



GENERAL TERMS AND CONDITIONS Burgaflex.

Article 1 Relevance

1.1 These conditions apply to all (requests for quotation, offers or acceptances in respect of) contracts for which Burgaflex b.v. (Holland), Burgaflex Ltd (United Kingdom), Burgaflex Turkey Ltd (Turkey), Burgaflex Poland SP. Z.o.o and Burgaflex France SAS (France) (hereafter called Burgaflex) supplies goods and / or services (hereafter jointly referred to as "goods") to a third party or otherwise on behalf of that third party (hereafter referred to as the Counterparty) accepts, one and all in the broadest sense.

1.2 Deviations from these conditions can only be agreed in writing.

1.3 The applicability of general conditions or other terms, referred to by the Counterparty in any form, is explicitly excluded, unless otherwise agreed in writing.

Article 2 Offers and realization of agreements

2.1 Each offer from Burgaflex is noncommittal, unless the offer explicitly shows the contrary. A subsequent offer makes any previous offer - unless otherwise specified by Burgaflex - expired.

2.2 When the agreement is made in writing, it comes into effect on the date of signing of the agreement (contract) by Burgaflex, respectively on the day of sending of the written confirmation by Burgaflex.

2.3 Acceptance by Burgaflex can be done through any means of communication. This also applies if the order or instruction of the Counterparty is placed electronically. Acceptance of the order placed by the Counterparty may also take place by sending

2.4 The Counterparty accepts by placing each following order or instruction to Burgaflex the applicability of these general conditions.

Article 3 Prices

3.1 Prices are net in Euro or GBP (Burgaflex UK), exclusive VAT and "ex works" from the related subsidiary. If delivery is agreed differently, the additional costs, unless otherwise agreed in writing, are for the account of the Counterparty, amongst others costs of carriage and insurance.

3.2 If after the date of realization of the contract one or more cost price factors increase - even if this is due to foreseeable circumstances - Burgaflex is entitled to increase the agreed price accordingly.

Article 4 Delivery

4.1 The delivery period starts on the last of the following:

- a. day of realization of the agreement;
- b. the day of receipt by Burgaflex of the execution of the contract necessary data, permits, documents, etc.;
- c. the day of the fulfillment of the commencement of the work necessary formalities;
- d. the day of receipt by Burgaflex of what according to the agreement must be paid in advance before commencing the work. If a delivery date or week has been agreed, the delivery period is the interval between the date of realization of the agreement and the delivery date or week.

4.2 The delivery period is based on the timely delivery of the execution of the work by Burgaflex ordered materials. If through no fault of Burgaflex delay in the execution of the work is caused by non-timely delivery of in time ordered materials, the delivery period will be extended to the extent required in the opinion of Burgaflex.

4.3 All delivery dates used by Burgaflex are target deadlines and therefore not fixed deadlines, unless explicitly agreed otherwise.



4.4 The product is considered as delivered when it is, if inspection in the premises of Burgaflex is agreed, ready for inspection and in other cases when the product is ready for shipment, after the Counterparty is notified thereof, undiminished the obligation of Burgaflex to fulfill its assembly and / or installation requirements.

4.5 The delivery time is extended by the duration of the delay that was caused by non-compliance by the Counterparty to any obligation arising from the contract or the cooperation required from him.

4.6 Except for intent / gross negligence on the part of Burgaflex, exceeding the delivery period does not entitle the Counterparty to full or partial termination of the agreement.

4.7 **Under the** provisions of this article Burgaflex is entitled to suspend the fulfillment of its obligations to the Counterparty as long as the Counterparty has not met with all its (payment) obligations under any existing legal relationship with Burgaflex. This suspension is valid at least until such time that the Counterparty has fulfilled his obligations to Burgaflex completely. Any agreed delivery period is extended by the suspension for the duration of the suspension period.

Article 5 Risk and ownership transfer

5.1 Once products / work can be considered as delivered in the sense of Article 4, the Counterparty bears the risk for all direct and indirect damage caused to or by the products / work, except when due to gross negligence / intent by Burgaflex. If the Counterparty remains in default of acquisition of the products / work Burgaflex is entitled to charge the costs of storage of the products to the Counterparty. In addition, the Counterparty owes the statutory interest over the entire outstanding amount from the delivery date until the date of shipment as long as no payment has occurred.

