

General Conditions of Purchase of Dürkopp Adler Aktiengesellschaft

I. General/ Conclusion of Contract/ Legal Form Requirements/ Offer

1. Any legal relationship between contractors pursuant to § 14 BGB (German Civil Code), bodies corporate organized under public law, legal entities subject to public law or special assets governed by public law as supplier and us is subject to the following terms and conditions. Conditions stipulated by the supplier as well as deviating agreements will be applicable only if confirmed by us in written form. Neither the fact that we do not expressly object to an agreement nor our acceptance or payment of goods or services shall be construed as an acknowledgement.
2. Any individual contracts concerning the supply of goods or services as well as any amendments, collateral agreements, notices as to the ending of such as well as any other declarations or notices must be in text form (*Textform*) unless otherwise set out in these Conditions. If the supplier fails to accept the order within two (2) weeks of receipt of such, we we may revoke such (*Widerruf*) at any time.
3. Agents commissioned by us with planning and/or inspection tasks do not have a general power of representation with respect to the supplier; in particular they are not entitled to vary any terms of the contract, to extend performance time-limits or to postpone performance dates and to legally admit invoiced amounts, wage claims, administration hours, material lists, measurements on site or the like. The supplier shall notify in text form any reservation or doubt exclusively and directly to the contact person stated on the order.

II. Scope of Provision of Goods and Services/ Changes in Scope Goods and Services / Spare Parts

1. The supplier shall ensure that it will, in good time, have obtained all significant data and circumstances relevant for the performance of its contractual obligations as well as our intended use of its deliveries. Offers are free of costs and without any commitment for us. The supplier guarantees that prior to the provision of the offer it has carefully examined the local and legal circumstances and is certain of the situation as a result of inspecting the documentation for the carrying out of the performance and compliance with technical and other regulations. The supplier shall verify all documents provided for matters including the local and seasonal situation, correctness, feasibility as well as any performance of preliminary work by third parties. The supplier shall notify us in text form without unreasonable delay of any concerns with details of the reasons and shall bring about an agreement with us as to the carrying out of the work.
2. The supplier guarantees that its deliveries or services include all performances required for their correct, safe and economic use; that they are suited for the intended use and comply with the latest state of the art. When carrying out its performance(s), the supplier will observe all relevant standards, laws and legal regulations, in particular those concerning hazardous materials and dangerous goods, the protection of the environment and the prevention of accidents as well as with our own company standards. The supplier will also act in compliance with generally acknowledged safety and industrial medicine specifications. 3. We are entitled to request from the supplier modifications of the supplied articles or services, so long as supplier can be reasonably expected to meet such requests. The supplier shall implement such modifications within a reasonable period of time. Mutually satisfactory agreements shall be concluded concerning the consequences of such modifications, in particular with regard to delivery dates, extra and reduced costs. We will determine such consequences within our reasonable discretion if an agreement regarding the matters outlined in the previous sentence cannot be reached within a reasonable period of time.
4. The supplier shall be obliged to propose to us any change which it deems necessary or advisable. After receipt of our consent in text form, the supplier shall implement said changes. As far as a change will result in additional or reduced costs and/or an exceeding of the time-limit, the supplier shall be obliged to draw our attention thereto simultaneously with its suggestion for change or immediately upon receipt of our request for change, and to submit a corresponding supplementary offer. In this case, the change shall only then be considered as bindingly agreed upon when an additional agreement in text form will have been made between the parties concerning the payment of the additional costs or the taking into consideration of the reduced costs as well as concerning the time schedule. If an agreement is not made within a reasonable period of time, we will make a corresponding decision within our reasonable discretion.
5. The supplier shall ensure that it will continue to be able, for a period of ten years following the termination of the supply relationship and on reasonable terms and conditions, to deliver to us the supplied articles or parts thereof as spare parts.
6. We are entitled, but not obliged to accept deliveries and performances in the absence of the supplier in its name. We shall, however, not be liable for the completeness and correctness of said deliveries and performances, even in case of a written acknowledgement of receipt. All risks of storage shall be borne by the supplier.
7. The supplier shall prove by documents, wherein the supplier shall provide for a clear attribution to the respective good or services, all tests carried out during the performance of the work as well as their results. The documentation shall be stored for at least five years from acceptance, unless a longer period of storage is agreed upon, and shall be made available to us upon request.
8. In case of delivery of production material the supplier shall ensure that it will continue to be able, for a period of 10

