

Terms of Purchase and Ordering for Suppliers 08/2006

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1. Orders

1.1 All our orders and purchases shall be subject to the following conditions. On completing the order, the Contractor shall respect these for the entire transaction including subsequent deliveries – even if his own conditions of business state otherwise. Changes to these conditions, in particular different conditions of business on the part of the Contractor concerning order confirmations are hereby expressly excluded. Our failure to reply to an order confirmation, relating to different conditions of business shall not be deemed as agreement. We shall not regard such conditions as valid, even if the Agreement is carried out. We shall regard any deviation from our conditions in the confirmation as a refusal of our order. If delivery still takes place, this shall be irrevocably seen as an agreement of our conditions of purchase.

1.2 Our written confirmation shall be definitive for the order. Orders given verbally shall only be confirmed in writing. Any order shall be immediately confirmed to us, on a copy of our order form with a specific reference to any deviation from our order. Our order number and the exact Dürr stock number shall also be stated. We may make reasonable requests from the Supplier, for alterations in construction and design of the delivery. The effects of this, particularly regarding any increase or reduction in costs and delivery deadlines shall be mutually agreed as appropriate.

2. Prices

Unless otherwise expressly agreed, the contractually agreed prices – also in the event of subsequent delivery agreements – shall be fixed prices, including VAT, delivery to the location stated by us, packaging suitable for transport, in transit insurance and other expenses.

3. Delivery Times

- 3.1 The agreed delivery times and deadlines shall be binding. Delivery deadlines shall commence on the date of order. Receipt of the delivery at the address stated by us shall be definitive as regards observance of delivery times and deadlines.

If delays in carrying out the order are to be expected, the Contractor shall inform us immediately – irrespective of the cause – stating reasons and the estimated duration of the delay.

- 3.2 If the Supplier enters into default, we shall be entitled, without prejudice to the right to further compensation, to impose a contractual penalty of 1% of the order value, per commenced calendar week, up to a maximum of 20% of the order value. Pursuant to Article 341 of the Civil Code, we reserve the right to impose this contractual penalty up until final payment of sums contractually agreed; in the event of framework or long-term agreements, until the end of the delivery year.

4. Transfer of risk

For purchase agreements, the risk shall not pass to us until we have received the goods; for work contracts, following express approval.

5. Quality

- 5.1. The Contractor shall guarantee that the goods or services for delivery conform to samples approved by us, relevant standards (DIN, EU) and all safety regulations. The same shall apply to performance data and other information in the Contractor's confirmation of order. The Contractor shall also ensure that dimensions, weights and preparations based on drawings shall conform to that stated in the order.
- 5.2 The Contractor shall continually base his products on the latest technology and point out to the Client any improvement or technical optimizations.
- 5.3 The Contractor shall install and maintain an appropriate quality assurance system, in accordance with the latest technology. He shall prepare records with particular regard to quality testing and shall submit these to the Client on demand.
- 5.4 The Contractor hereby gives his agreement for the carrying out of quality audits by the Client and/or his customer.

6. Guarantee/responsibility for defects

- 6.1 The deadline for examining and establishing defects (Article 377, section 1.381, paragraph 2 of the Commercial Code) for defects evident upon delivery is two weeks from the date of receipt of the goods at the place of delivery. If a defect can only be found following special examination or testing or if it is a hidden defect, the deadline shall be two weeks from discovery of the defect. If in

individual cases, a longer deadline is appropriate, this shall apply.

- 6.2 As long as the Client provides the Contractor with any plans, drawings, materials, or accessories, the Contractor shall be obliged to check these as to completeness, correctness and suitability for the intended purpose. If the Contractor raises no objections, he shall also be entirely bound by guarantee in this regard.
- 6.3 If deliveries are defective, we shall have all contractual and statutory compensation rights that may not be limited by the Supplier in any way.
- 6.4 If damaged parts are delivered, the Contractor shall have the opportunity to sort out the damaged parts and either repair or replace these at the Client's discretion. If the Contractor does not immediately effect sorting out, repair or replacement, the Client shall be entitled to return the entire consignment at the Contractor's expense and to claim subsequent performance or compensation, at his discretion.
- 6.5 If the Contractor enters into default in rectifying defects, and urgency prevails, the Client may himself carry out the required measures or have these carried out by third parties at the Contractor's expense. Before commencing this, the Client shall inform the Contractor accordingly.
- 6.6 The guarantee period shall be 24 months from receipt of the delivery, unless a longer deadline is provided for. For non-recognizable defects, the guarantee period shall be extended to 30 months, but no longer than 12 months from their discovery. The expiry deadline shall also be impeded by our written defect notification until negotiations have been finally refused, pursuant to Article 203 of the Civil Code.

