

GENERAL TERMS AND CONDITIONS OF PURCHASING OF DENGLER ENGINEERING GMBH

1. General – Scope

- 1.1 These General Terms and Conditions of Purchasing shall apply to any delivery or service (hereinafter generally referred to as "Deliveries") provided by any seller, work contractor, or party obligated to perform services (hereinafter generally referred to as "Supplier") for Dengler Engineering GmbH.
- 1.2 Our Terms and Conditions of Purchasing shall be applicable on an exclusive basis; we shall not recognize any Supplier terms and conditions conflicting with or differing from our Terms and Conditions of Purchasing unless we have expressly agreed in writing to the validity of any such Supplier terms and conditions. Our Terms and Conditions of Purchasing shall also be applicable when we accept delivery from the supplier without reservation while being aware of Supplier terms and conditions conflicting with or diverging from our Terms and Conditions of Purchasing.
- 1.3 Our Terms and Conditions shall not be applicable unless to entrepreneurs, legal entities under public law or special funds under public law as defined in Section 310, Subsection 1 of the German Civil Code (BGB).
- 1.4 Our Terms and Conditions of Purchasing shall also apply as a framework agreement to any future contract on any delivery made by the same Supplier without requiring us to refer to such framework agreement in every single case again.
- 1.5 Any individual agreement made with the Supplier in a particular case (including any subsidiary agreement, supplement or modification) shall take precedence over these General Terms and Conditions of Purchasing in every case. The contents of any such agreement shall be subject to a written contract or written confirmation issued by us.
- 1.6 No legally relevant representation or notification (e.g., notice to set deadlines, reminder, notice of rescission) to be furnished by the Supplier to us after the conclusion of the contract shall be effective unless made in a written form.

2. Offers, quotations and tender documents

- 2.1 No order shall be brought about unless by our written purchase order and by the Supplier's acceptance thereof. We shall be entitled to cancel any purchase order unless acknowledged by the Supplier within five business days.

2.2 We shall reserve title to ownership and, where any such document is eligible for copyright, the copyright in any illustrated matter, drawing, calculation or other document; no such illustrated matter, drawing, calculation or other document may be made available to any third party without our express written consent. No such document shall be used unless exclusively for the purposes as defined in our purchase order; any such document shall be returned to us upon a written request but not later, and then without any request, after having processed the purchase order. Any such document shall be kept secret from any third party, and, in such respect, shall be subject to the supplementary provisions set forth in items 11.4 and 11.5 below. The Supplier shall have no retaining lien to any such document.

3. Prices – terms of payment

3.1 The price indicated in the purchase order shall be binding. Unless expressly agreed otherwise in writing, the price shall cover delivery "franco domicile" including packaging. Packaging material shall be taken back by the Supplier upon our request. Unless as otherwise agreed in writing and restricted to a particular case, the price shall also cover every service and incidental service to be provided by the Supplier (e.g., erection, installation) and every incidental expense (e.g., transport costs including any transport and liability insurance).

3.2 No invoice may be processed by us unless such invoice shows, among other information, the purchase order number as specified in our corresponding purchase order; the Supplier shall assume responsibility for every consequence resulting from any failure to comply with such obligation unless the Supplier proves that he or she is not responsible for such consequence.

3.3 Unless as otherwise agreed in writing, we shall pay the price either applying a 3% cash discount within a period of 14 days after delivery and the receipt of a proper and verifiable invoice, or net within a period of 30 days after invoice receipt.

3.4 We shall be entitled to setoff and to a retaining lien to the extent as defined by statutory provisions. We shall be entitled, in particular, to retain payments due as long as we still have any claim against the supplier resulting from any incomplete or unsatisfactory service.

3.5 No right to set-off and/or retention shall be available to the Supplier unless for counterclaims which are recognized by declaratory judgment, uncontested or ready for a decision in any proceedings pending in court.

3.6 The Supplier shall not be entitled to assign any claim resulting from this contractual relationship to any third party. The foregoing shall not apply if and where monetary claims are concerned.

