, the agreed prices are firm and fixed prices Ex-works including packaging. All prices displayed are net prices exclusive of sales tax (if any).
- 7.2 Price increases and excess or short deliveries must be approved by us in advance in at least text form. In the event of a reduction of the market price or the catalogue price for the deliveries, the parties consult each other on a reasonable reduction of the price.
- 7.3 Place of performance is the place to which the product is to be delivered according to the order. Supplier bears the risk of accidental loss, destruction or deterioration of the purchased item and, as a result, the transport risk until acceptance of the product by us, or our agent, at the place to which the product is to be delivered according to the order. Even if mail order purchase has been explicitly agreed, the risk of accidental loss or deterioration only passes to ARBURG when the product is handed to ARBURG. If an acceptance has been agreed, it shall be decisive for the transfer of risk. The transfer of ownership of products ordered by way of single supply agreement to ARBURG is performed unconditionally and regardless of the payment of the purchase price.

### § 8 Terms and conditions of payment

- 8.1 Unless otherwise agreed, prices are due for payment, at our discretion, either within 14 days with a 3 % discount, or after 30 days minus a 2 % discount, or after 60 days without any deduction after the complete receipt of the product or performance of the service and receipt of the invoice.
- 8.2 All payments are made with the reservation of invoice verification using a payment method of our choice. In the event of a faulty delivery, ARBURG is entitled to withhold payment until proper fulfillment, in fact without loss of discounts, cashbacks and similar payment benefits.

### § 9 Third parties

Supplier perform the services under the supply contract on their own and are not entitled to transfer them to third parties without the prior consent by ARBURG in at least text form. Supplier ensures the faultlessness of third-party services and supplies.

### § 10 Incoming products inspection

ARBURG immediately inspects incoming products with respect to identity and completeness as well as obvious defects (i.e. transport damages, wrong and short delivery). If inspections reveal discrepancies, ARBURG will inform Supplier within 8 (eight) work days. If ARBURG detects a defect later during further processing or while using the product, Supplier is also notified of the defect within 8 (eight) work days. ARBURG is not obliged to carry out any further inspections or notifications vis-à-vis Supplier besides those mentioned above. To this extent, Supplier waives the defense of late defect notification.

### § 11 Product defects

- 11.1 Supplier guarantees that its products and services fully meet the specifications, that they are free from defects in quality and title, particularly as regards construction, workmanship and materials and that they are suitable for specific purposes. Products that do not meet the above requirements are deemed defective.
- 11.2 In event of a defect, ARBURG, at its discretion, is entitled to demand the delivery of a faultless product or repair or rework at the expense of Supplier. The right to refuse performance pursuant to section 439 subsection 3 of the German Civil Code (BGB) remains unaffected by this. Supplier reimburses all costs incurred by remedying the defect, especially labor and service costs, costs for materials, logistics, transport, customs, as well as troubleshooting, testing and analysis costs. Supplier is entitled to two attempts at subsequent rectification of the defect.
- 11.3 If Supplier does not meet their subsequent performance obligation within the stipulated, or a reasonable, period (immediately), ARBURG is entitled to remedy the defects themselves at the expense of Supplier or have them remedied. The same applies if the subsequent performance by the Supplier fails or is unacceptable for ARBURG, e.g. especially to counter imminent dangers or avoid severe damage in urgent cases.
- 11.4 The time limit for the liability for defects is 24 months from commissioning of the ARBURG machine/system into which product of Supplier is integrated, at most however 30 months from delivery to ARBURG. In the event that ARBURG has granted a longer time limit to their customer, ARBURG and Supplier shall negotiate a reasonable time limit extension in accordance with clause 1. If Supplier has met the duty of subsequent performance by way of replacement delivery or rework in a more than insignificant scope, it is agreed that the warranty period for the replaced or reworked parts recommence.

