

General Terms and Conditions of  
**Sale of the**  
**BUZIL-WERK WAGNER GmbH & Co.KG**

exclusively for use in business transactions with entrepreneurs, legal entities under public law or special funds under public law

## **1. Scope**

1.1 Our deliveries are made exclusively on the basis of the following terms and conditions. Deviating, conflicting or supplementary general terms and conditions of the customer shall only become part of the contract if and to the extent that we have expressly agreed to their validity. This requirement of consent shall apply in any case, for example even if we carry out the delivery to the customer without reservation in the knowledge of the customer's general terms and conditions.

1.2 Our terms and conditions of business shall apply in their respective version or in any case in the version last notified to the customer in text form as a framework agreement also to future contracts for the sale and/or delivery of movable goods with the same customer, without our having to refer to them again in each individual case and irrespective of whether we manufacture the goods ourselves or purchase them from a supplier.

1.3 Individual agreements made with the customer in individual cases (including ancillary agreements, supplements and amendments) and information in our order confirmations shall in all cases take precedence over these terms and conditions. Subject to proof to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements. In this context, "in writing", also in subsequent uses of these Terms and Conditions of Delivery, means in writing or text form (e.g. letter, e-mail, fax). Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the person making the declaration, shall remain unaffected.

1.4 References to the applicability of statutory provisions shall only have clarifying significance. Even without such clarification, the statutory provisions shall therefore apply, unless they are directly amended or expressly excluded in these terms and conditions.

## **2. Conclusion of contract**

2.1 Our offers are subject to change and non-binding unless expressly marked as a binding offer. This also applies if we have provided the customer with catalogues, technical documentation (e.g. formulations, calculations, calculations, references to DIN standards), other product descriptions, samples, specimens, analysis data or documents - also in electronic form.

2.2 Unless otherwise agreed, offers are valid for a fortnight from the date of creation. The customer's order shall be deemed a binding contractual offer. Unless otherwise stated in the order, we are entitled to accept this contractual offer within two weeks of its receipt by us, either in writing, e.g. by order confirmation, or by delivery of the goods to the customer.

### **3. Prices / Terms of payment**

3.1 Our prices are based on the current BUZIL price list, in the case of private label products at the prices agreed in the contract. All price quotations are net, plus the respective applicable statutory value added tax.

3.2 Unless otherwise agreed, no delivery will be made by us up to a goods value per order of € 250.00 net, not even against the offer of payment of freight costs.

Otherwise, we charge freight costs per order as follows:

- for a net value of goods in the amount of 251.00 EURO to 499.00 EURO, 100.00 EURO plus the applicable statutory value added tax;
- for a net value of goods in the amount of 500.00 EURO to 999.00 EURO, 75.00 EURO plus the applicable statutory value added tax;
- for a net value of goods in the amount of 1,000.00 EURO to 1,500.00 EURO, 50.00 EURO plus the applicable statutory value-added tax
- The prices for deliveries of goods with a value of more than EUR 1,500.00 net per order shall apply ex works including packaging and loading at the factory as well as unloading.

3.3 The purchase price shall be due and payable within 14 days of invoicing and delivery or acceptance of the goods. However, we are entitled at any time, also within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. We shall declare a corresponding reservation at the latest with the order confirmation.

3.4 If the goods are shipped at the customer's request to a place other than the place of performance (see Clause 6.1 of these Terms and Conditions of Delivery) (sale by delivery to a place other than the place of performance), the customer shall bear the transport costs from our works and the costs of any transport insurance requested by the customer. Any customs duties, fees, taxes and other public charges shall be borne by the customer.

3.5 Upon expiry of the aforementioned payment deadline, the customer shall be in default. During the period of default, interest shall be charged on the purchase price at the applicable statutory interest rate. We reserve the right to assert further damage caused by default. Our claim to the commercial due date interest rate (§ 353 HGB) remains unaffected vis-à-vis merchants.

3.6 The customer shall only be entitled to rights of set-off and retention insofar as his claim has been legally established or is undisputed. In the event of defects in the delivery, the customer's right to retain an appropriate part of the purchase price in relation to the defect shall remain unaffected.