years following the termination of the supply relationship and on reasonable terms and conditions, to deliver to us the supplied articles or parts thereof as spare parts.

III. Prices/ Payment Terms

1. The agreed prices are firm prices. Unless otherwise agreed, payment will be made within 14 days with a 3 % discount, or within 30 days, net. These periods are computed from (i) the time of performance in compliance with the contract and (ii) receipt of a proper and verifiable invoice. If we receive and accept a delivery at an earlier date than the date agreed upon, the payment period begins with the agreed delivery date. Invoices are to be submitted without carbon copies but shall include purchase order number, purchase order item, performance record, material list, our account and customer reference, place of unloading, supplier number, part number, number of pieces, price per piece, and volume per delivery.
2. Any additional service shall be deemed discharged with the contractually agreed payment.
3. The supplier is not entitled to assign a claim against us to a third party or to have such claim collected by a third party. The provisions of § 354a of the German Commercial Code (*Handelsgesetzbuch*) shall not be affected by the foregoing sentence.
4. The supplier shall only have the right to set-off against any claims of us or the right of retention, if and to the extent that supplier's claims are undisputed, its counterclaims are final and non-appealable or ready for decision or are based on the same contractual relationship.
5. We shall have the right to set-off against claims of supplier any claims of our affiliates within the meaning of § 15 German Stock Corporation Act [*Aktiengesetz*]. We shall also have the right to set-off our claims against any claims of the supplier against any of our affiliates within the meaning of Section 15 German Stock Corporation Act [*Aktiengesetz*].

IV. Delivery Terms/ Export Control/ Governmental Permits/ Packing

1. All deliveries are DAP (most recent Incoterms) to a location determined by us and, unless determined otherwise, shall include packaging and conservation. Our relevant delivery and transport provisions in their most recent version shall apply. Each shipment shall include a delivery note listing our order number, item number and supplier number.
2. If a shipment is agreed to be dispatched "ex works" without a routing order, the budget-priced dispatch type sequence is to be chosen for us. The transport insurance will be obtained by us to the extent we are obligated to do so pursuant to the agreed upon delivery terms (most recent Incoterms). When preparing the shipping documents, the supplier shall take into account that the customs clearance will be carried out in our plant and that we are exempted from the duty of presentation.
3. The supplier shall notify us of any governmental permits or notification requirements that may be required for the import and the use of the delivered items.
4. For shipments from preferential countries, the supplier must provide a proof of preferential status with each shipment. The long term supplier declaration pursuant to Article 61 ff. of the Commission Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code must be presented annually. For deliveries from non-preferential countries the supplier has to provide us with a certificate of origin or a supplier declaration without originating status, certified by its competent chamber of industry and commerce, for each delivery. The supplier is obliged to comply with the respective export control regulations and to inform us unrequested in text form about the export control designation of the contractual products especially according to EU and US legislation at the latest with delivery.
5. The delivered goods must be packaged appropriately and conforming with industry practice. We shall be entitled to instruct the supplier as to the type and method of packaging. If we return reusable packing material freight prepaid to the supplier, we shall be credited the value of the packing material.

