

## **PURCHASING TERMS AND CONDITIONS**

Applicable in business dealings with entrepreneurs, legal entities under public law and special funds under public law to regulate our purchasing processes as part of our global business activities.

### **1. GENERAL**

Our conditions of purchase apply exclusively; We only accept general terms and conditions of the supplier that conflict with or deviate from our terms and conditions of purchase if we have expressly agreed to them in writing. The acceptance of goods or services of the supplier (hereinafter: the subject of the contract) or their payment does not mean approval, even if the acceptance or payment takes place with knowledge of conflicting or supplementary contractual conditions of the supplier. Likewise, any earlier contractual terms of the supplier that contradict these terms of purchase or supplement them are no longer recognized.

### **2. CONTRACT CONCLUSION AND AMENDMENTS TO THE CONTRACT**

- 2.1 Orders, deals and delivery schedules as well as their alterations and additions must be in writing.
- 2.2 Verbal agreements of any kind - including subsequent alterations and additions to our purchasing conditions - require our written confirmation to be effective.
- 2.3 The written form is also fulfilled by fax, remote data transmission or email.
- 2.4 Estimates are binding and not to be paid for, unless expressly agreed otherwise.
- 2.5 If the supplier does not accept the order within two weeks of receipt, we are entitled to withdraw.
- 2.6 Delivery schedules as part of an order and call planning become binding if the supplier does not object within two working days of receipt.

### **3. DELIVERY**

- 3.1 The delivery takes place at the cost and risk of the contractor to the delivery address. The items intended for delivery must be properly packaged and insured by the contractor at his expense. For damages, loss and other disadvantages due to failure to observe this regulation the contractor will be accountable. Unless other agreements have been made, the contractor must take back transport packaging in accordance with the Düring packaging manual.
- 3.2 Agreed dates and deadlines are binding. The receipt of the goods at our premises is decisive for compliance with the delivery date or the delivery period. If delivery "free works" (DAP or DDP according to Incoterms 2020) has not

been agreed, the supplier must provide the goods in good time, taking into account the time to be agreed with the forwarder for loading and shipping.

- 3.3 If the supplier has taken over the installation or assembly, the supplier bears all necessary expenses such as travel expenses, provision of the tools and accommodation allowances.
- 3.4 If agreed dates are not met, the statutory provisions apply. If the supplier anticipates difficulties with the production, raw material supply, compliance with the delivery date or similar circumstances that could prevent him from delivering on time or in the agreed quality, the supplier must immediately notify our ordering department.
- 3.5 The unconditional acceptance of the delayed delivery or service does not include a waiver of the claims for compensation to which we are entitled due to the delayed delivery or service; this applies until the payment owed by us for the delivery or service concerned has been paid in full.
- 3.6 Partial deliveries are generally not permitted unless we have expressly agreed to them or they are reasonable for us.
- 3.7 Unless otherwise provided, the values determined by us during the incoming goods inspection are decisive for quantities, weights and dimensions.
- 3.8 Unless otherwise stipulated in the supplementary terms and conditions of purchase for software, we receive simple rights to use the software that is part of the scope of delivery with the delivery, with unlimited time and place. Our permitted use includes in particular the duplication, loading and running of the software.
- 3.9 Also included are sublicensing, renting or any other form of transfer of the software to companies affiliated with us and to our subcontractors who are responsible for the manufacture of our products and who need a right to use the software in this context. The permissible use also includes the passing on of the software as part of a hardware product to customers and the granting of usage rights to this, insofar as this is necessary for the use of the hardware.
- 3.10 We also have the right to use the software provided, including documentation, with the agreed performance features and to the extent necessary for the contractual use of the product. We may make a reasonable number of backup copies.

