

GENERAL TERMS AND CONDITIONS OF SALE

Chennai, 28-02-2025

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1. SCOPE AND ORDERS

1.1 These General Terms and Conditions (“Terms and Conditions”) apply to all transactions conducted by Burkert India Private Limited having its registered address at

(“Company”), for sale of goods or equipments by the Company (“Products”) and SERVICES to the Purchaser (as defined below) unless any other terms otherwise agreed between the parties in writing by any document, written agreement and/ or Order (as defined below).

1.2 The business customer/ distributor ordering or purchasing Products from the Company having valid Goods and Services Tax registration (“Purchaser”) acknowledges that they are aware of the contents of and agree to be bound by these Terms and Conditions. The Purchaser and Company shall each hereafter be referred to individually as a “Party” or collectively as the “Parties.”

1.3 The Purchaser may from time to time issue an order to the Company, which includes orders based on valid time bound quotations from the Company, for the Products to be supplied in written physical hard copy or electronic form or through the online portal at <https://www.burkert.in/en/> (“Order”). Each Order issued by the Purchaser with regard to the Products ordered shall come into effect only after the Company has accepted the Order in writing (“Acceptance”). The Acceptance of an Order by the Company shall notified by any written communication or through notification on the Company’s online web-portal.

1.4 Order once placed by the Purchaser and upon Acceptance by the Company shall be binding in nature and can only be cancelled by prior written consent of the Company.

1.5 Any quotation issued by the company shall only be valid for the period stipulated therein.

1.6 Any terms and conditions of the Purchaser forming part of the Order or any other document of the Purchaser shall not be binding on the Company at any time, unless expressly agreed otherwise in writing by the Company.

1.7 In case of conflict between the clauses of these Terms and Conditions and any written agreement between the Parties and/or Order, the latest document

executed by both Parties amongst the aforementioned documents shall prevail.

2. PRICE & PAYMENT TERMS

2.1 Prices for the Products will be set forth, in the Company's published price schedules which shall be subject to change without notice, or by time bound quotations issued by the Company ("**Price**"). Unless otherwise agreed in writing, all Prices for selected Products shall be quoted in the Order in INR (Indian Rupees). Unless stated otherwise in writing by the Company, the Prices quoted to the Purchaser for the Products shall be exclusive of costs and charges for freight/ transport till delivery location as mentioned in an Order, packaging, labelling, storage costs and insurance. The Prices shall not include any costs associated with installing or commissioning of the Products, and such costs shall have to borne by the Purchaser.

2.2 Notwithstanding clause 2.1, the Price for the Products incorporated in the Order shall be excluding the applicable Goods and Services Tax ("**GST**"), in the event that GST is applicable to the value invoiced for supply of Products to the Purchaser under the provisions of the GST laws and regulations on the date of supply of such Products, the said GST shall be charged separately over the Price on the Invoices issued to the Purchaser.

2.3 Unless agreed otherwise by the Parties in writing, all Orders shall be invoiced by the Company in electronic form or physical hard copy ("**Invoice**") in Indian Rupees (INR) during the delivery of the Product, and shall become payable as per the payment due date mentioned on the Invoice. In case of advance payment required for delivery of the Products, the Company issue proforma Invoice for collection of advance amounts before delivery along with applicable taxes as per Payment Timeline mentioned in such proforma Invoice.

2.4 Purchaser will pay all Invoices in INR. Payment will not be deemed to have been received until Company has received funds into the designated bank account of the Company, as communicated to the Purchaser. In case on Products purchased through the Business to Business (B2B) online portal of the Company, the payment for the Invoices generated shall have to be made by the Purchaser, as per Payment Timelines provided therein, through online banking channels (such as NEFT and RTGS) as prevalent in India, and notify the Company with the relevant details regarding the transaction for verification as required by the Company.

2.5 In case of online sale of Products, if the Company is unable to verify the veracity of the invoicing related details submitted by the Purchaser such as GST registration number etc., then the Company reserves the right to cancel the relevant Order and rescind its acceptance of the Order. Furthermore, the Company shall notify the Purchaser to provide correct invoicing details and place a fresh Order through the Company's B2B online portal.

2.6 The Parties agree that the Company reserves the right, in case of Orders having multiple separate delivery of Products over a period of time, or in case of part deliveries of Orders, to issue an Invoice for each consignment of Product and treat such Invoices as a separate account accordingly modifying the Payment Timelines.

2.7 If any Invoice issued to the Purchaser remains completely or partially unpaid on the end of the stipulated Payment Timeline, then all amounts due under the unpaid Invoice amount shall bear an interest of two percent (2 %) per month plus GST as applicable. The Purchaser will be liable to pay interest on the unpaid amount from the date on which the payment was due until the date of actual receipt of payment as well as any recovery costs (including legal fees).

