



Standard Terms and Conditions of Sale

1. Scope

- 1.1. These Standard Terms and Conditions of Sale (hereinafter "Standard Terms of Sale") shall apply to all contractual relations of Bühler Technologies GmbH (hereinafter "Bühler") with entrepreneurs as defined in § 14 BGB (Bürgerliches Gesetzbuch – German Civil Code, "BGB"), legal entities under public law, or special funds under public law (hereinafter "Purchaser"). In particular, these Standard Terms of Sale shall apply to contracts for the sale and/or supply of movables ("goods") whether or not Bühler is the producer of or purchases the goods from a supplier.
- 1.2. These Standard Terms of Sale shall apply exclusively. No deviating, conflicting or additional terms of Purchaser will be incorporated in the contract unless and except to the extent Bühler has given its express written consent for such terms to apply. These Standard Terms of Sale shall also apply if Bühler, notwithstanding its knowledge of any deviating, conflicting or additional terms of Purchaser, executes the contract or supplies to Purchaser. These Standard Terms of Sale shall be deemed accepted no later than upon Purchaser's acceptance of the goods or services delivered or provided by Bühler.
- 1.3. These Standard Terms of Sale as amended from time to time shall operate as master agreement for any future contracts and/or deliveries of movables made with the same purchaser without a requirement for Bühler to invoke their application in each single case, and Bühler will communicate any amendments to Purchaser without undue delay.

2. Conclusion of contract

Bühler's offers are without engagement and non-binding unless they have been expressly marked as binding or specify a period of acceptance. Purchaser's order for the supply of goods shall be a binding contract offer. Except as otherwise stated in the order, Bühler has the right to accept the contract offer within 14 days of receipt. Acceptance by Bühler may be declared either in written form (for example by acknowledgment of order) or by delivery of the goods to Purchaser.

3. Substance of contract

- 3.1. Any individual agreements made with Purchaser from time to time (including any subsidiary agreements and amendments) shall override these Standard Terms of Sale in any event. Unless there is proof to the contrary, a written contract or Bühler's written acknowledgment of order is definitive for the substance of any such agreements.
- 3.2. Bühler has no obligation to perform any consultancy or installation services unless such services are expressly indicated in its acknowledgment of order. Any goods or

services that Bühler is to deliver or provide beyond the scope of its acknowledgment of order and that Bühler is not required to deliver or provide by law shall be subject to extra proof and payment by Purchaser.

- 3.3. Any information contained in the acknowledgment of order or in catalogues, dimension sheets and other technical documents and provided by Bühler with regard to the subject-matter of the goods to be delivered or the services to be provided (for example weights, measurements, service values, stability under load, tolerance levels and technical data) merely serve to describe or identify the goods or services and are approximate only. Reasonable deviations are permitted in accordance with subsection 3.3 and are no defect as to quality unless the usability of the goods or services for the contractually intended purpose requires accurate conformity. Purchaser is obliged to advise Bühler in writing at the latest on conclusion of the contract that precise conformity is a must. Information provided by Bühler does not qualify as quality or durability guarantee but is merely to describe or identify the goods to be delivered or the services to be provided. Customary deviations or deviations that are due to technical regulations or that are technical enhancements as well as substituting component parts with equivalent parts shall be allowed unless such deviations or substitutions affect the usability for the contractually intended purpose. No liability can be derived from catalogues or brochures as to the usability of the goods in a particular instance, and the risk of usability rests on Purchaser.
- 3.4. Except as agreed otherwise, any information Bühler provides in relation to licensing or export requirements or export restrictions under German, European or US law and any commodity codes and origin and preference information shall be non-binding and shall not release Purchaser from its own inspection duty.