3.7 If it becomes apparent after the conclusion of the contract that our claim to the purchase price is jeopardised by the customer's lack of ability to pay (e.g. by an application for the opening of insolvency proceedings), we shall be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract (§ 321 BGB). In the case of contracts for the manufacture of unjustifiable items (special productions), we may declare withdrawal immediately; the statutory regulations on the dispensability of setting deadlines remain unaffected.

**4. Delivery periods/reservation of self-delivery/delay in delivery**

4.1 The delivery period is agreed individually or stated by us upon acceptance of the order and indicated in the order confirmation. If this is not the case, the delivery period is approx. 2 weeks from conclusion of the contract.

4.2 If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of the service), we shall inform the customer of this without delay and at the same time notify the customer of the expected new delivery deadline. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately refund any consideration already paid by the customer. Non-availability of the service shall be deemed to exist, for example, in the event of late delivery by our supplier, if we have concluded a congruent hedging transaction, in the event of other disruptions in the supply chain, for example due to force majeure, or if we are not obliged to procure in the individual case.

4.3 If the customer fails to fulfil contractual obligations - including cooperation or ancillary obligations - in particular the opening of a letter of credit, the provision of domestic or foreign certificates, the making of an advance payment or the submission of a financing confirmation, the testing of recipes or samples or similar, in a timely manner, we shall be entitled to reasonably postpone our delivery times - without prejudice to our rights arising from default on the part of the customer - in accordance with the needs of our production process.

4.4 The occurrence of our default in delivery shall be determined in accordance with the statutory provisions. In any case, however, a written reminder by the customer is required.

4.5 The rights of the customer under Clause 11 of these Terms and Conditions and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

**5. Delivery on demand**

If delivery on call has been agreed, we shall have a contractual right of withdrawal in the event that the call is not made within the agreed period. It is not necessary to set a grace period with regard to the customer's call-off obligation. In this case, we shall have the right to demand the agreed purchase price against provision of the entire delivery.

**6. Delivery/ Delivery quantities and partial deliveries/ Transfer of risk/ Acceptance/ Default in acceptance**

6.1 Delivery shall be ex works, which is also the place of performance. In the case of offers, the delivery address or the logistics centre shall be specified in the order. At the customer's request and expense, the goods will be shipped to another destination within the European Union (sale by delivery to a place other than the place of performance). Unless otherwise agreed, we are entitled to determine the type of shipment (in particular transport company, shipping route, any outer packaging or transport packaging) ourselves. We point out that packaging / containers represent disposable packaging which must be disposed of by the customer. The goods on the delivered pallets are secured against slipping. The delivery quantities are based on the packaging units specified in the Buzil price list or multiples thereof.

6.2 We are only entitled to make partial deliveries and render partial services if these are of interest to the customer in accordance with the purpose of the contract and the customer does not incur any significant additional expense as a result.

6.3 The risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass to the customer at the latest when the delivery item is handed over (whereby the start of the loading process is decisive) to the forwarding agent, carrier or other third party designated to carry out the shipment. This shall also apply if partial deliveries are made or if we have undertaken to perform other services (e.g. shipping, packing or filling). If dispatch or handover is delayed due to a circumstance the cause of which lies with the customer, the risk shall pass to the customer from the day on which the delivery item is ready for dispatch and we have notified the customer of this. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply mutatis mutandis to an agreed acceptance. Handover or acceptance shall be deemed equivalent if the customer is in default of acceptance.

6.4 If the customer is in default of acceptance, fails to cooperate or if the loading or transport of the goods is delayed for a reason for which the customer is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). For this purpose, we shall charge compensation based on the price: 0.5 % per calendar week, max. 5 % or 15 % in the case of final non-acceptance. Clause 5 of these terms and conditions shall remain unaffected by this provision. The proof of a higher damage and our legal claims (in particular compensation for additional expenses, reasonable compensation, termination) remain unaffected; however, the lump sum is to be offset against further monetary claims. The customer shall be entitled to prove that we have incurred no damage at all or only significantly less damage than the aforementioned lump sum.