7. Invoices and payment

- 7.1 Unless otherwise agreed, invoices shall be issued to us in duplicate – the duplicate being identifiable as such – separately for each delivery or service. Invoices shall not be sent with the consignment.
- 7.2 Payment shall take place, as long as no other agreement is in force, under reservation of the correctness of the invoice with 14 days, with 3% discount or within 30 days, net. The deadline shall commence on our receipt of both the invoice for verification and the goods or services.
- 7.3 In the event of defects, we shall be entitled to delay payment of the invoice as appropriate until complete explanation is provided and still demand discount following this period.
- 7.4 Upon our demand, deposits payable by us shall be covered by the Contractor by directly enforceable bank guarantee.

8. Obligation to subsequent delivery

- 8.1 For 10 years after termination of the series delivery agreement, the Contractor

shall be obliged, upon demand from the Client, to deliver more (replacement) parts. To provide for this requirement, the Contractor shall carefully maintain, store and insure the necessary tools and other appliances for repairing delivery goods during this period.

8.2 Subsuppliers shall assume the relevant obligations.

9. Product liability

If claims concerning product liability are made against us, the Contractor shall indemnify us for damaged sustained (including costs of any recall action), as far as he is responsible for the mistake leading to liability. The Contractor shall renounce any benefit of expiry, unless we ourselves are able to claim expiry from the claimant.

10. Material provisions

10.1 Material provisions shall remain our property and shall be stored separately by the Contractor and only used for our orders. The Contractor shall be liable for damage or loss. The Contractor shall insure all supplied parts against fire.

10.2 We shall issue instructions for processing or reforming the material. We shall in any case become the new owner of the new products. If foreign material is also processed, we shall become co-proprietor.

11. Property rights (exclusive rights)

11.1 All items, samples, drawings, plans, models, tools and technical instructions given to the Contractor shall remain our property. The Contractor shall keep such items secret and return these to us upon demand, at any time. Forwarding these to third parties or use for own purposes is not permitted.

11.2 If the Contractor produces tools, moulds or other aids for us, these shall become our property and the Contractor shall store these for us, properly and free of charge.

11.3 Moulds, tools or other aids or goods produced using these may not be given to third parties or put to private use by the Contractor without prior written permission from us. They are to be protected from unauthorized view or use and shall be returned to us at any time, free of charge. This shall apply with exception to the obligation to return items, even if the tools are to exceptionally remain the property of the Contractor.

11.4 If constructions, developments, designs or similar services are part of services to be provided by the Contractor, he shall be obliged to return to us all results, in particular, drawings for construction and preparations such as documentation, user handbooks, etc.

11.5 The development of software shall include in particular the delivery of the software in the source and object program form and the documentation of the program development and application; this also applies to later updates within

the framework of a maintenance contract.

- 11.6 If the Contractor makes improvements regarding the order, we shall have a cost-free, non-exclusive user right regarding commercial use of the improvement and any patent rights.

12. Patent rights

For his deliveries, the Contractor shall accept exclusive liability toward third parties for violations of industrial patent rights in Member States of the European Union, the United States, Canada, or in those countries in which patent rights to the same article exist as in those countries mentioned. In this context, the Contractor shall be obliged to release us from all claims from third parties.

13. Place of performance, place of jurisdiction and applicable law

- 13.1 The place of performance for all rights and obligations flowing from this Agreement with the Contractor – including those concerning bills of exchange and cheques – shall be our registered office at 74321 Bietigheim-Bissingen.
- 13.2 So long as our Contractors are traders pursuant to the Commercial Code or have no general, domestic place of performance, our place of performance, at 74321 Bietigheim-Bissingen shall apply as such. We shall however, remain entitled to pursue legal matters at any other legal place of jurisdiction.
- 13.3 This Agreement shall be governed by law in the Federal Republic of Germany. United Nations Commercial law shall not apply.
- 14. Amendments and the invalidity clause**
- 14.1 Amendments to these Conditions of Purchase or other legal agreements shall be made in writing.
- 14.2 Should individual parts of these Conditions of Purchase expire by law or individual agreement, these shall not affect the validity of the remaining conditions.