V. Delivery Dates/ Delivery Default

Agreed dates and time limits are binding. A delivery date or term requirement shall be deemed satisfied if we or the consignee determined by our company has received the goods or services in time. The supplier shall inform us immediately in text form about any delay in delivery. The supplier must also indicate the reasons for such delay and its expected duration. If the reason for the delay is beyond the supplier's control, the supplier may invoke such reason only if the supplier has met its obligation to notify us in due time. In the case of a delay in delivery, we are entitled to demand a contractual penalty from the supplier. A penalty of 0,5 % will be charged for each week or part of a week, the maximum penalty is 5 % of the total order value. This agreement pertaining to the contractual penalty or enforcement thereof shall not affect any justified legal claims for a delay in delivery. Paid contractual penalties shall be set off against claims for damages. The contractual penalty may be claimed until the date of payment of the delayed goods.

VI. Subcontractors/ Deployed Staff

1. The supplier shall be entitled to assign any of its duties to subcontractors only with our prior approval in text form.
2. The supplier shall be obliged to deploy only staff for which it fulfils all provisions under tax law and social security law.
3. The supplier may only deploy foreign workers requiring a work permit when they belong to its own staff and have a residence permit and a work permit being valid for the territory and period of time in which the services are to be performed. Corresponding documents have to be submitted upon request.
4. The supplier may not deploy persons for fulfilling its contractual obligations which are employed by us. The supplier may also not deploy staff hired out to it by third parties in disregard of statutory provisions.
5. We are entitled at any time to expel staff members and persons employed in performing an obligation of the supplier from our premises or to refuse access to them when it seems appropriate to us because of safety reasons, in particular due to the behavior of the person in question. The supplier shall replace said person at its own expense.
6. The supplier shall indemnify us from and against all claims made by third parties (including official authorities) against us because of the fact that the supplier does not comply with the provisions in this VI.

VII. Acceptance of work performed

1. After proper completion of the work performed, the supplier shall declare with respect to us the readiness for acceptance of work in text form and will hand over all documents belonging to the subject of the contract.
2. Acceptance of work shall take place after completion of the work by way of our formal counter-signature on the respective record of acceptance within reasonable time after receipt of the declaration of readiness for acceptance of the supplier. If the examination of the work of the supplier requires a putting into operation of the equipment being the subject of the contract or the like for testing purposes (individual test, integration test), the acceptance will only be effected after a successful completion of the test. In relation to any performance which cannot be subsequently checked or examined the supplier shall give us in good time notice in text form requiring the examination. If the supplier fails to do so, it shall bear the costs for the necessary measures for the rendering possible of the examination upon request. Any fictional acceptance by way of failing to respond to a request for examination, or by way of payment or actual use is hereby excluded.
3. Unless another agreement was made in the individual case, the procedure of the acceptance shall be subject to our guidelines.
4. Safety defects will always entitle us to reject the acceptance of the work. The additional costs incurred by us and the supplier for repeated acceptances for which we are not responsible shall be borne by the supplier.
5. Acceptance of any type required by official authorities, in particular acceptance by recognized experts, shall be arranged by the supplier at its own expense before the acceptance of the work insofar as such is not expressly excluded from the scope of performance. Any official certificates as to defect-free nature or any official approvals or acceptances shall be provided to us in good time before the acceptance of the work.

VIII. Confidentiality/ Information

1. The supplier (i) shall keep secret all information, including without limitation drawings, documents, know how, samples, production devices, models, media (collectively the "Information"), (ii) may not make such Information available to third parties (including sub-suppliers) without our written consent and (iii) may not use such Information for purposes other than as determined by us. These obligations apply *mutatis mutandis* to copies and duplicates. This confidentiality obligation does not apply to information (i) that the supplier had already obtained legitimately at the time of disclosure provided such information was not subject to a confidentiality obligation, (ii) that the supplier later obtains legitimately without being obligated to keep such information confidential, (iii) that is or becomes generally known without any breach of contract by one of the parties or (iv) for the disclosure or the independent use of which the supplier has received permission. The supplier may not advertise its business relationship to us without our prior consent in text form.
2. We retain title and reserve all other rights (such as copyright) to the Information. Copies may be made only with our prior written consent. Title to the copies passes to us at the time such copies are created. The supplier hereby agrees with us that it stores the copies on behalf of our company as bailee. The supplier agrees to properly store at its expense all information as documents or other objects, including copies thereof, that were made available to the supplier, to keep them in perfect condition, to obtain insurance for them and to return them to us or destroy them, in each case upon our request. The supplier has no right, on whatever grounds, to retain such objects. The supplier shall confirm the complete return or destruction of the relevant object in writing.