- 11.5 In case that ARBURG has performed rework for their customer after expiry of the time limit according to 11.4 or reimbursed costs ("goodwill"), ARBURG and Supplier agree by mutual consent on a reasonable contribution of Supplier.
- 11.6 Further or other rights by applicable law remain unaffected. Payment by ARBURG shall not be deemed acceptance of the delivery as faultless.

### § 12 Compensation, product liability and recall, insurance

- 12.1 In the event a product liability claim is asserted against ARBURG by a customer or third party, Supplier is obliged to hold ARBURG harmless from such claims on first demand, if the claim is based on a defective delivery or other neglect of duty. If a recall action or other measure is required to avoid further damage or risks for people and property or if ARBURG believes that such a measure is necessary, Supplier is liable to ARBURG for all costs and damages associated with the measure to the extent to which the measure is attributable to the defective delivery.
- 12.2 Supplier is responsible for adequate insurance coverage, and in particular, effects a simple and an extended product liability insurance with liability limit of not less than 10 million EUR per damage case. Supplier submits proof of the insurance coverage by other appropriate means upon request. The liability of Supplier remains unaffected by the insurance coverage.

### § 13 Supplier regress

- 13.1 ARBURG is without limitation entitled to the statutory provisions in the case of supplier regress of ARBURG within the supply chain (supplier regress pursuant to sections 445a, 445b, 478 of the German Civil Code (BGB)), in addition to the statutory claims for defects. ARBURG is in particular entitled to demand the kind of subsequent performance (rework or replacement delivery) of Supplier that ARBURG owes to their customers in the individual case. This does not restrict the statutory right to choose.
- 13.2 The claims of ARBURG from supplier regress apply even if the defective products were processed by ARBURG or another company.
- 13.3 In addition, Supplier is liable as provided by the law.

### § 14 Provision of materials and tools

- 14.1 The materials, drawings, samples, models, measuring and other equipment or tools ("provision of materials") provided by ARBURG remain the property of ARBURG; they may only be used to fulfill the contractual obligations owed to ARBURG.
- 14.2 Tools produced by Supplier or ordered from third parties on our behalf that ARBURG pays separately or via the unit price become our property with the production or purchase by Supplier and are clearly marked as such as well as stored separately.
- 14.3 The materials and tools are provided to Supplier on a loan basis. Supplier is obliged to use the provided materials and tools exclusively for the production of parts intended for ARBURG, store them free of charge and immediately return them to us upon request without any right of retention. Supplier undertakes to carry out maintenance, servicing and keep the provided materials and tools at their own expense. Supplier insures them and submits proof of the insurance coverage upon request.
- 14.4 At the end of the business year - per due date 31 December, - Supplier prepares an inventory report on all materials in our property and submits it to the purchasing department without special reminder until 10 January of the following year at the latest.

### § 15 Property rights and intellectual property

- 15.1 Supplier guarantees that all Products and software if any are free from any third-party property rights, and that no third-party property rights or license rights are infringed by the delivery or use of the delivered items. Supplier indemnifies ARBURG at first demand from third-party claims for any property right infringements and bears all costs incurred in the process.

### § 16 Compliance

- 16.1 Supplier ensures that the statutory provisions and internationally recognized standards, especially the German Act on Corporate Due Diligence Obligations for the Prevention of Human Rights Violations in Supply Chains (German LkSG) designed to protect the environment and strengthen respect of human rights, especially the prohibition of child and forced labor and discrimination, provisions on minimum wages, the safety and fundamental rights of workers, are complied with, as well as the applicable anti-corruption and antitrust laws. Suppliers must introduce an environmental management system pursuant to DIN ISO 14001. The Supplier is fully familiar with the ARBURG code of conduct, which can be downloaded from the website of ARBURG ([www.arburg.com](http://www.arburg.com)). Supplier guarantees to comply with these provisions to the same extent as ARBURG.
- 16.2 At the request of ARBURG, Supplier furnishes proof of compliance with the obligations under item 16.1 by procuring and submitting relevant documents. Supplier has to send ARBURG all information that is required to conduct a risk analysis pursuant to the above LkSG.
- 16.3 Supplier indemnifies ARBURG at first demand from third-party claims for any property right infringements of their obligations under item 16.1 and bears all costs incurred in this context.

