

**General Conditions  
for the Delivery and Acceptance of Material  
of Bunzl & Biach GmbH**

**1. Scope of application**

- 1.1 These General Conditions (hereinafter referred to as "GC") as amended from time to time shall apply to services and legal transactions the contracts or agreements underlying which expressly refer to these GC (such as, for instance, our Agreement of Delivery and Acceptance). In case of transactions involving consumers within the meaning of the (Austrian) "Konsumentenschutzgesetz" (Consumer Protection Act), they shall apply to the extent that they do not contradict the mandatory provisions of the said Act.
- 1.2 Different terms and conditions of our supplier or business partner (hereinafter referred to as "Supplier") are herewith rejected. References to such terms and conditions by the Supplier on invoices or other documents (including those presented during the term of the agreement or the business relationship) shall not lead to their acceptance or effectivity. In case of contradictions between these GC and any specifications, technical standards or ÖNORMEN, even if agreed as applicable by the Parties, these GC shall prevail.
- 1.3 Any references hereinafter to "the Parties" shall be understood to be referring to ourselves and the Supplier, taken jointly.

**2. Adaptation of the agreed quantities**

In case of fluctuations of the market and/or reduction of the amounts delivered to the paper factories or to other third party customers, we shall be entitled to adapt the quantity of stipulated Material agreed with the Supplier for one or for several calendar month(s), as required. Such an adaptation shall be notified to the Supplier in advance not later than within the first five working days of the calendar month for which the adaptation is intended to apply, by a written message (delivery by fax or e-mail being deemed sufficient to fulfill this requirement). Within any given calendar year, the right to alter the quantity is limited to a maximum of 20% of the monthly quantity and a total of 10% of the yearly quantity as calculated on the basis of the monthly quantities (in short fiscal years on a proportionate basis).

**3. Offers, authority to represent the Supplier**

- 3.1 Our offers and the prices indicated therein are based on our best expert knowledge. Any specific circumstances not identifiable by us cannot be taken into account.
- 3.2 All prices are quoted in euro with VAT in the statutory amount to be added.
- 3.3 We are not obligated to verify whether the persons acting for the Supplier are authorized to represent the latter. Any declaration made by the persons acting for the Supplier shall be attributed to it as if it had been made by itself.

**4. (Partial) non-performance, default on the part of the Supplier**

- 4.1 If, in any month, the quantity of the Material available to the Supplier is insufficient to meet its delivery obligation in full or at all, the Supplier is obligated to provide replacements at its own expense. Should the Supplier nevertheless find itself unable to deliver the quantity fixed for any month in full or at all, it shall inform us immediately and we shall be entitled to purchase the

outstanding quantity of the Material in the free market at the market price current from time to time and to invoice the said price, plus any expenses incurred by us in this connection, to the Supplier.

- 4.2 If and as long as the Supplier remains in default with even one of its obligations, we shall be entitled to suspend all payments and services to the Supplier. In case of default, we shall also be entitled to withdraw from the Agreement and claim damages. We shall further be entitled to make up its accounts with the Supplier regarding any services rendered to the Supplier and to demand immediate payment of the amounts owed in consideration of such services.

**5. Purity of waste, quality requirements**

- 5.1 The quality of the Material may be verified by means of random samples upon acceptance of the Material, by us or by the operator of the site to which delivery is made. The Supplier herewith accepts that photographic documentation shall be considered sufficient evidence of non-compliance with the following quality requirements. However, we are not obligated to verify (not even by means of random samples) the Material's purity but may rely on the waste being of proper quality that is according to agreement. The Supplier herewith waives putting forward the defense of violation of any duty to take care and/or diminish damage, of the obligation to examine and/or to give notice of defects.
- 5.2 In cases where the stipulated Material to be delivered is recovered paper, the moisture content of each delivery shall not exceed 10% (air-dried mass). Should the moisture content of the recovered paper exceed 10%, we shall be entitled to deduct the resulting additional weight from the total weight of the recovered paper and to invoice the *pro-rata* transport costs in case of collection of the Material by ourselves or by third parties acting on our orders. In cases where the moisture content exceeds 20%, we shall be entitled, (i) to refuse acceptance of delivery (ii) to invoice the transport costs as well as any other damage to the Supplier, and (iii) at our own discretion either to demand substitute delivery within a reasonable period, or to effect a substitute performance ourselves.
- 5.3 Apart from the stipulated Material to be supplied, the deliveries shall contain no other substances (hereinafter referred to as "Undesirable Substances"), in the case of recovered paper, in particular no non-paper components and no papers and boards unsuitable for recycling according to the Austrian Standard ÖNORM EN 643 as amended. In cases where the Undesirable Substances content of a delivery exceeds 1.5% (by weight), we shall be entitled, at our discretion and without prejudice to any possible claims for damages, (i) to effect a *pro-rata* deduction from the total weight of the Material and to invoice the *pro-rata* transport costs in case of collection of the Material by ourselves or by third parties acting on our orders as well as any other damage or (ii) to refuse acceptance of delivery and to invoice the transport costs incurred in case of collection of the Material by ourselves or by third parties acting on our orders as well as any other damage, and either to demand substitute delivery within a reasonable period, or to effect a substitute performance ourselves. In case of delivery of