5.2 Undiminished by what is defined in the preceding paragraph and clause 4, the ownership of (one or more) goods will only pass over to the Counterparty when all payments owed by the Counterparty to Burgaflex (including interest and costs) has been fully met. Until then Burgaflex retains the right of ownership and the right to re-claim the goods.

5.3 On first request by Burgaflex the Counterparty is obliged to provide an alternative guarantee to Burgaflex, if for whatever reason, the ownership of Burgaflex is abolished. This alternative guarantee may consist of the establishment of an asset penalty of all (movable) property referred to in Article 5.1. As long as the Counterparty has not provided sufficient guarantee, Burgaflex is entitled to suspend its performance without Burgaflex being obliged to pay any damages, interest and / or costs.

Article 6 Payment

6.1 Payment of the invoice amount to the account of Burgaflex needs to be made 30 days after the invoice date, unless otherwise agreed in writing. In the absence of timely payment, the Counterparty is legally in default of this agreement and is obliged to pay statutory interest on the amount owed for the duration of the default period, and also all costs related to the collection of this claim, with extrajudicial costs being set of 15% of the outstanding amount, notwithstanding the right of Burgaflex to charge the actual costs incurred to the Counterparty, including any legal costs, if they exceed the amount set.

6.2 Without explicit written consent of Burgaflex the Counterpart is not allowed to settle a payment obligation towards Burgaflex by deducting a claim from the Counterparty on Burgaflex on any grounds whatsoever.

6.3 Burgaflex has the right to demand prepayment of the Counterparty.

Article 7 Inspection and testing

7.1 The products / work will be carefully inspected by Burgaflex before delivery. If additional inspections or testing have been agreed, Burgaflex determines the point in time when these can be performed and Burgaflex will notify the Counterparty. The Counterparty or their designated representative has the right to be present at such additional inspection or testing. The inspection or testing is performed regardless of whether the Counterparty uses its aforesaid right. The results will be made available to the Counterparty on first demand.

7.2 If the inspection or testing (partial) has to be done by one or more persons not employed by Burgaflex and they are not present on the date and time determined, the inspection or testing shall be deemed to have taken place to the satisfaction of the Counterparty, unless they claim within 5 days of non appearance that inspection or testing still has to take place.

7.3 If further inspection or testing at the premises of Burgaflex by Burgaflex has not been agreed, the Counterparty will inspect the goods at the latest within 7 days after delivery as stated in Article 4 unless a longer period has been agreed.

7.4 If this term passes without written specified notification of justified complaints, the products / work is deemed to be accepted.



7.5 Without diminishing the obligation of Burgaflex to fulfill its normal warranty obligations, any cost for inspection or testing as described in the preceding paragraphs made by the Counterparty, will be excluded from the claim of the Counterparty in case of a failure in the performance of Burgaflex.

7.6 The presence of a defect never entitles the Counterparty to suspend its payment or settlement related to delivered or available goods, products or projects and / or services.

Article 8 Properties, warranty

8.1 The operational characteristics as provided by Burgaflex are based on the experience of Burgaflex and as such comply with what Burgaflex would expect under the conditions of the standard tests of Burgaflex. These tests are based on international accepted standards.

8.2 It is the responsibility of the Counterparty to determine whether the capacity and operational characteristics of the goods are suitable and legally viable for the use the Counterparty intends. Burgaflex accepts no liability in this regard.

8.3 If the goods after delivery prove not to meet the operational characteristics (including the specified tolerances to these characteristics), as defined in paragraph 1 of this article, the Counterparty will give Burgaflex the opportunity to take countermeasures within a reasonable time span so these characteristics can still be met. If the latter turns out to be impossible, Burgaflex will have the choice to either replace the goods by an equivalent or to take the goods back under refund of that portion of the purchase price that has already been paid, however, without Burgaflex being obliged to any compensation.

8.4 In respect of the preceding paragraphs, Burgaflex is – unless otherwise agreed in writing –has no obligation with respect to the goods supplied / work done other than that arising out of its warranty obligation as defined below.