3. TAXES

3.1 GST or any other taxes applicable on the Products supplied by the Company under an Order are based on the provisions of GST laws and regulations or any other prevailing regulations, as on the date of supply of Products as agreed between the Parties and the same would be charged by the Company in the Invoices raised and would be collected from the Purchaser over and above the agreed Price.

3.2 The Purchaser shall be required to reverse the input-tax credit on their purchases from the Company in case of non-payment of invoices raised by the Company within the time limit prescribed under the GST law.

3.3 In case, the Company issues credit notes in the event of any adjustment to value of the Products either proportional or full, including the adjustment to taxes applicable on the same; the Purchaser shall be required to reverse proportionate or full input-tax credit availed by them on the original invoices raised by the Company. The reversal should be done, in order to enable the Company to reverse its output GST liability either proportionate or in full, on account of such credit notes issued.

3.4 Any withholding of taxes by the Purchaser during payment of any Invoices shall be as per the income tax law and regulations of India.

3.5 In case the Indian Income-tax regulations require the Company to collect taxes at source or the Purchaser to deduct taxes at source on the consideration to be paid to the Company, the Company or the Purchaser, as the case maybe, shall undertake collection or deduction of taxes in accordance with the Indian Income-tax Act, 1961 and shall furnish appropriate proofs of tax collection or deduction to the either Party.

4. DELIVERY AND TRANSFER OF RISKS

4.1 Unless agreed otherwise in writing in Order, the delivery takes place based on the shipping terms: Ex-Works/Burkert-Chennai (INCO term 2010).

4.2 The date of delivery of Products provided by the Company are in good faith and is only an estimation. The date of delivery mentioned by the Company does not bind the Company to make any delivery of Products within such delivery date. The Company shall make reasonable efforts to adhere to any delivery date communicated to the Purchaser. Thus, time of delivery shall not be an essence to the Order placed or quotation given by the Company, and the Purchaser shall not have the right to cancel the Order unless such cancellation is accepted in writing by the Company.

4.3 In case of delay in delivery, the Purchaser agrees that it shall accept delivery of the Products and shall not hold the Company liable for any breach of any contract or Terms and Conditions, damages, reimbursements or any claims, from whatsoever cause, due to any delay in delivery of the Products.

4.4 All Products are packaged as per industry standards and delivered at the Purchaser's risks. Any deficiencies, damage or loss of Product due to transportation must be reported to the Company with seven (7) days of receipt of the Products by the Purchaser. Accordingly, the Purchaser must retain the Products with original packaging intact for insurance survey by the Company's insurer and survey by the transporter/ carrier when the company has agreed for Transit insurance coverage in writing . The Purchaser agrees that neither the Company nor its insurers shall be responsible or liable for any loss arising out of breakage, loss or damage or defect due to non-observance of any instructions related to the handling of the Products by the Purchaser.

4.5 The Parties agree that all risks pertaining to the Products shall transfer to the Purchaser upon loading of the Products on the transport for delivery to the Purchaser.

5. LIABILITY FOR DEFECTS

5.1 The Parties agree that though the Company may provide assistance to the Purchaser for choice of Products, the Company shall not be liable for any liability or claim thereby, except for as provided under clause 5.2.

5.2 The Company provides a twelve (12) month warranty for only certain products which are full valves and instrument and not any spares (“Products Under Warranty”). The warranty provided is against the performance of the Products Under Warranty as communicated before the placing of Order for a Product, solely arising from faulty design, materials or poor workmanship (“Defect”). The Purchaser shall promptly notify the Company in writing of any Defect in Products Under Warranty, which appears including a description of such Defect within twelve (12) months from delivery to the Purchaser (“Warranty Period”). If the Purchaser fails to notify the Company in writing within the timeframe as specified above of a Defect, the Company shall not be liable for the Defect.

5.3 The Purchaser shall ensure that the Products brought are installed, used and maintained in the manner the Product is intended to be used as per the description and details provided by the Company. The Purchaser shall be responsible to inform its customers about the Products intended use, maintenance procedure and proper installation of the Products. The Company shall not be liable for Defects arising out of caused by inadequate maintenance, incorrect installation, improper use, unauthorized repairs or alterations, or for normal wear and tear or deterioration by the Purchaser or its customers.

5.4 Purchaser shall guarantee, hold harmless and indemnify the Company and its officers, employees, agents or subcontractors against all claims (actual or threatened) by any third party for loss, damage or expense of whatsoever nature including all legal expenses and related costs and howsoever arising relating to the performance, purported performance or non-performance, of any Purchaser’s obligations under these Terms and Conditions or claims therefrom.