### **4. QUALITY**

- 4.1 The contractor guarantees that the contractual consignments and services correspond to the agreed technical data, are made from the agreed materials or those mentioned in the documentation, are free from material and manufacturing defects, fully fulfill the agreed functions and are not subject to errors, which cancel or reduce the value or the suitability for normal use or the use stipulated in the

contract. If no materials have been agreed, the contractual deliveries and services must be made from the most suitable materials. The contractor further guarantees that the deliveries and services comply with the applicable statutory and official provisions, the accident prevention regulations, the recognized quality regulations and the latest technology.

4.2 Before delivery, compliance with the aforementioned requirements must be checked by the contractor using suitable, state-of-the-art quality tests and be proven to us.

4.3 The contractor must carefully check the documents sent to him for the execution of the contract. If there are indications that the scope of the delivery agreement cannot be met in whole or in part, or that the purpose of the order that is recognizable for the contractor will not or cannot be achieved in whole or in part, the contractor has to communicate these concerns in detail before beginning the actual work.

4.4 The contractor will conclude a corresponding quality assurance agreement with us, insofar as we consider this necessary.

## **5. ACT OF GOD**

5.1 Acts of God, malfunctions through no fault of our own, riots, official measures and other inevitable events release us from the obligation to receive delivery in good time for the duration of their existence. During such events, as well as within two weeks after their end, we are entitled - without prejudice to our other rights - to withdraw from the contract in whole or in part, insofar as these events are not of insignificant duration and our need is significantly reduced due to a necessary other procurement.

5.2 The provisions of Section 5.1 also apply in the case of industrial labor disputes.

## **6. SHIPMENT NOTICE AND INVOICE**

The details in our orders and delivery schedules apply. A simple copy of the invoice must be sent to the address printed on it, stating the invoice number and other allocation features; it must not be attached to the shipments.

## **7. PRICE SETTING AND TRANSFER OF RISK**

If no special agreement has been made, the prices are understood to mean delivery to the named place (DAP according to Incoterms® 2020) including packaging. VAT is not included. The supplier bears the material risk until acceptance of the goods by us or our agent at the location to which the goods are to be delivered in accordance with the order.

## **8. PAYMENT TERMS**

If no special agreement has been made, the invoice will be paid within 30 days of the due date of the payment claim and receipt of both the invoice and the goods or the provision of the service. Payment is subject to invoice verification.

## **9. CLAIMS FOR DEFECTS**

9.1. Upon receipt of the goods, we will only examine the goods for obvious damage, in particular damage in transit, deviations in identity and quantity of the delivery, unless otherwise agreed in a quality assurance agreement with the supplier.

9.2 We will claim defects immediately after discovery.

9.3 The supplier waives the objection of late notification of defects.

## **10. DEFICIENCY CLAIMS**

10.1 The statutory provisions on material and legal defects apply, unless otherwise regulated below.

10.2 We have the right to choose the type of supplementary performance. The place of fulfillment for supplementary performance is the intended location of the item. This is the place where the item is at the time of the notice of defects. The supplier can refuse the type of supplementary performance chosen by us if it is only possible with disproportionate costs.

10.3 If the supplier does not begin to remedy the defect after our request to remedy the defect, we have the right, in urgent cases, to remedy the situation after an appropriately short deadline, in particular to avert acute dangers or to avoid major damage, to carry out the remedies by ourselves or to have it carried out by third parties at the expense of the supplier.

10.4 The supplier releases us from third party claims due to the violation of third party rights by the contractual object, unless the supplier proves that he is not responsible for the violation. In addition, the supplier will immediately provide us with the information and documents required for the defense against such claims by third parties regarding its services.

10.5 The limitation period for exemption claims is three years. The limitation period for indemnification claims begins at the end of the year in which the claim originated and we have become aware of the circumstances justifying the claim and the person of the debtor, or should have obtained it without gross negligence. Any statutory longer limitation periods apply as a matter of priority. This also applies to the aforementioned additional right to information and documents.