8.5 If the goods / work within a period of 12 months after delivery, unless otherwise agreed in writing, as defined in Article 4, prove defective by use of faulty materials or poor workmanship, at the discretion of Burgaflex, items will be repaired or replaced provided that:

- a. the Counterparty or the final user has followed Burgaflex instructions for use, maintenance and operation,
- b. the defect is not caused by incorrect or improper use or handling of the goods and
- c. Burgaflex is notified in writing by the Counterparty or the final user about the defect within 5 days after the day on which the defects are discovered or reasonably could be discovered.

8.6 Not covered by warranty are defects which arise from or that are fully or partially the result of:

- a. use of the products in a different manner than normally intended,
- b. normal wear,
- c. repair by third parties, including the Counterparty or the end user,
- d. Burgaflex supplied components by third parties (including third parties with whom Burgaflex are bound in one group), if that third party has provided no warranty to Burgaflex.

8.7 For goods that are in a country where Burgaflex, as defined in Article 1, is situated, this warranty includes the cost of materials and labour provided the repair takes place in the workshop of Burgaflex. In all other countries this warranty only covers the cost of materials. If the Counterparty or the end user sends the goods on its accounts to a branch of Burgaflex and transport and receipt take place in accordance with the instructions of Burgaflex, the warranty covers both the costs of materials and labour.

8.8 In case of repair or replacement of the goods under warranty, the warranty period for the replaced or repaired parts shall be extended for 6 months after delivery of the replaced or repaired goods.

8.9 In case of improper or untimely fulfillment of any obligation by the Counterparty, Burgaflex is not liable for any warranty obligation.



Article 9 Liability / expiration

9.1 The liability of Burgaflex is limited to fulfillment of the **items** in Article 8 of these conditions described warranty obligations.

9.2 Except intent / gross negligence on the part of Burgaflex and the provisions of the preceding sentence, all liability of Burgaflex excludes items such as foreign object damage, all indirect damage, loss of profit, any other financial drawback or damage as a result of liability to third parties.

9.3 If Burgaflex, without having the installation in order, provides help and assistance – of any kind - to the installation, this is at the risk of the Counterparty.

9.4 Only if legally established that Burgaflex, despite the provisions of paragraphs 1 and 2, is liable for any damage, the total liability of Burgaflex is limited to a reimbursement of direct damages up to an amount equal to that of the performance and / or delivery stipulated price (excluding VAT). However, in no case shall the total compensation for direct damage per year exceed EUR 50,000 per event or series of events with the same cause. Direct damage within the meaning of this article is limited to:

- a. the reasonable costs that the Counterparty has made to have the performance of Burgaflex comply with the agreement made;
- b. reasonable costs incurred in determining the cause and extent of the damage, insofar as the determination relates to direct damage within the meaning of this article;
- c. reasonable costs made to prevent or limit the damage, insofar as the Counterparty can prove that these expenses resulted in limiting the direct damage within the meaning of this article.

9.5 The total liability of Burgaflex for damage resulting in death or bodily harm or material damage to goods shall in no case exceed the amount that is covered by the related insurance of Burgaflex.

9.6 Burgaflex is entitled within the scope of the execution of an agreement to make use of third parties. Burgaflex is not liable for shortcomings of/by third parties. Burgaflex is authorized by the Counterparty to accept a limitation of liability of the third party. Claims against the third party shall at first request of the Counterparty be transferred to them by Burgaflex.

9.7 Condition for the arising of any right to damages is always that the Counterparty reports the damage as soon as possible after its occurrence in writing to Burgaflex.

9.8 Any claim against Burgaflex under an agreement with the Counterparty expires after 12 months from the date on which the Counterparty notified Burgaflex of the damage or claim for the first time or otherwise proven the existence of the right to claim.

9.9 The Counterparty is obliged to respectively reimburse Burgaflex against all third party claims for damages, for which the liability of Burgaflex in the relationship to the Counterparty is excluded in these conditions.

Article 10 Force Majeure

10.1 As Force Majeure are considered all circumstances in the execution of the agreement beyond the control of Burgaflex or the counterparty, because neither Burgaflex nor the counterparty can be held accountable for these circumstances, not lawfully or legally or within the general accepted opinion in trading.

10.2 In the event of temporary Force Majeure, including the situation that a product ordered by the Counterparty temporarily cannot be supplied, Burgaflex is entitled to extend the intended delivery date within the sense of Article 4 with the time during which the temporary Force Majeure continues.

