

General Terms and Conditions of Purchase

1. General, Scope

- (1) All orders for goods and services from the DURAG GROUP (see www.durag.de) based in Germany ("Buyer") will be carried out exclusively on the basis of these General Terms and Conditions of Purchase. These General Terms and Conditions of Purchase also apply to all future orders for goods and services, even if they are not separately agreed again.
- (2) Any differing, conflicting or additional terms and conditions of the supplier will only become a part of the contract if and in so far as the Buyer has expressly agreed to their validity in writing. This requirement for agreement applies in all cases, for example even if the Buyer accepts deliveries by the supplier without reservation in full awareness of the suppliers conflicting or differing terms and conditions of business.
- (3) These General Terms and Conditions of Purchase only apply if the supplier is a trader (section 14 German Civil Code), a legal person under public law or a special fund under public law.

2. Quotation, Purchase order

- (1) Samples and quotations provided by the supplier are binding and free of charge for us.
- (2) Only purchase orders in writing are legally binding, the same applies to amendments or additions to the orders. Orders made orally or by phone require our written confirmation.

3. Order confirmation, Entering into a contract

- (1) The supplier is required to confirm each order in writing no later than within a period of fourteen (14) days or to fulfil the order without reservation in particular by dispatching the goods (acceptance).
- (2) Delayed acceptance is regarded as a new quotation and requires acceptance by the Buyer. We are to be informed with the order confirmation of any additional details required that the supplier needs to fulfil the order.
- (3) If the order confirmation differs from the order, we shall only be bound by it if we consent to the divergence in writing.
- (4) All commercial correspondence is to be conducted exclusively with the purchasing department.

4. Delivery dates, Delay

- (1) The delivery dates (delivery times or periods) stated in the order are binding.
- (2) The supplier is required to inform the Buyer immediately in writing if circumstances occur or become apparent which mean that the agreed deadline cannot be met.
- (3) On non-compliance with the delivery dates, after giving a warning and an appropriate grace period, we shall be entitled without prejudice to other legal claims to cancel our order completely or partially without payment of any compensation.
- (4) In the event of delay in delivery, without prejudice to any further claims, we shall be entitled, as mentioned below in fulfilment of the contract, to charge a penalty for breach of contract in the sum of 0.3% of the value of the delivery but not more than 5% of the value of the delivery for each working day of delay in delivery commenced. The claim for penalty for breach of contract will be added to any further claim for damages. The Buyer will declare the reservation of the penalty for breach of contract no later than within seven working days, calculated from the receipt of the delayed delivery.

5. Prices, Payment terms, Invoice details

- (1) The price shown in the purchase order is binding. The price stated includes, where not expressly agreed otherwise, delivery DDP (Delivered Duty Paid, INCOTERMS 2010) to the destination stated in our purchase order including packaging and transport.
- (2) A single copy of each invoice is to be submitted separately to the Buyer giving the order and material number.
- (3) Unless something different has been agreed, payment will be made within (10) days with 3 % cash discount or within thirty (30) days net, in each case after invoice receipt but not before the

goods have been delivered or the service performed. The payment owed by the Buyer is considered to have been made on time if the remittance order has been received on time by its bank.

- (4) In each case the payment presupposes the presentation of a delivery note receipted by us or an equivalent confirmation by goods receipt.
- (5) The Buyer will not owe any interest payable after due date. If the Buyer falls into arrears with the payment, it will owe default interest in the amount of 5 percentage points above the base rate in accordance with section 247 German Civil Code. For the Buyer to be considered to have fallen into arrears the statutory regulations apply, whereby the only divergence from them is that in all cases a written warning by the supplier is required.
- (6) The supplier shall only have a right of offsetting or retention by reason of a legally established or undisputed counterclaim.