Undesirable Substances, the Supplier shall also bear the costs, if any, notably of the sorting, storage, treatment, use and/or disposal of the same.

## **6. Collection by us, delivery by Supplier**

- 6.1 Unless otherwise agreed (e.g. in the Agreement of Delivery and Acceptance), we shall, upon a respective request by the Supplier, collect the Material from the Supplier's site on working days in the course of the day using the means of transport chosen by us at our discretion (e.g. trucks, railway, etc). The Parties may also agree regular collection intervals.
- 6.2 In case of a waiting or standby period of more than 30 minutes when collecting the Material, as well as in case of empty runs, the Supplier shall reimburse us for any costs and any other damage incurred or suffered by us on such account.
- 6.3 The Supplier accepts and agrees that the collection time depends on the quantity to be collected and on the location of the site and that any and all information given in respect of collection dates is non-binding unless compliance with such times has expressly been assured in writing. In case of any unpreventable and unforeseeable events, interruptions of operations, strikes, public unrest and lock-outs in our enterprise or in the operations of a third party retained within the scope of an order, in the event of war or in case of orders issued by public authorities, as well as in all cases of force majeure, also any performance deadlines and/or collection dates that have been expressly assured in writing shall be interrupted or extended for the duration of the interruption and the elimination of its after-effects on operations; any of these events also entitles us to withdraw from the contract without incurring a liability to compensate our Supplier (for damage and any other loss suffered).
- 6.4 We shall be free either to collect the Material ourselves or to have it collected by a third party acting on our orders.
- 6.5 The Supplier is obligated to ensure proper access to the collection point at the respective site.
- 6.6 Any delivery of Material by the Supplier itself or by any third party acting on its orders shall require our prior written consent. If we grant such consent, the Supplier shall deliver the Material at its expense and risk to a site to be indicated previously by us from time to time, within the opening hours of the site. In case of waiting or standby periods at that site, the Supplier shall have no claim to reimbursement of any costs or damage that it may have incurred or suffered on such account. Transport and packaging, if any, of the Material shall comply with the statutory and administrative provisions and requirements applicable from time to time.

## **7. Transfer of ownership**

- 7.1 Upon acceptance of the Material by us or a third party acting on our orders, the Material shall become our property.
- 7.2 To the extent that the Material contains Undesired Substances, objects or substances which may lead to difficulties during processing in the paper industry (e.g. in particular fiberglass or fiberglass compounds, rock wool, PVC-containing, hazardous, explosive or radioactive substances) shall not become our property. We are, at our own discretion, further entitled to pass on, process, dispose of, return to the customer or demand the customer to pick up such objects or substances. However, also in in case such objects or substances are passed on or processed, the Supplier shall not be entitled to any claims (notably claims for restitution or claims arising from undue enrichment) against us or against third parties to whom such objects or substances have been passed on or who have processed such objects or substances.

## **8. Recycling / Disposal**

- 8.1. Notwithstanding to Article 7.2. above, we are, at our own discretion and in any case, entitled to recycle or dispose of the material taken over, i.e. inter alia to deliver the material taken over to officially approved processing facilities that recycle it.
- 8.2. In case of a delivery of the material taken over to officially approved processing facilities for recycling we are entitled to issue and provide to the customer a confirmation of recycling regarding the material taken over from the customer. In this case the customer is obligated to accept such a recycling by us and to take over and accept such confirmation of recycling. Further, the customer agrees that a copy of such confirmation of recycling may be forwarded to third parties, in particular an operator of an officially approved processing facility.