3. If the supplier breaches its obligations set forth in VIII.1, a contractual penalty in the amount of Euro 25,000 shall become due and payable immediately for each breach. The supplier shall retain the right to have the contractual penalty determined by a court decision. Damages shall be set off against any paid contractual penalties.

IX. Quality Control/ Inspection of Incoming Goods

1. The supplier shall at all times supervise the quality of its goods and services. The supplier shall comply with our quality assurance agreement for suppliers, as amended from time to time. For this purpose, the supplier will establish and maintain a quality assurance system in compliance with ISO 9001 or with another agreed upon standard. Changes with respect to the goods to be supplied require our prior consent. The supplier must in particular maintain records in text form for all goods delivered to us, such records to reflect when, how and by whom the manufacture free of defects of the delivered goods has been ensured. These records must be retained for at least 12 years and must be presented to us upon request. The supplier shall obligate its own suppliers accordingly.
2. We will inspect incoming goods only with respect to externally apparent defects and externally apparent deviations in identity or volume. We will give notice of such defects without undue delay. Furthermore, we will give notice of defects as soon as such defects have been detected in the ordinary course of business. With respect to the foregoing, the supplier hereby waives the right to assert that the defects have been asserted too late.

X. Warranties/ Reimbursement of Costs/ Warranty Period/ Insurance

1. If the delivered goods or provided services are defective, we will be entitled to the statutory rights, unless the following conditions provide otherwise. The supplier is fully liable for all damages, costs and expenses resulting, directly or indirectly, from defects. In case at least parts of a shipment have been found to be defective, the supplier will also be liable for the costs for inspections of incoming goods that exceed the customary scope of inspection. The foregoing applies also to comprehensive and partial inspections of the shipment in the subsequent course of business by us and/or our customers.
2. If the supplier avails itself of a third party to carry out a performance, the supplier will be held responsible for this third party as for any other person employed in performing an obligation (*Erfüllungsgehilfe*). 3. If the industrial safety is threatened, if there is a danger of unusually high damages or for the purpose of maintaining our ability to deliver to our customers we shall be entitled, following notification of the supplier, to remedy the defects ourselves or have them remedied by a third party. Costs incurred as a result of remedial action taken in accordance with the preceding sentence shall be borne by the supplier.
4. The supplier shall reimburse our and our customer's costs incurred in situations leading up to or arising in connection with liability for defects to the extent such costs have been incurred for the purpose of avoiding, preventing or mitigating damages (e.g. recalls).
5. Unless a longer period is determined by law, the supplier is liable for defects that arise within 36 months of the date of receipt of the supplier's delivery or of the date of acceptance, provided such acceptance was required as a matter of law or agreement. For services in connection with buildings or land, the supplier shall be liable for defects that arise within 60 months of the date of acceptance. In the case of Supplementary Specific Performance (cure of defects or delivery of goods free of defects), this period is extended by the time during which the delivery item cannot be used as stipulated in the contract. Supplementary performance is also subject to the periods stated above.
6. In case of any claims by third parties in case of defects as to title, the supplier shall indemnify us unless the supplier is not responsible for such defect as to title. The supplier shall indemnify us in case of any claim by a third party based on product liability if and to the extent that any damage is caused by a defect in the goods delivered by the supplier. The right of indemnity shall apply insofar as the supplier itself would be directly liable. In case of strict liability the duty of indemnity shall apply only if the supplier is at fault.7. The supplier shall, throughout the term of the supply relationship, maintain adequate insurance with respect to the risks of this X. Upon request the supplier shall furnish us with evidence of such coverage.