## **7. Standards/ tolerances/ technical specifications**

7.1 Standard specifications refer to the latest valid version. All samples, specimens, analysis data only provide non-binding information on the average quality of the goods, unless specific properties are expressly confirmed by us in writing in a separate specification.

7.2 For standardised products, the tolerances permitted within the standard apply. Other deviations require a special agreement.

7.3 Technical specifications and descriptions of the delivery item are non-binding. We reserve the right to make changes to recipes and production methods insofar as these are reasonable for the customer. We reserve the ownership and exclusive copyrights to catalogues, technical documentation (e.g. recipes, calculations, calculations, references to DIN standards), other product descriptions, samples, specimens, analysis data or documents - also in electronic form - which we have provided to the customer. They may not be made accessible to third parties and must be returned to us immediately upon request or if the order has not been placed with us.

## **8. Warranty/Deficiencies/Application Dosage and Warning Instructions**

8.1 The statutory provisions shall apply to the customer's rights in the event of material defects and defects of title (including wrong delivery and short delivery), unless otherwise stipulated below. In all cases, the special statutory provisions on reimbursement of expenses in the case of final delivery of

unprocessed goods to a consumer (supplier recourse pursuant to §§ 478 BGB) shall remain unaffected. Claims from supplier recourse are excluded if the defective goods have been modified or further processed by the customer or another entrepreneur.

8.2 The basis of our liability for defects is above all the agreement reached on the quality and the presumed use of the goods. All product descriptions and manufacturer's specifications which are the subject of the individual contract or which were publicly announced by us (in particular in catalogues or on our homepage) at the time of the conclusion of the contract shall be deemed to be an agreement on quality in this sense. Insofar as the quality has not been agreed, it shall be assessed in accordance with the statutory regulation whether a defect exists or not (§ 434 para. 3 BGB). Public statements made by a supplier who is the manufacturer or on his behalf, in particular in advertising or on the label of the goods, take precedence over statements made by other third parties.

8.3 The delivered goods must be carefully inspected immediately after delivery to the customer or to the third party designated by the customer. With regard to obvious defects or other defects which would have been recognisable in the course of an immediate, careful inspection, the goods shall be deemed to have been approved by the customer if we do not receive a written notification of defects within 14 days of delivery. With regard to other defects, the goods shall be deemed to have been approved by the customer if we do not receive the notice of defect within 14 days of the time at which the defect became apparent; however, if the defect was already apparent at an earlier time during normal use, this earlier time shall be decisive for the start of the period for giving notice of defects.

8.4 If the delivered item is defective, we may initially choose whether to provide subsequent performance by remedying the defect (rectification) or by delivering a defect-free item (replacement). Our right to refuse subsequent performance under the statutory conditions remains unaffected.

8.5 The customer shall give us the time and opportunity necessary for the subsequent performance owed, in particular to hand over samples of the delivered goods for testing purposes. In the event of a replacement delivery, the customer shall return the defective item to us in accordance with the statutory provisions.

8.6 We shall bear or reimburse the expenses required for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs, in accordance with the statutory provisions if there is actually a defect. Otherwise, we may demand reimbursement from the customer of the costs incurred as a result of the unjustified request for rectification of the defect (in particular inspection and transport costs), unless the lack of defectiveness was not recognisable to the customer.

8.7 The warranty shall not apply if the customer modifies the delivery item or has it modified by a third party without our consent and this makes it impossible or unreasonably difficult to remedy the defect. In any case, the customer shall bear the additional costs of remedying the defect resulting from the modification.

8.8 In urgent cases, e.g. if operational safety is at risk or to prevent disproportionate damage, the customer has the right to remedy the defect himself and to demand compensation from us for the expenses objectively necessary for this. We are to be notified immediately of such self-execution, if possible in advance. The right of self-execution does not exist if we would be entitled to refuse a corresponding subsequent performance in accordance with the statutory provisions.

8.9 If the supplementary performance has failed or a reasonable deadline to be set by the customer for the supplementary performance has expired unsuccessfully or is dispensable according to the statutory provisions, the customer may withdraw from the contract or reduce the purchase price. In the case of an insignificant defect, however, there is no right of withdrawal.

8.10 Claims of the customer for damages or reimbursement of futile expenses shall also exist in the case of defects only in accordance with section 11 of these terms and conditions and are otherwise excluded.