6. Retention of title, Provision of material, Confidentiality

- (1) The Buyer reserves the proprietary and intellectual property rights to orders, illustrations, plans, drawings, calculations, instructions for execution, product descriptions and other documents. Such documents are to be used exclusively for the contractual performance and returned to the Buyer after the completion of the contract. Documents are to be kept secret from third parties and indeed also for a period of five (5) years after the termination of the contract. The non-disclosure obligation will only expire if and to the extent that the knowledge contained in the documents provided has become general knowledge.
- (2) The above provision applies correspondingly for substances and materials (e.g. software, finished and semi-finished products) as well as to tools, patterns, samples and other objects with which the Buyer has provided the supplier for the manufacturing. Such objects are – as long as they are not processed – to be kept separately at the expense of the supplier with the due care and diligence of a prudent businessman, to be labelled as the property of the Buyer and to be insured in an appropriate scope against destruction and loss.
- (3) Any processing, combination or commingling (further processing) by the supplier of objects or materials provided is carried out for the Buyer. The same applies in the case of further processing by the supplier of the goods provided so the Buyer is considered as the manufacturer and acquires ownership of the product no later than on the further processing in line with the statutory regulations.
- (4) Retentions of title by the supplier apply only where they relate to the payment obligation of the Buyer to the respective products to which the supplier reserves ownership.
In particular, broader or time-extended retentions of title are excluded.
- (5) Tools, equipment and models that we make available to the supplier or are manufactured for the purposes of the contract and are charged separately to us by the supplier remain our property or are transferred into our ownership. They are to be marked by the supplier as our property, stored carefully, secured against damage of any kind and only to be used for purposes of the contract.
- (6) The costs for maintaining and repairing them shall be borne by the contracting parties - in the absence of an agreement otherwise - half each. However where these costs result from defects of such objects manufactured by the supplier or from incorrect use by the supplier, its employees or other vicarious agents, they shall be borne solely by the supplier.
- (7) The supplier must inform us immediately of any not just minor damage to these objects. After request, it is required to release the objects to us in a sound condition if they are no longer needed by it for the fulfilment of the contract made with us.

7. Delivery

- (1) Delivery shall be carried out, unless agreed otherwise in writing, DDP (Delivered Duty Paid, INCOTERMS 2010) to the destination stated in the order.
- (2) If acceptance of the shipping costs has been agreed in writing to be charged to us, the supplier must dispatch the delivery at the lowest cost in each case unless another mode of transport has been stipulated by us.
- (3) Verifiable delivery notes with our purchase order number as well as our item and stock number are to be attached to every delivery. If the delivery note is missing or incomplete, the Buyer will not be responsible for any resulting delays in processing and payment.

- (4) Any shipping instructions from us that may have been indicated to the supplier in good time are to be observed without fail. Additional costs resulting from non-compliance will be charged to the supplier.
- (5) The supplier is not entitled to supply partial deliveries without the prior written consent of the Buyer.

8. Execution, Compliance with restrictions on hazardous substances

- (1) The orders are to be executed in accordance with the Buyer's details, standards, testing standards, drawings etc.
- (2) The supplier shall declare and ensure that the goods and services ordered meet the accepted rules of technology as well as the respective statutory provisions in DIN/VDE regulations and other technical standards, particularly regarding safety and environmental protection. CE conformity must be ensured.
- (3) The supplier shall assure that it complies in its deliveries with all requirements and restrictions on hazardous substances in accordance with the statutory provisions valid for the European Union (in particular: regulation and requirements on environmental protection, in particular the restrictions on hazardous substances applicable to Germany and the European Union (such as the Chemicals Prohibition Ordinance, Hazardous Substances Ordinance, Chemicals Ozone Layer Ordinance and Battery Ordinance or the Regulation on substances which deplete the ozone layer (EC no. 2037/2000), Regulation on reduction in fluorinated greenhouse gases (EC no. 842/2006), Regulation concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH EC no. 1907/2006))).