XI. Performance of Work on our Premises

In relation to any performance at our premises the information concerning labor, environmental and company safety for contractors ("*Informationen zum Arbeits-, Umwelt- und Werksschutz für Angehörige von Fremdfirmen!*") shall apply in its most current version. It can be accessed on the Internet under www.duerkopp-adler.com under "Purchasing and Quality Control", at our gate, and will be made available to the supplier upon request. The supplier shall comply with directions of the factory security service (*Werkschutz*).

XII. Materials, Packaging and Tools provided by Us

Substances, material, parts, containers, special packaging, tools, measuring instruments or substances or similar items

(each, an "Accessory") remain our property. In cases of specification of Accessories, union of Accessories or mixture of Accessories, we will become co-owners of the new goods. Our co-ownership share shall be equal to the proportionate value of the Accessories compared to the overall value of the new item. The supplier shall not have any rights of retention on whatever basis to the Accessories. Accessories may not be made available to third parties (which shall include sub-suppliers) without our prior approval in text form and may not be used for any other purposes than the agreed upon purpose, or if no purpose has been agreed the use intended by us with the provision.

XIII. Tools

Notwithstanding any other agreement to the contrary, we shall receive full ownership or co-ownership of the tools to the extent we have contributed to the proven costs for tools used in the manufacture of the supplied goods. We will acquire (co)ownership of the tools upon payment. The tools shall remain on loan with the supplier. The supplier shall require our consent to dispose (in the legal or the factual sense of the term) of the tools, to move the location of the tools or to disable the tools permanently. The supplier shall label the tools as our property or property held in co-ownership, as applicable. The supplier shall bear the costs for the maintenance, repair and replacement of the tools. We shall have title in the replacement tools in the same proportion as in the original tools. In cases of co-ownership of a tool we shall have a right of first refusal with respect to the co-ownership share of the supplier. The supplier must use tools (co-)owned by us exclusively for the purpose of manufacturing the supplied goods. After the end of the delivery, the supplier must, upon our request, immediately turn over the tools to us. For tools co-owned by us we must, following hand over of the tools to us, reimburse the supplier for the then present value of the supplier's co-ownership share. In no event shall the supplier have a right to retain the tools. The supplier's obligation to turn over the tools shall apply also in case of an insolvency application with respect to the supplier and in cases of long term interruptions of the supply relationship. The supplier shall insure the tools within the agreed upon scope or, absent such agreement, within the customary scope.

XIV. Granting of right of use for contractual services

1. We acquire an irrevocable right of use of the intangible results and proceeds of the supplier's services for all kinds of use in perpetuity throughout the world in all known media. This right of use includes the unlimited right of use with respect to time, place and scope— also by translation into other languages, rendering (also in electronic media or databases), reproduction, distribution, publication, modification, alteration, decompilation, disassembling, storage, conversion and further development. The right of use is exclusive, as long as nothing to the contrary has been explicitly agreed upon. We might use third parties to exercise the right of use.
2. As far as the supplier's services are intended to serve the proper, safe use, the manufacture or sales promotion of our products and services, the supplier agrees to grant third parties the right of use for the aforementioned purposes. This includes the provision of services as Download on the Internet for the aforementioned purposes. Remuneration for this is included in the contractually agreed remuneration.
3. The supplier assigns the right to possible design patents regarding his contractual services to us, unless the granting of rights of use was not exclusive.
4. As far as the supplier has a right to the addition of a copyright note, he will inform us within a reasonable period of time before the planned commencement of use, as to whether he requires such note and which kind of note is to be used.
5. Should the relevant copyright owner not be the supplier himself, the supplier guarantees that he has been duly authorized by the copyright owner to execute the aforementioned declarations.

