

Dürr Technik GmbH & Co. KG

Conditions of sale, delivery and payment January 2014

1. General
 - 1.1 Our deliveries and services are effected only in accordance with the following terms and conditions, even when in the case of permanent business relationships a reference is not explicitly made later on. We hereby reject changes or supplements to these terms, especially deviations from the business conditions on the part of the customer. Our failure to react to deviating business terms shall not be deemed as agreement, not even if we deliver unconditionally. With the acceptance of our delivery, the customer declares irreversibly that he agrees to our applicable terms of delivery and sales.
 - 1.2 Our offers are non-binding. Orders shall not be deemed to have been accepted until confirmed by us in writing. Our order confirmation is binding for the contract contents unless we receive a written objection within 14 days of the date of our confirmation of order.
2. Scope of delivery and services

Technical changes to our confirmation of order or to the contract are permitted, if they are necessary due to legal regulations or, on the basis of the latest technology, necessary for the fulfilment of the contractual purpose or if, as a result, neither guaranteed conditions are affected nor the suitability of the goods to be delivered or the service to be provided for the contractually intended use is impaired. In that regard the information and documents such as illustrations, drawings, details about size and weight, chemical and physical details, etc. submitted to the customer are only roughly decisive.
3. Prices and payment
 - 3.1 Our prices are quoted ex works Bietigheim-Bissingen excluding packaging, freight and insurance. The agreed prices do not include the applicable rate of value added tax.
 - 3.2 Payment has to be effected within 30 days net from the date of invoice. All repairs and commissioned work have to be paid for immediately, strictly net.
 - 3.3 For deliveries to customers who are located outside the Federal Republic of Germany, we will be authorised to demand an irrevocable letter of credit by a German bank or *Sparkasse* (special form of savings bank under public law) recognised as customs and tax guarantor and to deliver the goods only on the opening of the letter of credit.

- 3.4 Bills of exchange and cheques are accepted only as means of payment. All costs and expenses for the discounting or collection of the bills of exchange or cheques shall be borne by the customer.
- 3.5 Should we become aware of circumstances that call the creditworthiness of the customer into question, all our receivables will become due immediately. In this case we are entitled, regardless of the maturity dates of accepted bills of exchange to demand payment in cash subject to the restitutions of the bills. Our rights in keeping with Section 321 of the German Civil Code (Bürgerliches Gesetzbuch – BGB) remain unaffected by this.
- 3.6 The customer is not entitled to exercise the right of retention in respect of our accounts receivable or to offset them, insofar as the counterclaims are not explicitly recognised by us or confirmed to be legally valid.
4. Delivery time
- 4.1 Adherence to the times for deliveries or performance (delivery times, i.e. delivery dates and delivery periods) requires fulfilment of the contractual duties and obligations of the customer. Thus, delivery periods first commence upon the customer's receipt of our order confirmation, but not prior to the submission of documents, specifications, etc. to be procured by the customer, however, and likewise not prior to receipt of an agreed collateral security; delivery dates will be deferred accordingly in these cases. Alterations or additions to the original scope of delivery or performance agreed upon after conclusion of the contract extend or postpone the original delivery periods or delivery dates appropriately
- 4.2 The delivery time has been observed if the item to be delivered has left the factory, or the readiness for shipment has been notified, before expiration of the delivery time. Partial deliveries are permitted.
- 4.3 Disruptions in deliveries or services due to acts of God or occasioned by strikes, interventions of governmental authorities, interruption of operations, difficulties in procuring material or energy, or other unforeseeable or exceptional circumstances which are not our fault, each regardless of whether such circumstances occur in our or our sub-contractors' firm, extend the delivery time by the continuance of the impediment. This provision does not apply to cases where we have committed ourselves to delivery schedules despite the fact that such circumstances could have been foreseen or we did not take possible and reasonable steps to prevent or overcome such default or we are responsible for such impediment According to the foregoing provisions, we are not liable for the named circumstances even if they occur during a then present default. We can invoke these provisions only if we notify the customer of the occurrence and prospective continuance of such failure without undue delay.
- 4.4 If the customer incurs damages due to a delay for which we are liable, then the customer is entitled to compensation for such damages. The amount of such compensation is limited to 0.75 per cent for each full week of the default, but not more than 7.5 percent, of the contract value. This provision does not affect our liability according to section 8 paragraph 8.2 and 8.3 of these General Terms and Conditions for Sale, Delivery and Payment.