### § 17 Work on company premises

- 17.1 Persons working on company premises of ARBURG or the Supplier in the performance of the Supply Contract must adhere to the provisions and instructions of ARBURG or the Supplier, in particular the provisions of the respective company, occupational safety, environmental protection, and compulsory identification regulations.
- 17.2 ARBURG or their customer are liable for damages of Supplier or persons commissioned by Supplier to perform this contract or a single supply contract occurring on the premises of ARBURG or their customer only in cases of intent and gross negligence, excepting liability for damages of the injury of life, limb or health. To the extent that the liability of ARBURG or their customer is excluded or limited in the following, the same applies to the personal liability of employees, workers, staff, representatives and agents of ARBURG or their customer.

### § 18 Export provisions / Supplier declarations

- 18.1 Supplier is obliged to inform ARBURG in at least text form on any authorization requirements or limitations of (re-)exports applicable to their goods according to German, European, US export and customs provisions, as well as the export and customs provisions of the country of origin of their goods, in their business documents. Upon separate request by ARBURG, Supplier submits an adequate certificate of origin with all information required for export to countries outside the EU.
- 18.2 Supplier informs ARBURG on a yearly basis on the country of origin in accordance with the conformity declaration, and immediately in the event of changes in less than a year. Supplier undertakes to issue long-term supplier declarations within the meaning of section 57 cont. of the Implementation Order (EU) 2015/2447 of the Commission of 24 November 2015 (Zk-DVO, Regulation implementing the Community Customs Code).

### § 19 Confidentiality

- 19.1 All information, including formulas, drawings, specifications, models, tools, calculations, plans, technical documents, processing methods, software and other technical and commercial know-how („Confidential information“) made available by ARBURG, or received by Supplier from ARBURG, must be kept secret by Supplier if the knowledge contained in the documents is not, or has not become, public knowledge and may only be used to perform the orders and services owed to ARBURG. Confidential information may only be made available to persons who must have knowledge of it due to the business relationship and who are bound to confidentiality by this regulation. The same applies to work results from using confidential information.
- 19.2 In the event that Supplier produces goods using confidential information or tools by ARBURG, the goods may only be used by Supplier, or offered or delivered to third parties, with the prior consent by ARBURG in at least text form.

### § 20 Data storage

- 20.1 ARBURG informs Supplier that personal data – if and to the extent required for business purposes and permitted under the General Data Protection Regulation - are stored electronically and will be processed by ARBURG for the purpose of fulfilling the contract. Legal basis for the data storage is section 6 subsection 1 lit. b) of the General Data Protection Regulation.
- 20.2 Controller within the meaning of section 4 subsection 7 of the General Data Protection Regulation is ARBURG GmbH + Co KG, Arthur-Hehl-Strasse, 72290 Lossburg, Germany, Email: [contact@arburg.com](mailto:contact@arburg.com), Phone: +49 7446 33-0, (see our legal notice). You can contact the ARBURG privacy officer by email at [datenschutzbeauftragter@arburg.com](mailto:datenschutzbeauftragter@arburg.com) or by mail using the above postal address with the addition "for the attention of the data privacy officer".
- 20.3 For more information on the processing of personal data by ARBURG, including your rights, please visit <https://www.arburg.com/de/de/meta-navigation/datenschutz/>.

### § 21 Jurisdiction, Applicable Law

The place of jurisdiction is at the choice of ARBURG the registered office of ARBURG GmbH + Co KG or the place of fulfillment. ARBURG is however also entitled to sue Supplier at their own jurisdiction. The supply contract is governed by the laws of the Federal Republic of Germany to the exclusion of the UN Sales Convention (CISG).

### § 22 Severability clause

If any provision of this agreement is or shall become invalid or unenforceable, this does not affect the validity of the remaining provisions. The ineffective provision will be replaced by a provision as close as possible to the legally permissible material content.

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