9. Import and export regulations, Customs

- (1) The supplier shall provide the Buyer at its own expense for all items supplied by it certificates of origin, supplier's certificates, statistical commodity code (HS code) or preference certificates as well as any further documents /data in accordance with foreign trade regulations (at least meeting the requirements under EC Regulation 1207/2001 in the version valid on the date of delivery.).
- (2) For all goods and services carried out from an EU member state outside Germany, the supplier is required to give its EU VAT identification number.
- (3) Not later than on the issue of the invoice, the supplier shall automatically inform the Buyer of the export list number (under German foreign trade legislation) and, in the case of materials with the USA as the country of origin, the ECCN number (under US re-export legislation).
- (4) The supplier is required to inform us of any licensing requirements in international trade in goods with respect to its goods under German, European, US export and customs regulations as well as the export and customs regulations of the country of origin of its goods in its transaction documents.
- (5) If the services owed involve technologies, i.e. "technical knowledge" that is subject to the US export control rules (EAR, ITAR), the European Dual Use Regulation or the German export control list, the supplier is required to indicate this to us in writing.
- (6) At our request the supplier is required to give us all further foreign trade data on its goods and their components in writing as well as to inform us immediately (before delivery of corresponding affected goods) about all changes to the above data.

10. Packaging

The packaging of the delivery must meet the current Packaging Ordinance and ensure that transport and weather damage is excluded as far as possible. Only environmentally friendly packaging materials should be used. The requirement to take back the packaging is in line with the statutory provisions.

11. Warranty

- (1) The supplier shall assume full warranty for sound delivery condition, in particular for compliance with the requested and assured quality and performance.

- (2) We are entitled to all statutory warranty and damages claims for defects of goods or title. The warranty period for defects of goods or title is, unless expressly agreed otherwise or mandatory by law, 24 months from the transfer of risk for defects of goods or title.
- (3) The supplier must remedy all defects occurring in the warranty period without delay at its expense. All costs and expenses arising during the rectification of defects such as transport, work and material costs as well as dismantling, installation, testing costs or costs for an incoming inspection exceeding the usual scope shall be borne by the supplier. This also applies if the delivery has been taken to another country within the scope of its proper use.
- (4) The legal regulations (sections 377, 381 German Commercial Code) apply to the commercial inspection and notification duty, with the following stipulation: differences in quality and quantity are in any event notified in time if the Buyer informs the supplier of them within seven (7) days of the receipt of the goods at the Buyer's premises. Hidden material defects are in any event notified in time if the notification is sent to the supplier within seven (7) working days of the discovery.
- (5) The costs incurred for the purpose of the testing and rectification by the supplier shall be borne by the latter even if it turns out that there was in fact no defect. The Buyer's liability for damages in the event of unjustified request for defect rectification remains unaffected; in this respect the Buyer shall only be liable if it recognised or negligently did not recognise that there was no defect present.
- (6) If, in spite of being set an appropriate period, the supplier does not meet its warranty duty, we are entitled to carry out the necessary actions ourselves at the expense of the supplier or to have them carried out by third parties.
- (7) If rectification by the supplier is not reasonable for the Buyer (e.g. because of particular urgency, risk to operational safety or imminent occurrence of disproportionate damage) no rectification period needs to be set; the Buyer must inform the supplier of such circumstances without delay, if possible beforehand.
- (8) Apart from that, in the event of a defect of goods or title the Buyer is entitled under the statutory regulations to reduce the purchase price or to rescind the contract. In addition the Buyer has a claim for damages or reimbursement of expenses under the statutory regulations.