4. Delivery period

- 4.1 The delivery date indicated in the purchase order shall be binding.
- 4.2 The Supplier shall agree to inform us in writing and with no delay whenever circumstances occur or become apparent to the Supplier, indicating that the agreed delivery time cannot be met. Nonetheless, the foregoing shall not affect the Supplier's responsibility to observe the agreed delivery period.
- 4.3 In the event of any delay in delivery, we shall be entitled to the statutory claims. The provision defined in item 4.4 shall remain unaffected.
- 4.4 The Supplier shall be obligated to pay a penalty if the Supplier exceeds the delivery date. Such penalty shall amount to 0.3 % per business day of delay but shall not exceed a total of 5 % of the overall net remuneration amount. We shall be entitled to claim such penalty until the date of final payment even though we may not have expressly reserved such right at the time of receiving any late delivery. Neither the foregoing agreement on penalty, nor the assertion of such penalty shall affect any statutory claim to which we may be entitled for delay.

5. Transfer of risk – documents – force majeure - termination

- 5.1 Delivery shall be made "franco domicile" to the place as indicated in our purchase order. If no ship-to location is indicated and unless as agreed otherwise, delivery shall be made to our place of business. The corresponding ship-to location shall also be the place of performance. If acceptance has been agreed, the transfer of risk shall be subject to such acceptance.
- 5.2 The delivery shall be accompanied by a delivery note indicating, among other information, the date (issue and shipment), the contents shipped (article number and quantity) and our purchase order identifier (date and number). If a delivery note is either missing or incomplete, we shall not assume liability for any delay in processing and payment resulting therefrom.
- 5.3 We shall be entitled to request that delivery be made, either fully or in part, at a reasonable later time without entitling the Supplier to raise any claim against us for such reason if and where any failure to take delivery or grant acceptance on our side is caused by force majeure, industrial action or by any other event beyond our sphere of influence. Notwithstanding the foregoing, every contracting party shall be entitled to rescind the contract if such extension exceeds a period of six months. No contracting party may assert any claim whatsoever against the other contracting party in such an event either.
- 5.4 The underlying contract may be terminated for good cause by either contracting party without observing any period of notice. A good cause

shall be deemed to exist but shall not be limited to any existing fact under which the party giving notice to terminate, considering all circumstances on a single-case basis and balancing the interests of the contracting parties, may not be reasonably expected to continue such contract.

6. Liability for defects

- 6.1 Where applicable, the commercial duty to examine and object to defects shall be subject to the statutory provisions (§ 377 of the German Code of Commerce, HGB) with the following proviso: Our duty to examine shall be restricted to any deficiency which becomes openly evident in our company (e.g., damage in transit, wrong or short delivery). No duty to examine shall exist if and where acceptance has been agreed upon. In other respects, such duty shall depend on whether an examination is expedient in the proper course of business when considering the circumstances of the individual case concerned. Our obligation to lodge complaints for any deficiency detected at a later time shall remain unaffected. In every case, our complaint (defect notice) shall be deemed immediate and timely if issued within 10 business days.
- 6.2 We shall be entitled to statutory claims based on defects without any reduction; irrespectively of the foregoing, we shall be entitled to request the Supplier, at our option, to provide either defect correction or replacement. In such event, the supplier shall agree to bear every expenditure required to provide such defect correction or replacement. We shall expressly reserve the right to receive compensation in damages including but not limited to damages for non-performance.
- 6.3 The period of prescription applicable to claims based on defects shall be thirty-six (36) months calculated from the transfer of risk.
- 6.4 The Supplier shall perform a pre-delivery inspection which serves the same purpose as the incoming inspection actually required by us in accordance with § 377 of the German Commercial Code.
- 6.5 The running of the period of prescription shall be suspended upon the receipt of our written notice of defect by the Supplier. In the event of replacement or defect correction, the period of prescription shall restart for any part replaced or reworked unless the Supplier's conduct makes us assume that the Supplier did not feel obligated to but rather made any such replacement or defect correction only as a gesture of good will or for any similar reason.