4. Delivery/passing of risk

- 4.1. Unless agreed otherwise, delivery shall be "FCA Ratingen" in accordance with the INCOTERMS 2020.
- 4.2. Delivery periods and delivery dates are non-binding unless a fixed period or a fixed date has been promised or agreed in written form.
- 4.3. Delivery is subject to timely and proper performance of Purchaser's obligations, including, without limitation, Purchaser's obligation to assist Bühler (for example, compliance with technical requirements). Bühler reserves the defence of failure to perform the contract.
- 4.4. Partial deliveries shall be admissible if (i) Purchaser is able to use the partial delivery for the contractually intended purpose and (ii) delivery of the remaining goods ordered has been secured and (iii) this does not create any substantial extra work or additional costs

for Purchaser (unless Bühler agrees to bear such costs). Partial deliveries may be invoiced on a separate basis.

- 4.5. The risk of accidental deterioration or accidental loss of the goods shall pass to Purchaser at the latest when Purchaser is in default of acceptance or fails to provide required assistance or once delivery is being delayed for other reasons in Purchaser's control. For all other matters, in the absence of Bühler's express written undertaking to set up and/or install the goods, the risk shall pass to Purchaser once the goods are leaving Bühler's works or storage facility.
- 4.6. Shipments shall be at Purchaser's cost and risk.

5. Warranty

- 5.1. Any warranty claims of Purchaser shall be subject to proper performance of all Purchaser obligations under §§ 377, 381 HGB (Handelsgesetzbuch – Commercial Code, "HGB") in relation to the inspection of the goods and the notification of complaints. Any complaints for deviations in the quantity delivered or for visible defects in the goods are to be notified in writing no later than 5 business days after delivery. If such a defect becomes evident after that period, Purchaser shall notify the defect in writing within 5 business days of the time the defect becomes evident. Failure to complain in good time shall be deemed to be Purchaser's acceptance of the consignment.
- 5.2. Bühler is to be given an opportunity to inspect the subject goods within a reasonable time period and, if Purchaser's complaint has been made in time and is justified, to remedy the defect or to provide subsequent delivery within a reasonable and additional time period. A time period is reasonable if remediation of the defect or subsequent delivery is possible in the ordinary course of business.
- 5.3. Purchaser's rights in relation to justified complaints are initially limited to the right to claim subsequent performance. Any claims of Purchaser regarding expenditures required for purposes of subsequent performance, including, without limitation, costs of transport, transit, work or materials, shall be excluded to the extent such expenditures increase as a result of the fact that the goods supplied by Bühler were subsequently transported to a place other than Purchaser's premises unless such transportation was part of the intended use. If subsequent performance fails, Purchaser remains entitled to reduce the purchase price or to withdraw from the contract in accordance with statutory regulations. No claims for damages or compensation for lost expenditure may arise to Purchaser except under clause 6 of these Standard Terms of Sales and such claims shall be excluded in all other respects.
- 5.4. No warranty claim arises in particular in the cases of (i)

failure to comply with directions for application or use that come with the delivery unless a key aspect of such directions is incorrect or inaccurate, (ii) improper sizing, load exposure or handling by Purchaser or others, (iii) faulty repair by Purchaser or others or (iv) delivery of used goods.

- 5.5. In derogation from § 438 (1) point 3 BGB, the general period of limitation for claims based on defects in quality or title shall be one year from delivery. If the parties have agreed that delivery shall be subject to acceptance, the period of limitation begins to run on acceptance. Damage claims for injury to life, body or health or for damage caused through gross negligence or through intent are expressly excluded from that shorter period of limitation, and the statutory period of limitation applies to such claims.
- 5.6. No warranty applies if Purchaser modifies or has a third party modify the delivered item without Bühler's written consent and if rectifying the defect is rendered impossible or unreasonably impeded as a result. Purchaser shall bear the extra cost of rectifying the defect that result from the modification.
- 5.7. If Purchaser makes a complaint about a partial delivery, this does not entitle Purchaser to reject the remaining delivery. In addition, the complaint does not entitle Purchaser to withhold its payment for those parts of the delivery and performance that have not been complained about or for other indisputable claims of Bühler.