## **9 EC Regulation on shipments of waste**

- 9.1 In case of transnational shipment of waste, the Parties are obligated to comply with their respective obligations imposed on them by the provisions of the Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste, as amended (respectively a regulation replacing it) as well as related statutory and official regulations.

## **10. Damages, limitation of liability**

- 10.1. The Supplier's liability shall be governed the general provisions of the law of damages, unless otherwise specified in the present GC or in written form. The Supplier shall be fully responsible for delivery according to agreement and for the purity of the Material delivered (in particular in terms of Article 5 and 7.2.) and shall be liable, independent of negligence, for all (consequential) damage suffered by ourselves or by a third party as a result of the incorrect classification or allocation of the substances delivered, or of the delivery of Undesired Substances or of improperly packed substances (including without limitation indirect damage, consequential harm caused by a defect, interruption of operations, lost profit).
- 10.2 We shall be liable exclusively for damage caused to persons or property by gross negligence or intentionally; the Supplier is also obligated to furnish proof of culpable conduct. Any further claims against us and against third parties mandated by us, including without limitation claims for damages based on default, impossibility of performance, compensation for indirect damage, consequential harm caused by a defect, interruption of operations, lost profit and unrealized savings and other pecuniary claims, as well as claims based on claims raised against the Supplier by third parties and claims based on tort, are excluded to the extent that this is permissible under the general provisions of civil law (i.e., at least in cases of slight negligence and of so-called "ordinary" gross negligence).
- 10.3 Claims for damages against us shall be time-barred after six months of the Supplier's having become aware of the damage and of the identity of the party responsible for the damage.
- 10.4 Our liability shall be limited to a maximum amount of EUR 7,000.00 per occurrence of damage.
- ## **11. Set-off, assignment of claims**
- 11.1 A set-off of the Supplier's claims against our claims shall not be permitted unless the claim has been established by an ordinary court or has been admitted by us.
- 11.2 Claims against us shall not be assigned without our explicit written consent.

## 12. Termination for cause

- 12.1 Each of the Parties shall be entitled to terminate the contractual relationship between ourselves and the Supplier for cause, without notice, by registered letter to the last address announced to the Party, particularly if
- (i) insolvency proceedings are instituted with regard to the respective other Party, or the institution of such proceedings is refused due to lack of sufficient assets, provided that this is permitted by law, i.e. in particular (a) if, and this is what each of the Parties assumes from today's perspective, the termination of the contract would not jeopardize the continuation of the operations of the enterprise; (b) in case of default with respect to paying any amounts that have fallen due after the institution of the insolvency proceedings, and (c) at any rate after six months as from the institution of the insolvency proceedings;
  - (ii) one of the Parties hereto violates essential obligations under the agreement and fails, in spite of a written reminder (a fax message will be sufficient) from the other Party, to remedy the said violation within an additional period of time of not less than 14 days to be granted by the other Party;
  - (iii) the Supplier's ownership structure or the economic and legal influence on the Supplier is altered in such a way as to create the possibility of a conflict with our interests;
  - (iv) we lose our license to collect, treat, dispose of and/or use the Material which is the subject matter of the agreement.
- 12.2 Should either of the Parties become aware of a reason that would entitle it to terminate the agreement for cause immediately, but fail to demand such termination based on the said reason, such forbearance shall not be considered as constituting a waiver of the right to terminate the agreement for cause at a later date or in case of recurrence.

## 13. Obligation of secrecy

The Parties are obligated to maintain secrecy with regard to all facts they gained knowledge of in connection with the contractual relationship, throughout and beyond the term of their contractual relationship. This shall not apply to information the disclosure of which to third parties is necessary to the performance of the agreement or that are in the public domain or publically known through no fault or action of either Party. This obligation of secrecy does not apply vis-à-vis the courts and public authorities within the scope of their statutory jurisdiction.