XV. Property rights of third parties

1. The supplier warrants that his services are free of intellectual and industrial property rights of third parties ("IP-right(s)"), which would exclude or limit the contractual use of his services by us.
2. Should the contractual use of the supplier's services be affected by, or excluded due to the infringement of IP-rights, the supplier shall within an adequate time limit, at own costs, either acquire such rights as to warrant our contractual use of the services; or alter or replace the services in such a way that they shall no longer infringe the IP-rights, however, still correspond to the contractually agreed services.
3. Should the supplier be responsible for the infringement of the IP rights, he shall indemnify and hold us harmless from any and all third-party claims out of the infringement of IP-rights and all expenses necessarily incurred by us in connection with the third-party claims and indemnify us from the damages resulting from the infringement.

XVI. Storage of contractual services

1. As long as they are not delivered to us, the supplier shall professionally safe keep the contractual services as e. g. documents, software, designs data – in any form - , concepts, layouts, pictures, films, videos or translations. In this connection he shall observe all applicable data protection and data security requirements. The supplier shall provide us with the contractual services at any time on his own or on our request within an adequate time limit to be set up in each individual case without charging further costs apart from the contractually agreed price. If required for his own legitimate utilization the supplier shall be entitled to retain copies or, in his discretion, also originals of the contractual services.

2. At our request the Supplier shall store all contractual services in machine readable form on a storage medium provided by us.

XVII. Software

1. The supplier agrees to modify/improve the software pursuant to our instructions and in exchange for an adequate reimbursement of costs for a period of 5 years from the shipment of the supplied item, unless the scope of the delivery includes standardized software. To the extent the software originates with a supplier of the supplier, the supplier shall obligate such earlier supplier accordingly.
2. The supplier shall provide us with the software source code upon acceptance of the contractual services, if scope of services is the supply of customized software.

XVIII. Force Majeure/ Long Term Inability to Deliver

1. Natural disasters, riots, acts of government and any other events that are unpredictable and unpreventable exempt both us and the supplier from the contractual obligations, in each case for such time as the disturbance exists and within the scope of its effects. The party affected by the force majeure event must fully inform the other party and must make all efforts, within the limitations of what can reasonably be expected, to limit the effects of such events. The party affected by the force majeure event must notify the other party without undue delay of the end of the force majeure event.
2. In cases of a long term inability to deliver, cessation of payments, the opening of an insolvency proceeding, the refusal to open insolvency proceedings due to insufficient assets or the commencement of comparable proceedings with respect to one of the parties the other party shall be entitled to rescind the contract with respect to the part that has not yet been performed. If one of the foregoing events occur with respect to the supplier, the supplier shall support us to the best of its abilities in our efforts to move the manufacture of the supplied item(s) to us or to a third party, which support shall include the granting of licenses to intellectual property rights to the extent such rights are necessary for the manufacture of the relevant product(s), such licenses to be granted on terms customary in the industry.

XIX. Acquisition of Ownership

We acquire ownership of the delivered goods immediately with delivery/ transfer.

XX. Termination

1. Notwithstanding any other legal rights to terminate and rights to rescind a contract, we shall have the right to terminate the entire contract or parts thereof at any time.
2. In case of a termination according to item 1, only the services performed so far, completed in themselves and evidenced according to the contract have to be remunerated, provided that they are utilizable for us. Our claims for damages shall remain unaffected thereby.

XXI. Miscellaneous

1. Place of fulfilment for all deliveries and performances is the place of destination specified by us. Place of fulfilment for payments is Bielefeld, Germany.
2. The contractual relationship shall be governed by the laws of the Federal Republic of Germany, excluding the German conflict laws rules and the United Nations Convention on the International Sales of Goods (CISG). The competent place of jurisdiction is Bielefeld, Germany, unless another exclusive place of jurisdiction has been agreed upon. Notwithstanding the foregoing, we will also be entitled to bring suit against the supplier at any other court of competent jurisdiction.
3. If a specific provision of these terms and conditions is or becomes invalid, the remaining terms and conditions shall remain valid.
4. Please note that we store and process personal data in the course of business transactions; all legal regulations concerning data privacy are observed. We refer to our [data privacy policy](#).