7. Services provided under a contract for work

- 7.1 Any services provided under a contract for work shall be subject to our formal acceptance. The supplier shall notify readiness for acceptance to us in writing and in good time.
- 7.2 Any implied acceptance or fictitious acceptance shall be excluded.

8. Miscellaneous rights and obligations

- 8.1 We shall be entitled to request the Supplier to make technical modifications to deliveries at any time. In such an event, the Supplier, upon a written request, shall notify us in writing and not later than within 10 days about any consequence thereof in terms of technology, content, cost or time. The Supplier shall agree to make a corresponding written amendment agreement by common consent with us. The Supplier shall not be obligated and entitled to make the modifications requested unless after having concluded such an amendment agreement.
- 8.2 After previous written notification, we shall be entitled to observe the progress of work hereunder and obtain information about the status of work at the Supplier's facilities during normal business hours. We shall also be entitled to have such right exerted by a third-party expert in accordance with the first sentence.
- 8.3 The Supplier shall agree to observe all pertinent statutory provisions with regard to the contract's subject matter, including but not limited to those applicable in the corresponding country of destination.
- 8.4 The Supplier shall not be entitled to award any delivery ordered by us to any third party within the scope of any subcontract or upstream supplier agreement unless after an express prior consent has been granted in writing by us.
- 8.5 The Supplier shall not be entitled to publish our corporate name on the Supplier's customer reference list unless with an express prior consent granted in writing by us.

9. Product warranty – indemnity - liability insurance cover

- 9.1 Where the Supplier is responsible for any product damage, the Supplier shall be obligated to indemnify us against any third-party damage claim upon first demand to the extent such claim is caused within the Supplier's scope of control and organisation, and where the Supplier is liable itself in relation to third parties.
- 9.2 Within the scope of the Supplier's liability for any case of damage pursuant to item 9.1, the Supplier shall also be obligated to reimburse any expenditure which is incurred for or in connection with any recall action

made either by us or by our customer. As far as possible and reasonable, we shall notify the Supplier of the contents and extent of any recall action to be conducted, and provide an opportunity for the Supplier to make a statement. Other statutory claims shall remain unaffected.

- 9.3 The Supplier shall agree to keep up a product liability insurance providing for an adequate amount of coverage of not less than € 10 million to cover personal injury/property damage on a lump-sum basis; any further damage claim to which we may be entitled shall remain unaffected. Upon request, the Supplier shall provide evidence for such insurance coverage without delay.

10. Industrial property rights

- 10.1 The Supplier shall agree to ensure that no third-party right will be infringed in relation with the Supplier's delivery.
- 10.2 If a third party lodges any claim against us in this respect, the Supplier shall be obligated to indemnify us against any such claim upon the first written request; the foregoing shall not apply if such infringement of any third-party right is beyond the Supplier's control. In the event of such indemnity, we shall not be entitled to make any agreement with such third party, including but not limited to the conclusion of any compromise settlement, unless with the Supplier's consent.
- 10.3 The Supplier's indemnification duty shall relate to any expenditure, loss or damage which we incur and which is necessarily due or related to any claim lodged against us by any third party.
- 10.4 The period of prescription shall be 36 months, starting upon the transfer of risk.

11. Reservation of title – provision of material – secrecy - subcontractors

- 11.1 If any item provided by us is inseparably mixed with other items which do not belong to us, we shall acquire co-ownership in the new item at the ratio of the value of the item subject to retention of title (purchase price plus value-added tax) to the other mixed items at the time of mixing. If mixing is done in such a manner that the Supplier's item is to be considered the main item, it shall be deemed agreed that the Supplier assigns proportional co-ownership to us; the Supplier shall safeguard the sole ownership or co-ownership on our behalf.
- 11.2 Where our security rights, to which we are entitled under this Section, exceed by more than 10% the purchase price of all our goods as yet unpaid and subject to retention of title, we shall be obligated to release the security rights at our option upon the Supplier's request.