5. Delivery, passing of risk and taking delivery
 - 5.1 Shipping is made at the customer's cost and risk in every case. Deliveries will only be insured against transport damage upon explicit request of the customer and at the customer's expense.
 - 5.2 The risk passes to the customer as soon as the item to be delivered leaves our factory, even if partial deliveries are made. In the event that the customer collects the item, the risk passes to him at the time of notice of readiness for shipment
 - 5.3 Notwithstanding the customer's rights under section 7 of these General Terms and Conditions, delivery of items shall be taken by the customer, even if the items show minor defects..
6. Retention of title
 - 6.1 Until payment of all claims arising from the business relation with the customer is made in full, we retain title to the delivery item (reserved item).
 - 6.2 Until the transfer of title, the customer shall insure the reserved item against loss, breakage, fire, water or other damage. The customer already assigns all rights ensuing from the relevant insurance contracts and his claims against the insurer to us. We accept such assignment.
 - 6.3 The customer is neither permitted to pledge nor assign the reserved item as security. In the case of any attachment as well as seizure or other dispositions, the customer shall inform us without undue delay.
 - 6.4 In the case of breach of contract on the part of the customer, particularly default of payment, we are entitled to take back the reserved item after a reminder. This also applies if the customer is overindebted or suspends payments, or an application is filed to commence insolvency proceedings against his assets, or other substantial deterioration of his economic circumstances occurs. In such cases we can withdraw from the contract according to Section 321 BGB.
 - 6.5 The customer is entitled to resell the reserved item in the ordinary course of business on his normal terms. In the event of resale, the claims of the customer ensuing from resale are already assigned to us up to the amount of our invoice value (including value-added tax). We hereby accept the assignment. Even after the assignment, the customer is authorised to collect these claims. If the customer defaults, if an application is filed to commence insolvency proceedings, if the customer is overindebted or suspends payments, or any other substantial deterioration of his economic circumstances occurs, then the right to resell and the authorisation to collect claims expires. In this case, we can still make use of our power, which remains unaffected, to collect the assigned claims ourselves and to demand that the customer notifies his debtors of the assignment. Irrespective of this, we can demand at any time that the customer discloses the assigned claims and the debtors thereof to us, provides all the necessary details for collection and surrenders the appropriate documents.

- 6.6 Processing or reconstruction of the reserved item by the customer is always carried out on our behalf. If the reserved item is worked in with other items not belonging to us, then we acquire co-ownership of the new item in proportion to the value of the reserved item to the other worked-in items at the time of the work process. The same applies to the item created by processing/working as for other reserved items (see above).
- 6.7 If the reserved item is combined with other items not belonging to us so that it becomes an integral part of a single item, then we acquire co-ownership of the new item in proportion to the value of the reserved item to the other combined items at the time of combination. If combination is such that the item of the customer is regarded as the main item, then it is deemed as agreed that the customer assigns us pro rata co-ownership. The customer retains the co-owned item thus created in safekeeping for us. The provisions regarding combination correspondingly apply in the event of combining or mixing. The same applies to new items created by combining or mixing or combining as for other reserved items (see above).
- 6.8 We undertake to release securities due to us insofar as their value exceeds the claims to be secured by more than 20%.
7. Defects
- 7.1 The customer must inspect the delivered item carefully without undue delay after receipt and to give notice to us in writing of any defects without undue delay after such defects have been detected.
- 7.2 In the case of faulty delivery or performance, the customer is entitled to elimination of the defect or delivery of a faultless item/production of new work (subsequent fulfilment) at our discretion. If we refuse to carry out subsequent fulfilment, or the fulfilment fails, is unacceptable to the customer or does not take place within a reasonable deadline set by him, then the customer has the choice of demanding a price reduction, or withdrawing from the contract, or - in the case of a contract for work and services - remedy the defects himself in accordance with Section 637 BGB (German Civil Code). Withdrawal is ruled out if the defect is minor. Self-remedy is excluded if we are entitled to refuse supplementary performance. In other respects we are only liable in accordance with Section 8 of these General Terms and Conditions for Sale, Delivery and Payment.
- 7.3 A guarantee in the sense of Section 443 BGB (German Civil Code) for the condition of the sold goods or work will only be applicable if such guarantee is assumed expressly by us. Such a guarantee lies not only in the mere mention of such condition, as is for example the case with suitability statements and weight details or chemical and physical data.
- 7.4 Our (explicit or conclusive) indications regarding the suitability of the goods or of the work being prepared by us for a certain use is made to the best of our knowledge. As far as they are based on information from the customer, this information has to be complete and correct. Our data shall not release the customer from carrying out own tests and examinations to ascertain the suitability. Unless agreed otherwise, the customer alone is responsible for the suitability of the goods or for the work being prepared by us for a certain use as well as for the installation

of the goods. In any case we can only guarantee the suitability for a possibly contractually intended use within the limits of the agreed quality. Data with regard to the suitability and weight or chemical and physical details etc. have basically not to be adhered to absolutely, but only within the limits of the parameters known to the contracting parties.