10.3 In case of permanent Force Majeure, which means a circumstance **in** which Burgaflex or the Counterparty has no influence, nor reasonably could have and making the delivery or provision of goods or the performance of work and / or services impossible, Burgaflex or the Counterparty is entitled to terminate the agreement **outside of the usual judicial proceedings**. In case of Force Majeure, the Counterparty cannot claim any compensation from Burgaflex for damage suffered by **them**.

Article 11 Confidentiality, intellectual property

11.1 All rights of intellectual or industrial property and similar rights in respect of or related to delivered and / or made available goods by Burgaflex to the Counterparty as well as provided activities and / or services, exclusively belong to Burgaflex .



11.2 The Counterparty is obliged to secrecy towards third parties about all drawings, descriptions, specifications, models, constructions, diagrams, technical documentation and other business information as well as know-how in the broadest sense of the word, originating from Burgaflex that were brought or came into knowledge of the Counterparty in any way.

11.3 No provision in any agreement made with the Counterparty or any following agreements between Burgaflex and the Counterparty will extend full or partial transfer to the Counterparty of the rights as meant in Article 11.1, unless specifically agreed in writing. The Counterparty acknowledges these rights and will refrain from any form of (in)direct violation of these rights, punishable by an immediate collectable fine of 25,000 Euros (ADD GBP AMOUNT HERE ALSO) for each violation or for every week that the violation continues, without diminishing the rights of Burgaflex in this regard, including the right of fulfillment and / or full compensation.

11.4 If the Counterparty notices in any way that third parties violate the rights referred to in Article 11.1, the Counterparty is obliged to immediately notify Burgaflex in writing. The Counterparty will, without written permission from Burgaflex, in no way, legally or otherwise, act against such a violation. If Burgaflex decides, in or out of court, to act against violations made by third parties, the Counterparty will provide any Burgaflex requested co-operation at the expense of Burgaflex.

Article 12 Non-fulfillment, dissolution

12.1 Burgaflex has the right to dissolve the agreement with the Counterparty with immediate effect for the future without prior notice by means of a written notification or to discontinue further deliveries or performance of work and / or services without being liable for any compensation, without diminishing its other rights, if:

a. the Counterparty, despite proper notification willfully fails to fulfill any of his obligations; b. if the Counterparty (whether or not provisional) suspension of payment is granted or if the Counterparty is declared bankrupt or if the Counterparty makes a request to apply a debt rescheduling arrangement or if the Counterparty is put in to receivership or liquidation.

c. if confiscation of the property of the Counterparty is made in respect of substantial debts and this confiscation is not lifted within 14 days;

d. if the Counterparty ceases its business activities fully or partially, or otherwise liquidates and / or substantially alters its business activities without the prior written consent of Burgaflex or transfers it to a third party.

12.2 All claims Burgaflex in these cases may have on the Counterparty will be immediately and fully claimable.

12.3 Burgaflex can never be held responsible for any compensation or payment to the Counterparty due to mentioned termination of the contract, without diminishing the right of Burgaflex to full compensation or any other rights in this regard for breach of its obligations by the Counterparty as referred to above.

Article 13 Delay, cancellation

13.1 If and in as far as the Counterparty wishes to suspend the acquisition of the products or the work, the Counterparty owes Burgaflex storage or delay costs over the entire delay period. Without diminishing the obligation of the Counterparty to pay the full invoice amount (including interest) to Burgaflex in accordance with Article 6. The storage and delay costs will be charged monthly to the Counterparty.

13.2 If and in as far as the Counterparty wishes to cancel the acquisition of the products / job, or at least part of the products/job described in the agreement, the other party owes to Burgaflex a compensation equal to the agreed amount.

Article 14 Applicable law, disputes

14.1 To the Agreement and possible further agreements between Burgaflex and the Counterparty only Dutch law is applicable.

14.2 All disputes between Burgaflex and the Counterparty will initially be settled by the authorized court in Breda – the Netherlands.

Burgaflex b.v. (Holland),
Burgaflex Ltd (United Kingdom),
Burgaflex Turkey Ltd (Turkey),
Burgaflex Poland SP Z.o.o
Burgaflex France SAS (France)