8.11 The instructions for use, dosage and warnings on the packaging of the cleaning, care and other agents provided by us must be followed in all cases. Our employees are in no case authorised to agree on a different quality or purpose of use than stated on the packaging in each case. We shall not be liable for cases in which the customer or third parties do not observe the application, dosage and warning instructions printed on the packaging.

## **9. Property rights (liability for defects of title)**

9.1 In accordance with this clause, we warrant that the delivery item is free from industrial property rights or copyrights of third parties. Each contracting party shall notify the other contracting party in writing without delay if claims are asserted against it due to the infringement of such rights.

9.2 In the event that the delivered goods infringe an industrial property right or copyright of a third party, we shall, at our discretion and at our expense, modify or replace the contractual goods in such a way that the rights of third parties are no longer infringed, but the goods continue to have the contractually agreed quality, or, in the case of framework delivery agreements, procure the right of use for the customer by concluding a licence agreement with the third party. If we do not succeed in doing so within a reasonable period of time, the customer shall be entitled to withdraw from the contract or to reduce the purchase price appropriately. Any claims for damages on the part of the customer are subject to the limitations of Section 11 of these General Terms and Conditions of Delivery.

9.3 In the event of infringements of rights by products of other manufacturers supplied by us, we shall, at our discretion, assert our claims against the manufacturers and upstream suppliers for the account of the customer or assign them to the customer. In such cases, claims against us shall only exist in accordance with this Clause 9 if the legal enforcement of the aforementioned claims against the manufacturers and upstream suppliers was unsuccessful or is futile, e.g. due to insolvency. For the duration of the legal dispute, the statute of limitations of the relevant warranty claims of the customer against us shall be suspended.

## **10. Retention of title**

10.1 Until full payment of all our present and future claims arising from the delivery contract and an ongoing business relationship (secured claims), we retain title to the goods sold.

10.2 The goods subject to retention of title may not be pledged to third parties or assigned as security before full payment of the secured claims. The customer must inform us immediately in writing if an application is made to open insolvency proceedings or if third parties (e.g. seizures) have access to the goods belonging to us.

10.3 In the event of conduct by the customer in breach of contract, in particular in the event of non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand surrender of the goods on the basis of the retention of title. The demand for return does not at the same time include the declaration of withdrawal; we are rather entitled to demand only the return of the goods and to reserve the right of withdrawal. If the customer does not pay the purchase price due, we may only assert these rights if we have previously set the customer a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.

10.4 Until revoked in accordance with (c) below, the customer is authorised to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition.

- (a) The retention of title extends to the products resulting from the processing, mixing or combining of our goods at their full value, whereby we are deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, their right of ownership remains, we shall acquire coownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.
- (b) The customer hereby assigns to us by way of security the claims against third parties arising from the resale of the goods or the product in total or in the amount of our possible co-ownership share in accordance with the above paragraph. We accept the assignment. The obligations of the customer stated in paragraph 2 shall also apply in respect of the assigned claims.
- (c) The customer remains authorised to collect the claim in addition to us. We undertake not to collect the claim as long as the customer meets his payment obligations towards us, there is no deficiency in his ability to pay and we do not assert the retention of title by exercising a right pursuant to para. 3. If this is the case, however, we may demand that the customer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. Furthermore, in this case we are entitled to revoke the customer's authority to further sell and process the goods subject to retention of title.
- (d) If the realisable value of the securities exceeds our claims by more than 10%, we shall release securities of our choice at the customer's request.

## **11. Other liability**

11.1 Insofar as nothing to the contrary arises from these terms and conditions including the following provisions, we shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the relevant statutory provisions.

11.2 We shall be liable for damages, in particular for loss of profit, business interruption or other financial losses - irrespective of the legal grounds - in the event of intent and gross negligence. In the event of simple negligence, we shall only be liable

- for damages arising from injury to life, limb or health

- for damages arising from the breach of an essential contractual obligation (obligation the fulfilment of which is a prerequisite for the proper performance of the contract and the observance of which the contractual partner regularly relies on and may rely on); in this case, however, our liability shall be limited to compensation for the foreseeable, typically occurring damage.