5.5 Limitation of Liability for Company: Notwithstanding any other provision in these Terms and Conditions or the Order or any other document, whether by way of indemnity or by breach of contract, statutory duty, tort, negligence, or

otherwise, and whatever the cause thereof: a) Company shall not be liable for loss of business, loss of profit, loss of use, loss of contracts, loss of data or for any special, consequential or indirect loss or damage of any nature whatsoever in connection with the Order and/or quotation or written agreement.

6. CONFIDENTIAL INFORMATION, INTELLECTUAL PROPERTY RIGHTS

6.1 The Purchaser undertakes to keep any technical, commercial or other information related to the Products supplied by the Company to Purchaser, and/or disclosed by the Company to Purchaser in any manner whatsoever (“Confidential Information”), shall be treated as strictly confidential by Purchaser from disclosure of the Confidential Information. Confidential Information shall not include i) such information in respect of which Purchaser proves that such information forms part of the public domain, when such information is communicated from the Company to the Purchaser, without any fault act or omission on Purchaser’s part; ii) any information that must be provided to third parties by law or by order of a court or governmental authority. The Purchaser shall within 2 (two) days of receipt of any order for disclosure of Confidential Information, inform the Company in writing about such order of disclosure. For any breach of this obligation by Purchaser, among other legal rights of the Company and remedies available to the Company, liquidated damages along with applicable GST shall be applied Confidential Information received by the Purchaser shall not, without the prior written consent of the Company, be (a) used for any other purpose than the one for which it is provided, or (b) communicated to any third party by the Purchaser.

6.2 Intellectual Property: Purchaser acknowledges the ownership of and the validity of Company’s and its affiliate’s trademarks, brand names, trade names, copyrights, designs, drawings, trade secrets, inventions, know how or other intellectual property (collectively, “Intellectual Property”). Purchaser will not transfer, reverse engineer, reverse compile or reverse assemble the Products in whole or in part, and Purchaser will not develop: (a) any products incorporating any of Company’s Intellectual Property; nor (b) any improvements or applications related to the Intellectual Property. Purchaser agrees not to apply for the registration of Intellectual Property in any country, nor otherwise take any action inconsistent with Company’s rights in the Intellectual Property.

6.3 The Purchaser will immediately notify Company in writing of any potential infringement of Company’s Intellectual Property by other parties, or of any claim

or possibility that the Intellectual Property infringes the rights of others and will cooperate with Company to protect Company's Intellectual Property against infringement. Subject to the above, Purchaser is hereby authorized to use trademarks and trade names owned by Company in connection with the Products, but only for the limited purpose of using the Products.

7. FORCE MAJEURE

7.1 The Company shall be entitled to suspend performance of its obligations under these Terms and Conditions and/or the applicable Order to the extent that such performance is impeded or made unreasonably onerous by “Force Majeure Event”, meaning any of the following circumstances: any circumstance beyond the control of the Parties including, without limitation, fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, epidemics, pandemics, natural disasters, extreme natural events, terrorist acts, lockdown, governmental restrictions.

7.2 The Company shall be excused from performance hereunder and shall not be liable for non-performance of the obligations hereunder for a period and to the extent that such Party is prevented from performing any obligations pursuant hereto due to Force Majeure Event. All Force Majeure Events, whether causing a temporary or a definite hindrance of the performance of the obligations or contract, relieves the Company from its liability for any damage arising there from.

7.3 Upon the occurrence of such Force Majeure Event, the Company shall notify the Purchaser as soon as possible of such occurrence and expected date to resume to perform its obligation under this Terms and Conditions in relation to the Order. In the event that such Force Majeure Event continues for more than 30 (thirty) calendar days, the Company shall have the right to terminate the Order without any liability.

8. DATA PROTECTION AND INFORMATION SECURITY

8.1 The Purchaser and the Company shall comply to all applicable privacy and data protection laws, including applicable Indian data protection norms, Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011, and the Digital Personal Data Protection Act, 2023 to the extent notified. The Company is informing Purchaser that:

a. Purpose of processing and legal basis: The Company collects and processes Purchaser's contact details for lawful purposes only which is to process the Orders and executing the contractual relationship, for the protection of our legitimate interests where appropriate (credit control, etc) and if consent has been provided – to provide information on the Products.

b. Data Categories: Master data (such as contact person, company names, titles, address, phone numbers), contract data, payment related data, claims related data.

c. Data sharing: Purchaser's details will not be given or sold to third parties. The Company in the ordinary course of business, Company may share some data with the Company's affiliates or third party companies that are hired to perform services or functions on its behalf (such as logistics services, data storage on servers located at our affiliate's site in around the globe). In addition, Company may use and disclose data to third parties if necessary to protect Company's rights or property (debt collection), to comply with a law or regulation, court order or other legal process, and investigate or take action in case of suspected fraud or illegal activity. Purchaser is informed that Company may transfer data to affiliates or providers situated outside the territory of India to the extent that transfer of data to such territories are not restricted by India as on date of such transfer, and that Company shall ensure that necessary safeguards are put in place to ensure confidentiality, integrity, and availability of the data.

d. Data retention period: Data shall be kept for so long as necessary to fulfill the purposes for which Purchaser allowed to use them and in compliance with specific applicable record retention requirements.