10.6 For claims due to material defects - except in cases of malice - the limitation period is 3 years, unless the object has been used for a building in accordance with its normal use and has caused its defectiveness. The limitation period begins with the delivery of the object of the contract (transfer of risk). Any statutory longer limitation periods apply as a matter of priority.

10.7 For claims due to legal defects, the regulation of 10.5 (limitation period for indemnification claims) applies accordingly. Any statutory longer limitation periods apply as a matter of priority.

10.8 If the supplier fulfills his obligation to provide supplementary performance through replacement delivery, the limitation period for the goods delivered as replacement begins again after delivery, unless the supplier expressly

and correctly reserved the replacement delivery only for goodwill, to avoid disputes or in the interest of the continued existence of the supplier relationship.

10.9. As part of the supplementary performance, the supplier must bear the transport, travel, labor, installation, de-installation and material costs. Should we be faced with costs and expenses due to a defective delivery in connection with the repair or replacement of the contractual object, which we were also permitted to make, in particular costs and expenses for sorting, for an incoming goods inspection that exceeds the usual scope, for the examination and analysis of the defect, as well as costs for the involvement of external or own personnel, the supplier has to bear these costs, unless he is not responsible for the defect. Any contributory negligence on our part is to be considered when determining reimbursable costs according to § 254 BGB.

10.10 Insofar as automobile manufacturers as our customers use a reference market procedure or a similar procedure in the automotive industry to determine and settle warranty cases due to the deficiency of Düring products, this procedure also applies to the relationship between the supplier and us, provided that the defect is due to products of the supplier.

10.11 The supplier is responsible whenever his subcontractors are at fault as if he himself was at fault.

## **11. PRODUCT LIABILITY AND RECALL**

11.1 In the event that claims are made against us on the basis of product liability, the supplier shall be obliged to indemnify us against such claims if and to the extent that the damage was caused by a defect in the contractual item supplied by the supplier. In cases of fault-based liability, however, this shall only apply if the supplier is at fault. If the cause of the damage lies within the area of responsibility of the supplier, he must prove that he is not at fault.

11.2 In the cases of Clause 11.1, the Supplier shall bear all costs and expenses, including the costs of any legal action, unless the costs are altogether neither necessary nor reasonable.

11.3 Otherwise, the statutory provisions shall apply.

11.4 Before a recall action which is wholly or partly the result of a defect in the subject matter of the contract delivered by the supplier, we shall inform the supplier, give him the opportunity to cooperate and exchange information with him on efficient implementation, unless the information or participation of the supplier is not possible due to particular urgency. If a recall action is the result of a defect in the object of the contract delivered by the supplier, the supplier shall bear the costs of the recall action, unless he is not responsible for the defect. Any contributory negligence on our part shall be taken into account in the amount of the costs to be borne by the supplier pursuant to § 254 BGB (German Civil Code).

## **12. RIGHTS OF RESCISSION AND TERMINATION**

12.1 In addition to the statutory rights of rescission, we shall be entitled to rescind the contract if a material deterioration in the financial circumstances of the supplier occurs or

threatens to occur and the fulfilment of a delivery obligation towards us is thereby jeopardized.

12.2 We shall also be entitled to withdraw from the contract if

- the supplier becomes insolvent,
- the supplier stops making payments,
- the supplier is threatened with insolvency in accordance with § 18 InsO or an over-indebtedness of the supplier becomes apparent,
- the supplier applies to open insolvency proceedings or comparable debt settlement proceedings against the assets or business of the supplier, or
- if the opening of insolvency proceedings against the Supplier's assets is rejected for lack of assets.

12.3 If a continuing obligation exists, Clauses 12.1 and 12.2 shall apply analogously with the proviso that an extraordinary right of termination without notice shall replace the right of rescission.

12.4 If the supplier has effected a partial performance, we shall only be entitled to withdraw from the entire contract if we have no interest in the partial performance.