11.3 The limitations of liability resulting from 11.2 shall also apply in the event of breaches of duty by or in favour of persons for whose fault we are responsible in accordance with the statutory provisions. They do not apply insofar as we have fraudulently concealed a defect or have assumed a guarantee for the quality of the delivery item. The same applies to claims of the customer under the Product Liability Act.

11.4 Due to a breach of duty that does not consist of a defect, the customer may only withdraw or terminate if we are responsible for the breach of duty. A free right of termination of the customer (in particular according to §§ 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

## **12. Limitation**

12.1 Notwithstanding Section 438 (1) No. 3 of the German Civil Code (BGB), the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance. Special statutory provisions on the limitation period (in particular § 438 para. 1 no. 1, para. 3, §§ 444, 445 b BGB) shall remain unaffected.

12.2 The above limitation periods of the law on sales also apply to contractual and non-contractual claims for damages of the customer based on a defect of the delivery item, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in the individual case. However, claims for damages by the customer pursuant to section 11.2 sentence 1 and sentence 2 first indent as well as pursuant to the Product Liability Act shall become time-barred exclusively in accordance with the statutory limitation periods.

## **13. Partial ineffectiveness**

In the event that individual provisions of the contract are invalid, the remaining provisions shall remain in full force and effect. The invalid provision shall be replaced by a provision which, within the scope of what is legally possible, taking into account the economic purpose, comes closest to what the parties intended or what is legally possible according to the sense and purpose of the contract if they had considered the point when concluding the contract or when later including the provision.

## **14. Packaging/ Empties**

Empty packaging (reusable packaging, Euro crates, pallets) shall remain our property. After emptying, these are to be returned by the customer in the same type, quantity and value as he received them for the purpose of delivery. We shall take them back together with one of the next deliveries, unless otherwise agreed with the customer in an individual contract. For IBCs, a lump-sum deposit of € 150 will be charged, which will be refunded upon return of completely empty and undamaged containers. AdBlue® returnable packaging will only be taken back if it has not been contaminated by other substances or liquids. The customer cannot charge storage costs for empties. If it is not possible for the customer to return the empties to us upon delivery of our goods, the customer must immediately and at his own expense ensure that the empties account is balanced (obligation to bring). If the customer is in default with the return of the empties, we may refuse to take back the empties after setting a reasonable grace period and demand monetary compensation from the customer.

**15. Returns**

We do not accept any return deliveries of goods ordered and delivered to the customer, insofar as deliveries correspond to the scope of the order and do not have any defects that entitle the customer to withdraw (cf. Section 8.9 of the General Terms and Conditions of Sale) unless the possibility of return delivery has been expressly agreed, for example in the case of goods on commission.

**16. Resale to third countries/export/sale to consumers/information**

16.1 The resale of Buzil products to countries whose national regulations differ from the German regulations on labelling, description and product details on the packaging units, which must be observed by us, is not permitted. A Buzil customer is also liable for any misconduct of its customers in this respect.

16.2 The export of the products to other countries requires our express written consent. The customer assumes responsibility for the intended use of the products abroad.

16.3. Buzil products are developed for professional consumers and, due to the legal labelling requirements, are only approved for their use. Buzil products may only be sold to private end users if the statutory labelling requirements for sale to them are met.

16.4 Information and advice are provided on the basis of our experience to date and correspond to the best of our knowledge. Unless otherwise agreed in writing, they are nonbinding and cannot be used to justify any claims against us.

**17. Choice of law and place of jurisdiction**

17.1 These Terms and Conditions of Delivery and the contractual relationship between us and our customers shall be governed by the laws of the Federal Republic of Germany to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

17.2 If the customer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive – including international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be the local or regional court in Memmingen responsible for our registered office. The same applies if the customer is an entrepreneur within the meaning of § 14 BGB (German Civil Code). However, we are also entitled in all cases to bring an action at the place of performance of the delivery obligation in accordance with these terms and conditions of delivery or a prior individual agreement or at the general place of jurisdiction of the customer. Overriding statutory provisions, in particular on exclusive jurisdiction, shall remain unaffected.