9. GOVERNING LAW & DISPUTE RESOLUTION

9.1 These Terms and Conditions shall be interpreted, construed and performed in accordance with and shall in all respects be subject to the laws of Republic of India. Subject to the arbitration agreement set out herein below, the courts in Chennai, Tamil Nadu shall have exclusive jurisdiction in respect of any disputes arising out of or relating to this Agreement.

9.2 In the event, of any dispute, controversy, claim or breach arises out of or in connection with Terms and Conditions including any dispute as to the existence or validity of these Terms and Conditions, both the parties first shall seek to resolve such dispute, by amicable arrangement, compromise and mutual discussion within 30 (thirty) days from the date of starting such discussions ("Discussion Period").

9.3 If the parties fail to resolve the same by amicable arrangement and compromise within the Discussion Period, either party may resort to arbitration. After expiration of the Discussion Period, any dispute which may arise out of or in connection with these Terms and Conditions, or any breach of the binding provisions hereof, shall, unless amicably settled, be referred to final and binding arbitration, by a sole arbitrator as mutually appointed by the parties in accordance with Arbitration and Conciliation Act, 1996 and amendments made thereto which are in force from time to time. Seat and venue for the arbitration proceedings shall be Chennai, Tamil Nadu, India and the proceedings shall be conducted in English

10. MISCELLANEOUS

10.1 Assignment: The Purchaser shall not assign its rights and obligations under this Agreement to any other party, without prior written acceptance of such assignment by the Company.

10.2 Waiver: Any actions, inactions, or failure to exercise any right, power, or remedy by the Company under these Terms and Conditions shall not be construed as a waiver of such right, power, or remedy. Any delay or failure by the Company in enforcing any provision of these Terms and Conditions, or in exercising any right, power, or remedy hereunder, shall not operate as a waiver of such provision or any other provision of these Terms and Conditions. No waiver of any breach or default shall be deemed a waiver of any subsequent breach or default, nor shall any single or partial exercise of any right, power, or remedy by the Company preclude any further exercise thereof or the exercise of any other right, power, or remedy.

10.3 Termination or Cancellation of Orders: The Company shall have the right to terminate or cancel any Order without any obligation to notify the Purchaser, in the event of breach or non-observance of the provisions under these Terms and Conditions, without any liability to pay any damages or claims for costs from the Purchaser.

10.4 Notices:

All Notices to the Company shall be through registered post at M6, Dr Vikram Sarabhai Instronic Estate (VSI), Type II, Thiruvanmiyur, Chennai- 600041, Tamil Nadu, India.

All Notices to the Purchaser shall be made as per the communication address provided by the Purchaser to the Company for placing of Order.

11. NO RE EXPORT CLAUSE

11.1 Buyer acknowledges that Seller is required to comply with applicable export / import laws and regulations relating to the sale, export, import, transfer, assignment, disposal and use of the Products, including any export / import license requirements, in particular the country import laws of the Buyer, European foreign trade and sanctions laws, in particular for products as per Regulation EU 833/2014 (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0833-20240224>). Buyer agrees as a fundamental obligation that Products will not at any time directly or indirectly be used, exported, imported, sold, transferred, assigned or otherwise disposed of in a manner which will result in non-compliance with any export / import laws and regulations, e.g. circumvention of said laws and regulations. Either Parties' continuing performance hereunder is conditioned on compliance with such export / import laws and regulations at all times.

11.2 The Buyer confirms that it will not (re-)sell or use the products outside the country of his company registration or export into a country with limitations as per any of the laws mentioned in paragraph (11.1). Buyer shall not intentionally or in acting with reckless disregard frustrate the purpose of paragraph (11.1) using any third parties further down the commercial chain, including by possible resellers.

11.3 The Buyer shall inform the Seller and the Parties shall coordinate in case of any problems in applying paragraphs (11.1) - (11.4), including sharing of necessary information without undue delay.

11.4 Any Buyer's culpable violation of paragraphs (11.1), (11.2) or (11.3) shall constitute a material breach of an essential element of this agreement, and the Buyer shall (i) indemnify and hold harmless Seller on first written demand for the full cost of any enforcement penalties and for any other related losses, including Seller's reasonable legal fees, full cost of any enforcement penalties imposed as a result of Buyer's breach, (ii) Seller may terminate the contract immediately without prejudice, and (iii) any advance payments received by Seller for Sanctioned Goods not delivered at the time of termination as per (11.4)(ii), shall remain with Seller as non-refundable compensation and be deducted from any damages due as per paragraph (11.4) .

12. CONTACT

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