12.5 If we rescind or terminate the contract on the basis of the above contractual rights of rescission or termination, the Supplier shall compensate us for any damages incurred as a result thereof, unless the Supplier is not responsible for the occurrence of the rights of rescission or termination.

12.6 Legal rights and claims shall not be restricted by the provisions contained in this Clause 12.

## **13. EXECUTION OF WORK**

Suppliers who carry out work on the factory premises in fulfilment of the contract must comply with the applicable laws and regulations as well as our company regulations. The supplier is obliged to name a person responsible for the execution of the order who will ensure the duty of supervision and control. The responsible person of the supplier is obliged to coordinate with our coordinator before carrying out the work, to take suitable protective measures and to inform us and the third parties concerned about mutual dangers. Suppliers are responsible for the instruction and safety of their employees and subcontractors as well as for securing sources of danger against third parties. The supplier may only use suitably qualified employees and safe work equipment on the factory premises. Any accidents occurring on the factory premises must be reported to us immediately.

## **14. PROVISION**

Materials, components, parts, containers and special packaging ("Supplies") delivered by us against payment or provided free of charge shall remain our property, insofar as payment is owed, until full payment has been made. These may only be used as intended. The processing and

assembly of the materials provided shall be carried out on our behalf. It is agreed that we shall be co-owners of the products manufactured using our materials and parts in the ratio of the value of the materials provided to the value of the entire product, and that the supplier shall keep these for us in this respect. We reserve the right to co-ownership of the products manufactured using our materials until the complete fulfilment of our claims arising from the materials provided by us. The supplier shall be entitled to resell the products manufactured using our material provided by us in the ordinary course of business subject to retention of title. The supplier hereby assigns to us in full all claims and ancillary rights to which he is entitled from the resale of these products. The assigned claims serve to secure our claims arising from the provision. The supplier is entitled to collect the assigned claims. We may revoke the Supplier's rights under this Clause 13 if the Supplier does not properly fulfil his obligations towards us, is in default of payment, ceases payment, or if the Supplier applies for the opening of insolvency proceedings or comparable proceedings to settle his debts. We may also revoke the Supplier's rights under this Clause 13 if a material deterioration in the Supplier's financial circumstances occurs or threatens to occur or if the Supplier is in a state of insolvency or over-indebtedness. If the value of the securities existing for us exceeds the value of our claims by more than 10% in total, we shall release securities of our choice at the supplier's request.

## **15. DOCUMENTS AND SECRECY**

15.1 All business or technical information made accessible by us (including features which may be inferred from any objects, documents or software handed over, and other knowledge or experience) shall be kept secret from third parties as long as and to the extent that it is not demonstrably publicly known, and may only be made available in the Supplier's own operations to persons who must necessarily be consulted for their use for the purpose of delivery to us and who are also obliged to secrecy; they shall remain our exclusive property. Without our prior written consent, such information - except for deliveries to us - may not be duplicated or used commercially. At our request, all information originating from us (including any copies or records made) and items lent shall be returned to us wholly and immediately or be destroyed.

We reserve all rights to such information (including copyrights and the right to register industrial property rights such as patents, utility models, semiconductor protection, etc.). Insofar as these have been made accessible to us by third parties, this reservation of rights shall also apply in favor of these third parties.

15.2 Products manufactured according to documents designed by us, such as drawings, models and the like, or according to our confidential information or with our tools or copied tools, may not be used by the supplier himself, nor offered or supplied to third parties. This also applies analogously to our print orders.

## **16. EXPORT CONTROL AND CUSTOMS**

16.1 The Supplier is obliged to inform us of any licensing obligations or restrictions on exports (or re-exports) of his goods in accordance with German, European and US export and customs regulations as well as the export and customs regulations of the country of origin of his goods in his business documents and to send us the following information for goods subject to licensing in good time before the first delivery and immediately in the event of changes (technical, legal changes or official findings):

- Düring article number
- Description of goods,
- All applicable export list numbers including the Export Control Classification Number according to U.S. Commerce Control List (ECCN),
- Trade policy origin of goods,
- Statistical commodity code (HS code),
- A contact person in his company to clarify any queries.