## 14. Data protection, approval of advertisements

- 14.1. In order to ensure a quick and efficient handling of contractual relations, certain data and information of the Supplier need to be processed.
- 14.2. Upon entry into a contract or agreement, personal data of our Supplier, such as title, given name and surname and/or firm name, address, contact data (including without limitation telephone number and e-mail address) and VAT Reg. No., may be collected and processed by us as well as transferred to our group companies and our business partners if necessary and expedient for the transfer, processing, recycling or disposal of the material taken over, Our Supplier herewith expressly consents to such collection and processing.
- 14.3. Our Supplier agrees that we shall be entitled to collect, use, process and store these data for the transaction of deliveries, the accounting of services and the enforcement of rights set forth in this contract but also in order to simplify future commercial transactions. This consent may be withdrawn at any time (by a communication addressed to Bunzl & Biach GmbH, Steinheilgasse 5, A-1210 Vienna, fax: +43 1 250 61 58, e-mail [office@bunzl-biach.at](mailto:office@bunzl-biach.at)).

- 14.4. Our Supplier agrees that we shall be entitled to collect, use, process and store these data to advertise similar products and services of our own. This consent may be withdrawn at any time (by a communication addressed to Bunzl & Biach GmbH, Steinheilgasse 5, A-1210 Vienna, fax: +43 1 250 61 58, e-mail [office@bunzl-biach.at](mailto:office@bunzl-biach.at)).
- 14.5. The consent to process the data according to Article 14.3. is no precondition for the conclusion of a contract. Therefore, the Parties are entitled to delete Article 14.3. and Article 14.4. at any time and, thus, also prior to the conclusion of a contract.

## 15. Miscellaneous, applicable law

- 15.1 For our Supplier, the challenge of any contract or agreement entered into by and between us and the Supplier (such as, for instance, the "Agreement of Delivery and Acceptance") and/or the present GC on the grounds of error, frustration of contract or *laesio enormis* is expressly excluded.
- 15.2 In addition to Article 10.2., the Supplier shall not be entitled to assign any rights and duties under its contractual relationship with us to a third party without our prior written consent. In case of the sale of a business or of the continuation of operations by a successor entrepreneur, the Supplier is obligated to inform us previously in writing (notification by fax will be sufficient) as well as, at our request, to transfer such contract and all rights and duties under such contract, to the new proprietor(s) of the business, and to indemnify and hold us harmless in this connection.
- 15.3 Oral agreements, collateral agreements, alterations or amendments of the "Agreement of Delivery and Acceptance" and of these GC, as well as the exclusion of these GC, shall only become binding after we have confirmed them in writing. This shall also apply to any deviation from this requirement of writing.
- 15.4 We shall be entitled to alter or amend these GC at any time. The current and applicable version shall always be the one that may be accessed under [www.bunzl-biach.at](http://www.bunzl-biach.at). In any case, alterations shall take effect 14 days after their publication under [www.bunzl-biach.at](http://www.bunzl-biach.at) and (i) appropriate notification of the Supplier (notification by e-mail or fax will be deemed sufficient) or (ii) an appropriate reference being provided on one of our printed forms (e.g. invoice, business letter, order confirmation or delivery note), unless the Supplier expressly objects to the respective alterations in writing within that period.
- 15.5 Like all of our contracts, the contractual relationship between ourselves and the Supplier as such and thus also these GC shall be governed exclusively by Austrian law (unless expressly agreed otherwise), with the exception of the UN Sales Convention and the conflict-of-law rules. Unless expressly agreed otherwise in writing, the place of performance shall be A-1210 Vienna, Steinheilgasse 5.
- 15.6 Should individual provisions or parts of the contractual relationship between ourselves and the Supplier (such as, for instance, the "Agreement of Delivery and Acceptance") or these GC be or become invalid, the validity of the remaining provisions or of the remainder of the respective provisions shall not be affected. The invalid provision or the invalid part of the provision shall be replaced by a valid provision that realizes as closely as possible the purposes and economic content of the invalid provision or the invalid part of the provision. The same shall apply with regard to any questions that have not been dealt with in the contract or agreement itself (for instance, in any "Agreement of Delivery and Acceptance" that may have been entered into) or in these GC.
- 15.7 For all disputes arising under or in connection with the contractual relationship between ourselves and the Supplier (for instance, on account of any "Agreement of

Delivery and Acceptance" that may have been entered into) or these GC, the Parties agree that the competent courts of Vienna-First District (*Wien-Innere Stadt*) shall have exclusive jurisdiction.

15.8 These GC shall come into force on January 1, 2017.