

Conditions of Purchase

1. Orders and Confirmation

EagleBurgmann Industries shall confirm orders in writing, email, or fax. Arrangements made orally or by telephone are inoperative and non-binding.

All contracts and orders are awarded solely on the basis of the following Conditions of Purchase. Any terms or conditions contrary to those laid down herein, in particular such terms and conditions stipulated in a supplier's confirmation of order, shall solely be valid and operative upon Eagle Burgmann Industries' expressed written acceptance thereof. These Conditions of Purchase apply to any and all subsequent orders.

EagleBurgmann Industries can only accept order delivery in conjunction with a written order confirmation. Acknowledgements of order containing prices, delivery dates or production data deviating from the original order shall be considered as a rejection of said order.

The order text, technical documents (drawings etc.) or product descriptions are authoritative for the completion of orders. Contrary forms of delivery require the expressed written agreement of both parties. Alterations and changes shall be mentioned explicitly in the confirmation of order or represented by means of technical documents (drawings etc.) and are subject to clearance by Eagle Burgmann Industries.

Any reference to supplier conditions of sale and delivery does not comply with the above stipulations.

2. Prices

All prices are understood as free our works and include packaging.

Should packaging be subject to additional charge as negotiated in prior written agreement, Eagle Burgmann Industries is entitled to return the packaging and deduct two-thirds of the packaging price from the invoice amount.

3. Invoicing and Payment

In the event that EagleBurgmann Industries is unable to clearly assign an invoice to a record for lack of complete reference and order numbers, the payment term shall be suspended until the supplier has provided full and complete clarification, inasmuch as said supplier has been duly and immediately informed of the non-assignability of his invoice. Should certificates, documentation or similar items expressly designated as an integral part of an order fail to be included with the consignment or invoice, the payment term shall be suspended until the supplier has supplied in full the missing certificates, documentation or similar items. The invoice must be sent separately upon dispatch of the complete or partial consignment.

EagleBurgmann Industries settles all supplier invoices 45 days net. The receipt stamp of EagleBurgmann Industries is authoritative.

Should EagleBurgmann Industries receive an invoice ahead of the expected consignment or the consignment have defects then the payment term is suspended until faultless goods have arrived.

In the event that EagleBurgmann Industries accepts premature delivery, the payment term complies with the originally negotiated delivery date.

4. Delivery and Delivery Period

4.1 Delivery periods stipulated in our orders commence as from the date of such orders. The supplier undertakes to immediately inform EagleBurgmann Industries of any delay in delivery and state the expected length of the delay.

The supplier shall send EagleBurgmann Industries notification of dispatch stating all relevant order data simultaneously with the dispatching of the consignment.

4.2 In the event that the supplier fails to deliver the goods ordered within the prescribed time limit EagleBurgmann Industries shall then be entitled to set the supplier a reasonable grace period, upon the expiration of which EagleBurgmann Industries can either withdraw from the contract or claim for damages due to non-performance inasmuch as delivery has not been made within the grace period.

EagleBurgmann Industries' right to withdraw from the contract or claim for damages due to non-performance also subsists in the event of late delivery of a part of the order, should EagleBurgmann Industries have no economic interest in partial performance of the contract. EagleBurgmann Industries is not obliged to grant a grace period in the event that the supplier defaults on delivery and the delay entails the loss of the former's economic interest in the fulfilment of the contract.

Should default or partial default in delivery arise through no fault of the supplier and EagleBurgmann Industries have no economic interest in partial fulfilment of the contract, the latter is entitled to withdraw from the contract after having granted a grace period and the supplier fails to effect delivery within said grace period.

4.3 In the event that the supplier be unable or partially unable to fulfil the delivery term due to act of God, strike, lockout, labour shortage, official measures or similar circumstances, EagleBurgmann Industries is entitled to withdraw from the contract entirely or in part after having duly granted a grace period.

Should the default in delivery apply to only a part of the order and the deliverable contingency be without economic interest, EagleBurgmann Industries retains the right to withdraw from the entire contract.

5. Documents

Any and all drawings, drafts and specimens enclosed with an order letter remain the property of EagleBurgmann Industries. The supplier undertakes to return unasked any such material with the goods ordered. The use of said material for any purpose other than the purpose specified shall make the supplier liable for damages. The supplier is explicitly not permitted to retain any duplicates, carbon or photo copies of the materials supplied. Failing a written agreement to the contrary, all models, templates and similar items produced by the supplier or produced by third parties and used by the supplier shall pass into the possession of EagleBurgmann Industries should the supplier charge the former for such items.