- 7.5 In the following cases claims are ruled out: unsuitable or improper usage, defective assembly or commissioning by the customer or third parties, natural wear and tear, incorrect or negligent handling, most notably excessive operational demands, unsuitable operating materials, replacement materials or other alterations by the customer, chemical, electrochemical or electrical influences, to the extent that we are not responsible for these cases. If, after conclusion of the contract, the scope of delivery and performance is changed at the customer's request and thus affects the quality or suitability of the goods or the work being prepared by us according to Sections 434, 633 BGB, claims of the customers are ruled out in so far as the impairments refer to the changes requested by the customer.
- 7.6 Warranty claims of the customer become time-barred within one year. This does not apply to claims for damages resulting from injuries to life and limb or health, based upon deliberate or grossly negligent professional misconduct or because of other damages based upon deliberate or grossly negligent professional misconduct, such warranty claims are time-barred within the statutory period.
- 7.7 We can refuse subsequent fulfilment as long as the customer is in default with his obligations.
8. Liability
 - 8.1 Claims of the customer for damages because of neglect of any contractual or quasi contractual obligations and claims of the customer for damages based on tort are excluded – in particular for consequential damages (including lost profit). The same applies to claims for reimbursement according to Section 284 BGB.
 - 8.2 Our liability for damages arising from injury to life, body or health, for claims under the Product Liability Act, for guarantees (excluding consequential damages beyond the guarantee) as well as all foreseeable damages for which we can be charged with intent or gross negligence, remains unaffected. We are liable for damage to property as a result of simple negligence insofar as we are able to obtain cover in the context of our existing third party liability insurance.
 - 8.3 Insofar as culpable breach of material contractual duties in the sense of Section 307 subsec. 2 No. 2 BGB (German Civil Code) is concerned, we are liable even in cases of slight negligence, but only for the foreseeable and typically arising damage and up to the amount of our liability insurance's cover, at least, however, up to the amount of EUR 500,000.
9. Privacy, contract documents, property rights, tools
 - 9.1 The customer is obliged to treat as confidential the information provided for him as well as knowledge about ourselves which he has obtained within the scope of the business relation, and not to use such information and/or knowledge in a way other

than necessary for the business relation itself or to enable third parties the unpaid or paid use of it. This obligation is valid without time limitation even beyond the termination of the business relation.

- 9.2 We retain the title to and copyright on all sales documents, such as drafts, drawings, calculations and cost estimates. These documents must not be made available to third parties without our written consent. All rights resulting from patents, utility models etc. are our exclusive property, also when they have not yet been reported. Copying of our products is only permitted with our prior written consent. Tools shall remain our property, even when the customer has contributed to the costs.
10. Place of performance, place of jurisdiction and applicable law
 - 10.1 Exclusive place of performance for both contractual parties is our place of business in 74321 Bietigheim-Bissingen. The state courts shall have exclusive jurisdiction. Insofar as our customers are merchants in the sense of the German Commercial Code or legal entities under public law, the exclusive place of jurisdiction is agreed to be Heilbronn. This does not apply to summary proceedings for orders for payment (German: Mahnverfahren). We remain entitled, however, to pursue legal matters at any other legal place of jurisdiction.
 - 10.2 The legal relations with our customers are exclusively governed by the laws of the Federal Republic of Germany with the exception of the UN Convention on Contracts for the International Sale of Goods.
11. Burden of Proof, Alterations, Invalidity clause
 - 11.1 Existing rules of burden of proof for the benefit of the customer are not affected by these General Terms and Conditions for Sale, Delivery and Payment.
 - 11.2 Alterations to these General Terms and Conditions for Sale, Delivery and Payment or other contractual arrangements must be in writing.
 - 11.3 Should particular provisions of these General Terms and Conditions for Sale, Delivery and Payment become ineffective through law or individual contract, then this will not affect the effectiveness of the remaining provisions.