- 11.3 Any tool, jig or model, which we make available to the Supplier, or which is manufactured for the purpose of the contract and invoiced to us by the Supplier on a separate basis, shall either remain our property or shall become our property. The Supplier shall mark an such object as our property, keep it in safe custody, protect it from any damage whatsoever, and not use it unless for the purpose of the contract. The Supplier shall agree to surrender these objects in a proper condition to us upon request; the Supplier shall have no retaining lien in any such object.
- 11.4 The Supplier shall agree to strictly maintain the secrecy of any illustrated matter, drawing, calculation, or any other document and information received from us; the same shall apply to all our trade and industrial secrets. No such information must be disclosed to any third party unless with our express consent. Such obligation of secrecy shall survive the termination of this agreement; it shall expire when and where the manufacturing know-how included in any such illustrated matter, drawing, calculation or other document transferred for use has become known to the general public.
- 11.5 The Supplier shall agree to treat any commercial or technical detail, which concerns the contract concluded with us or is related to its performance, as business secret or corporate secret. The Supplier shall also be bound to secrecy about the business relation with us. Any exception to the foregoing shall be subject to our prior written consent.
- 11.6 Both the Supplier and we shall be entitled to record and store the data of the corresponding other party including every single contract while having to observe the applicable provisions of data privacy protection in every case.
- 11.7 The Supplier shall not be entitled to have the service due to us performed by any third party (e.g., subcontractor) unless with our prior written consent. In the event that any such admissible award is made, such third party shall be bound to observe secrecy in writing by the Supplier as defined in item 9 hereinabove; the Supplier shall forward a copy of such non-disclosure agreement to us upon request.

12. Spare parts

- 12.1 The Supplier shall be obligated to keep spare parts for the products delivered to us available in a sufficient quantity for a period of not less than 15 years after delivery.
- 12.2 If the Supplier intends to discontinue the production of any spare part for any product delivered to us, the Supplier shall notify us about such circumstance in writing immediately after adopting the decision on such discontinuance. Subject to item 12.1 above, such decision must be taken at least 12 months before production is discontinued.

13. Minimum wage

- 13.1 The Supplier shall agree to pay not less than the minimum wage as defined by the German minimum wages act of 11 August 2014 to those of its employees who are appointed for performing the deliveries ordered pursuant to the underlying contract. The Supplier shall indemnify us against any claim alleged in the event that any infringement of the provisions set forth in the German minimum wages act is committed by the Supplier or by any of its subcontractors.
- 13.2 Notwithstanding any other right to terminate or rescind any contract or agreement, we shall be entitled to rescind or terminate the contract with immediate effect if the Supplier and/or any of the Supplier's subcontractors culpably infringe upon any of the foregoing provisions or upon the German minimum wages act dated 11 August 2014. The Supplier shall agree to compensate any loss or damage incurred by us as a consequence of such rescission or termination. Any claim of the Supplier for non-performance shall be excluded. In other respects the consequences of rescission and termination shall be governed by the statutory provisions.
- 13.3 We shall be entitled to require the Supplier to submit a written confirmation for the payment of the minimum wage, and require the Supplier to furnish suitable proof for verifying compliance with this Section 13, including but not limited to a minimum wage declaration from the Supplier's employees, confirmations issued by a tax consultant or a chartered accountant of the Supplier, etc.

14. Place of jurisdiction – place of performance

- 14.1 These Terms and Conditions of Purchasing and every legal relationship between us and the Supplier shall be governed by the laws of the Federal Republic of Germany, excluding the UN Sales Convention.
- 14.2 If the Supplier is a merchant, a legal entity under public law or a special fund under public law, our place of business shall be the exclusive place of jurisdiction for any dispute which may arise in relation with the contractual relationship. But we shall also be entitled to bring action, at our option, at the place of performance applicable to the delivery commitment, or at the Supplier's place of business.

(Rev.: March 2015)