12. Liability, Insurance

- (1) The supplier is liable over and above the warranty for all damage arising from defects in the goods or service where it is responsible for them. The supplier shall indemnify us from damage arising from its third parties.
- (2) If the Buyer is required to carry out a recall campaign towards third parties because of a fault in a product supplied by the supplier, the supplier shall bear all costs associated with the recall campaign where it is responsible for them.
- (3) If claims are made against us because of domestic or foreign product liability regulations or laws because of the defectiveness of our product that was caused by goods or services of the supplier, we shall be entitled to demand compensation for this damage from the supplier. This damage also includes the costs of any preventive action or a recall action.
- (4) The supplier is required to maintain at its own expense product liability insurance with a minimum cover of EUR 5 million per event of personal injury/material damage. The supplier must produce appropriate evidence to the Buyer on request.
- (5) Further claims shall remain unaffected.

13. Industrial property rights

- (1) In line with clause 2 the supplier shall be responsible for ensuring that no third party industrial property rights are infringed by a product supplied by it in the European Union or other countries in which it manufactures the products or has them manufactured.
- (2) The supplier is required to indemnify the Buyer from all claims asserted by third parties against the Buyer because of the infringement of industrial property rights named in clause 1 and reimburse the Buyer for all necessary expenses in connection with this assertion. There is no basis for a claim where the supplier demonstrates that it is neither responsible for the industrial property rights infringement nor must have been able to recognise it on the application of due diligence on the date of delivery.

- (3) The more extensive legal claims by the Buyer because of defects of title to the products supplied to the Buyer remain unaffected.

14. Data protection

The supplier consents to the Buyer collecting, processing and using the supplier's data obtained in connection with the business relationship or the contracts entered into within the scope of the regulations of the German Data Protection Act.

15. Force majeure

In cases of force majeure, strike or lock-out and any accompanying significant reduction in requirement we shall without prejudice to further claims be entitled to partly or fully rescind the contract. This does not apply in the case of events of minor duration.

16. Termination

- (1) We reserve the right to terminate the contractual relationship with the supplier for cause exceptionally and without notice. The following in particular as considered as "for cause":
 - a. Supplier's inability to pay
 - b. Application for or opening of insolvency proceedings regarding the supplier
 - c. Rejection of insolvency proceedings regarding the supplier for lack of assets
 - d. Significant change of ownership
 - e. Relocation of production abroad without prior agreement with us
- (2) In the event of termination the Buyer will pay the supplier for a partial delivery carried out to it.

17. Acceptance of old equipment

The supplier is required to take back any old equipment under the current statutory regulations, in particular in compliance with the German Electrical and Electronic Equipment Act (ElektroG).

18. Assignment

The assignment of claims to third parties is only allowed after our express written approval. This does not apply where it concerns money due.

19. Compliance

- (1) The supplier undertakes to comply with the respective statutory regulations on dealing with employees, environmental protection and safety at work and to work on reducing adverse effects on man and the environment in its activities. For this the supplier will set up and further develop an ISO 14001 management system within the limits of its capabilities.
- (2) The supplier undertakes to comply with the principles laid down in the "Code of Conduct for Suppliers of the DURAG Group" (see www.durag.de).
- (3) In the event that a supplier repeatedly and/or in spite of a corresponding instruction behaves illegally and does not demonstrate that the contravention has as far as possible been remedied and appropriate precautions for the future avoidance of contraventions have been taken, we reserve the right to rescind existing contracts or to terminate them without notice.

20. Final provisions

- (1) The place of performance is the destination stated in the respective purchase order. Where none is stated, the Buyer's place of business is the place of fulfilment.
- (2) German law applies, to the exclusion of the UN purchasing law (CISG). Exclusive place of jurisdiction for all disputes arising from this contractual relationship is Hamburg. The Buyer is however also entitled to sue the supplier at the court of its place of business or at the court of the place of fulfilment.

- (3) Should any provision of these conditions or the further agreements made on them be or become invalid, this will not affect the validity of the conditions apart from that. The parties to the contract are required to replace the invalid provisions by an arrangement that as far as possible comes closest to its economic outcome.
- (4) In the event of discrepancies between the German and the English text of these General Terms and Conditions of Purchase, the German version shall take precedence.”

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