16.2 For deliveries of goods across customs borders, the supplier is obliged to attach to the consignment all necessary documents such as commercial invoice, delivery note and information for a complete and correct import customs declaration. The following must be observed with regard to the invoice:

- In addition, costs not included in the price of the goods (e.g. research and development costs, licence fees, tooling costs, provisions made by the Buyer with reference to the delivery of the goods) shall be listed separately in the invoice.
- In the case of free deliveries, the supplier is obliged to state a value in the pro forma invoice which reflects a customary market price as well as the following note "For Customs Purpose Only". The invoice or delivery note must also state the reason for the free delivery (e.g. free sample shipment).

16.3 The supplier must support us with all means necessary to reduce or minimize our payment obligations with regard to customs duties or costs for customs clearance.

16.4 Notwithstanding any other rights and without liability to the Supplier, we shall be entitled to withdraw from the contract in question or to terminate it without notice if the Supplier repeatedly fails to fulfil obligations under Sections 16.1-16.4.

## **17. COMPLIANCE**

17.1 Within the business relationship with us, the supplier undertakes not to offer, grant, demand or accept any advantages in business dealings or dealings with public officials which violate applicable anti-corruption regulations.

17.2 The supplier undertakes not to enter into any agreements or concerted practices with other companies within the business relationship with us which have as their object or effect the prevention, restriction or distortion of competition in accordance with the applicable antitrust regulations.

17.3 The supplier undertakes to comply with the applicable laws governing the general minimum wage and to oblige subcontractors commissioned by him to the same extent. Upon request, the Supplier shall provide evidence of compliance with the above assurance. In the event of a breach of the above assurance, the supplier shall indemnify us against claims by third parties and shall be obliged to reimburse any fines imposed on us in this connection.

17.4 The supplier shall comply with the respective statutory regulations on dealing with employees, environmental protection and occupational safety and shall work to reduce adverse effects on people and the environment in his activities. To this end, the supplier shall observe the principles of the UN Global Compact Initiative as far as possible, which essentially concern the protection of international human rights, the abolition of forced and child labour, the elimination of discrimination in employment and occupation, and responsibility for the environment ([www.unglobalcompact.org](http://www.unglobalcompact.org)).

17.5 In the event of a suspicion of a breach of the obligations under sections 17.1 to 17.4, the supplier must immediately investigate any possible breaches and inform us of the investigation measures taken and, in justified cases, disclose the affected supply chain. If the suspicion proves to be justified, the supplier must inform us within a reasonable period of time what internal measures he has taken to prevent future infringements. If the supplier does not comply with these obligations within a reasonable period, we reserve the right to withdraw from contracts with him or to terminate them with immediate effect.

17.6 In the event of serious violations of the law by the Supplier and violations of the provisions in Sections 17.1 to 17.4, we reserve the right to withdraw from existing contracts or to terminate them without notice.

## **18. PLACE OF PERFORMANCE**

Unless otherwise agreed, the place of performance is the place to which the goods are to be delivered according to the order or where the service is to be performed.

## **19. GENERAL PROVISIONS**

19.1 Should any provision of these conditions and the other agreements made be or become ineffective, it does not affect the validity of the remaining conditions. The contractual partners are obliged to replace the ineffective provision with a provision that is as similar as possible in terms of economic success.

19.2 German law applies exclusively to the contractual relationships to the exclusion of conflict of laws and the United Nations Convention on Contracts for the International Sale of Goods (CISG).

19.3 The place of jurisdiction for all legal disputes that

result directly or indirectly from contractual relationships based on these conditions of purchase is Augsburg. The district court of Augsburg (86150 Augsburg) is responsible for proceedings before the district courts. We are also entitled to sue the supplier at our discretion at the court of its registered office or branch or at the court of the place of performance.