6. Liability

- 6.1. In conformity with statutory regulations, Bühler's liability shall not be limited in the events of (i) intent or gross negligence, (ii) injury to life, body or health if caused at least through negligence, (iii) mandatory liability under the German Product Liability Act (Produkthaftungsgesetz), (iv) fraudulent conduct and (v) liability for absence of guaranteed qualities.
- 6.2. In the event of injury caused through gross negligence of persons employed by Bühler in the performance of its obligations (Erfüllungsgehilfen), Bühler's liability shall be limited to the typically foreseeable damage notwithstanding the events stated in clause 6.1(ii) to (v) above.
- 6.3. In the event of ordinary negligence, Bühler shall not be liable except for culpable breach of duties that are of the essence of the contract (wesentliche Vertragspflichten), notwithstanding the events stated in clause 6.1 (ii) to (v) above. Duties that are of the essence of the contract are duties the performance of which enables the proper completion of the contract and on the satisfaction of which a contracting party typically relies and may rely. In these events, Bühler's liability shall be limited to the typically foreseeable damage.

- 6.4. Where Bühler provides technical information or consultancy services that do not form part of the contractually agreed scope of performance, this will be to the exclusion of any liability, notwithstanding the events set forth in clause 6.1 (i) to (v) above.
- 6.5. Whether or not a delivery period or date has been agreed upon on a binding basis, Bühler shall not be responsible for any delays in delivery or performance that are due to force majeure or other events beyond Bühler's control that substantially impede or render impossible delivery or performance by Bühler, including, without limitation, shortage of commodities, strikes, lockouts, official orders, fire, theft, lightning, storm damage, and so forth, including if such events occur at Bühler's suppliers or their sub-suppliers. Bühler will notify Purchaser without undue delay once any of the foregoing events has occurred. Bühler may postpone the delivery or performance by the length of the disturbance plus appropriate start-up time or may withdraw from the contract wholly or in part as regards the contractual part that has not been performed yet. If Purchaser, as a result of the delay, cannot reasonably be expected to accept the delivery or performance, Purchaser may withdraw from the contract by notifying Bühler in writing without undue delay.
- 6.6. The foregoing limitations on liability shall also apply to the benefit of a legal representative, an employee or a person employed by Bühler in the performance of its obligations or by any other persons acting for Bühler.
- 6.7. Purchaser shall be responsible for the contractually agreed execution of the contract order to not involve any infringement of third-party IP rights by any items, drawings, samples or models provided by Purchaser. Purchaser is obliged to indemnify Bühler against any claims a third party may bring against Bühler on grounds of such infringements, and Purchaser is obliged to compensate Bühler for all necessary expenditures in connection with such claims. No such entitlement arises where Purchaser can prove that the infringement has not been in Purchaser's control and that Purchaser, applying commercial diligence, ought not to have recognized the infringement at the time of providing the items, drawings, samples or models.
- ### 7. Prices/terms of payment
- 7.1. Prices are as stated in the acknowledgment of order and apply to the goods to be delivered and the services to be provided according to the acknowledgment of order. The cost of installation, commissioning or similar services will be charged additionally unless Bühler's acknowledgment of order expressly states otherwise.
- 7.2. Except as agreed otherwise, all prices are "FCA Ratingen" in accordance with the INCOTERMS 2020 plus freight/postal charges, packaging and insurance, each item plus statutory VAT at the applicable rate, plus customs duties in the case of exports as well as fees and other public levies.
- 7.3. Except as agreed otherwise, Bühler's invoices shall be due 30 days from the invoice date. Any early-payment discount is subject to specific written agreement. No cheques or bills of exchange will be accepted unless upon prior written agreement. The cost of payment transactions and of any collateral that may have to be provided shall be at Purchaser's expense.
- 7.4. Bühler has the right to withhold the execution of pending deliveries or services until advance payment or provision of security if Bühler, after entering into the contract, has notice of circumstances that are apt to substantially affect Purchaser's credit standing and that mean a risk to Purchaser's payment of Bühler's outstanding receivables under the respective contractual relationship.
- ### 8. Set-off/right of retention/right to withhold performance/assignment
- 8.1. Purchaser has no right to set off or retain any payments except to the extent Purchaser's claim is indisputable or has been recognized by final judgment.
- 8.2. If it becomes evident after the conclusion of a contract that Bühler's right to be paid the purchase price is exposed to lack of financial fitness in Purchaser, Bühler may refuse to perform and, after allowing time for payment as the case may be, may withdraw from the contract in accordance with statutory regulations (§ 321 BGB). If a contract is for the production of non-fungible goods (custom-made goods), Bühler may declare its withdrawal promptly, without prejudice to the statutory regulations on the allowing of time being dispensable.
- 8.3. Bühler may freely dispose of its claim against Purchaser, and its claim is assignable.
- ### 9. Reservation of title/non-disclosure
- 9.1. Bühler reserves title to all goods delivered until it has received all payments from its business with Purchaser. Reservation of title further includes all future and conditional receivables including the acknowledged balance if Bühler and Purchaser have an open account agreement.
- 9.2. The goods must not be pledged or transferred by way of security until the consummation of the transfer of title. Pending consummation, Purchaser is obliged to apply due care in handling, and to carry reasonable insurance for, the goods and to service them when necessary. In the case of levy of execution or any other third-party interference prior to completion of transfer of title, Purchaser shall give written notice to Bühler without