6. Infringement of Patent Rights

The supplier guarantees that the goods, objects and equipment supplied are void of any third party patent rights and is liable for any and all damages and detrimental effects EagleBurgmann Industries or its customers might incur through the infringement of any such rights, claims, obligations, by means of the usage, processing, combination or resale of the goods supplied.

7. Warranty

7.1 EagleBurgmann Industries is entitled to demand subsequent improvement or replacement, in the event that the goods supplied prove defective.

EagleBurgmann Industries is entitled to claim for damages for the delivery of defective goods.

7.2 EagleBurgmann Industries is entitled to raise complaints within a period of 14 days upon receipt of goods. In case of defects that despite due inspection remained indiscernible this fourteen-day period begins with the discovery of the defect.

For machines, machine parts and other machinery-type equipment the period for complaint commences with the commissioning thereof after installation through the supplier or a supplier-contracted third party.

7.3 Complaint can be made within a fourteen-day period after delivery of wrong goods or the partial delivery of quantities not corresponding to the order placed by EagleBurgmann Industries, inasmuch as the discrepancy between goods delivered and goods ordered is such that the supplier cannot expect his customer's approval.

7.4 Upon delivery of the goods any and all warranty claims come under statutory limitation rules after a twenty-four month period unless longer statutory periods of limitation are provided by law.

8. Advertising Purposes

Any and all references to orders placed by EagleBurgmann Industries for advertising purposes shall require the latter's prior and explicit written consent.

9. Assignment of Claims

The supplier shall not assign claims against EagleBurgmann Industries.

10. Insurance

EagleBurgmann Industries has the status of a customer in respect of whom freight agents are prohibited from taking out any haulage insurance. The supplier shall be liable for all costs arising from the disregard of this Clause.

11. Delivery Note

A delivery note must be included with any and all consignments. A delivery note must include the following:

- a) a precise breakdown of the consignment contents and
- b) all order data including the Purchase Order number.

12. Forms of Shipment

The following freight agents shall be commissioned for the transport of goods:

- a) UPS or Schenker & Co.
- b) A freight agent of the supplier's choice, inasmuch as the supplier is payer of freight charges.

The commissioning of any other haulier requires the prior written consent of EagleBurgmann Industries. Any costs arising from the commissioning of freight or from the

commissioning of a different haulier than agreed upon shall be charged to the supplier's account.

13. Acceptance of Goods

Delivery will be accepted Mondays through Friday from 7:00 A.M. to 3:30 P.M.

14. Applicable Law, Place of Fulfilment, Place of Jurisdiction

14.1 The laws and legislation of the State of Texas are authoritative for the Conditions of Purchase herein as well as for the rights of the Parties inter se. Inasmuch as the supplier is a fully qualified merchant, a legal entity under public law or a public special asset, the State of Texas is the exclusive Place of Jurisdiction for any and all disputes directly or indirectly arising from the contractual relationship.

14.2 The State of Texas Purchase Rights are applicable to any and all contracts between EagleBurgmann Industries and foreign suppliers.

15. Separability Clause

In the event that a provision herein or a provision in any other agreement should be or become invalid or ineffective, the effectiveness of all other contractual provisions remains unaffected.

16. Data Protection

EagleBurgmann Industries may store, transfer and use supplier data for the purpose of enquiries and the placement of orders.

17. Observance of Secrecy

The supplier undertakes to treat as a business secret any and all commercial and technical details he acquires through the business relation which are not common knowledge.

Unauthorized persons may not be provided with or in any other way be granted access to any and all drawings, models, templates, specimens or similar objects. The duplication of any such objects is solely permissible within the context of operational necessity and copyright laws.

The supplier undertakes to obligate any and all commissioned sub-contractors to such secrecy.

18. Environmental Protection Clause

The supplier undertakes to mark and label any and all products subject to hazardous media and hazardous materials ordinances. The supplier is liable for any and all damages and detrimental effects inflicted upon EagleBurgmann Industries as a result of the supplier's failure to properly mark and label such materials. This liability extends to damages inflicted upon third parties, should such a party assert damage claims against EagleBurgmann Industries.

As per: 01/2007