undue delay. If the third party is unable to compensate Bühler for the judicial and non-judicial costs of a legal action brought for wrongful levy of execution or any other interference, Purchaser shall be liable for the loss incurred.

- 9.3. Purchaser may resell Bühler's supplies in the ordinary course of business. However, Purchaser hereby assigns to Bühler all claims amounting to the final sum invoiced that may arise to Purchaser against Purchaser's customers or a third party as a result of the resale whether the goods have been resold in an unprocessed state or after processing. Bühler accepts the assignment. Purchaser has authority to collect the claim after assignment. The foregoing shall be without prejudice to Bühler's right to collect the claim. However, Bühler agrees not to collect the claim as long as Purchaser properly discharges its payables against Bühler and is not in default and, in particular, no application for initiating insolvency proceedings has been made and no suspension of payments has occurred. However, if any of the foregoing events occurs, Bühler has the right to demand that Purchaser should identify the assigned claims and the debtors, deliver all information and relevant documents required for collection and disclose the assignment to the debtors.
- 9.4. If the goods are being processed or combined or irrevocably merged with other things that are not owned by Bühler, Bühler becomes the co-owner of the new thing at the ratio of the value of the goods (sum total invoiced including VAT) relative to the other things at the time of processing, combining or merging. In all other respects, the thing created through processing, combining or merging shall be subject to the same provisions as the goods delivered under reservation of title.
- 9.5. At Purchaser's request, Bühler agrees to release security of Bühler's choice insofar as the security value exceeds the secured claims by more than 10%.
- 9.6. Bühler reserves its copyright and IP rights to all supporting material, including, without limitation, frames, models, samples, prototypes, software, which includes the time after payment of the purchase price. Purchaser shall keep such material confidential for a period of 2 years beyond the end of the contract and may not without Bühler's prior written consent allow any third-party access to such material or the substance of it or disclose it or use it or have a third party use it or reproduce it. At Bühler's request, Purchaser shall fully return such materials to Bühler and destroy any reproductions if Purchaser no longer needs them in the ordinary course of business or if negotiations do not result in the conclusion of a contract.

10. Written form

The effectiveness of any legally relevant notifications and declarations to be made by Purchaser to Bühler after the execution of a contract (for example to set a time or notify defects or withdraw from the contract or reduce the purchase price) shall be subject to written form. To comply with written form for purposes of these Standard Terms of Sale, transmission of characters by way of unsigned emails shall be sufficient.

11. Choice of law/place of performance/ place of jurisdiction

- 11.1. The law of the Federal Republic of Germany shall apply to Bühler's and Purchaser's contractual relationship on an exclusive basis, to the exclusion of German private international law and the Convention of 11 April 1980 on Contracts for the International Sale of Goods (CISG).
- 11.2. Bühler's place of business shall be the place of performance for supplies and payments.
- 11.3. Düsseldorf shall be the place of jurisdiction for all disputes under or in connection with the contractual relationship between Bühler and Purchaser. Bühler also has the right to sue Purchaser at Purchaser's general place of jurisdiction.

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