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GENERAL CONDITIONS OF PURCHASE (PARTS)

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1 ACCEPTANCE OF THE ORDER BY THE VENDOR

These General Conditions apply to all purchase orders placed by DÜRR SYSTEMS (hereinafter referred to as “the Purchaser”).

The Vendor is required to accept the Purchaser’s order when it is strictly in accordance with the offer made by the Vendor and when it is issued within the option periods provided for in the said offer.

Any modification of the order by the Vendor must be subject to the prior written agreement of the Purchaser.

Beginning of delivery or of invoicing implies acceptance of the order and of these General Conditions by the Vendor.

2 CONTRACTUAL DOCUMENTS

The documents governing the agreement of the parties are, in decreasing order of priority, the following: the order, the attached technical documents, any special terms and conditions, the General Conditions of Purchase. They cancel and replace all previous letters and proposals.

Any subsequent modification shall be subject to a written agreement between the parties.

3 SUPPLIERS AND SUBCONTRACTING

At the Purchaser’s request, the Vendor shall provide the Purchaser with a list of suppliers and subcontractors, specifying the origins and provenance of the materials supplied.

When the order specifies a supplier or a subcontractor to the Vendor for certain components, the Vendor’s liability remains full for the entire execution of the order.

The Vendor is required to notify his suppliers and/or subcontractors of any provisions of the order that apply to their obligations.

4 DELIVERY DATES – PENALTIES FOR DELAY

The delivery dates indicated in the order are imperative requirements for the Vendor. In all cases, the means of transport must be chosen in such a way to comply with the delivery dates and the place of destination.

All expenses necessary to meet deadlines or to limit delays shall be borne by the Vendor.

Where penalties for late delivery are provided for in the order, they shall apply ipso jure, without prior notice of default and without prejudice to any damages to which the Purchaser may claim because of the Vendor's failure to perform its obligations. If these are not provided for, the penalties shall reach 1% of the amount of the order per day of delay from the date of delivery, up to a maximum of 15% of the order with a grace period of 2 working days.

Early deliveries may only be made with the written consent of the Purchaser and shall not give rise to advance payment. In the event of delay, the Vendor shall be obliged to present a plan of action and a schedule for remedying the defects as soon as possible. The Purchaser shall be free to accept or refuse these. In case of refusal, Article 11.1 shall apply.

5 MONITORING – CONTROLE – QUALITY

The agents of the Buyer, those of their customer or any body appointed by the Purchaser, shall have free access, during normal business hours, to the Vendor's establishments and those of its suppliers and subcontractors to monitor the progress and control the execution of the order.

Progress and performance checks carried out during the manufacturing process are for the Purchaser's information only and do not engage his responsibility, nor do they release the Vendor's responsibility.

The Vendor is obliged to inform the Purchaser of any modification he intends to make to the composition of the material or to its technical conditions of execution. Such changes may only be made with the prior written consent of the Purchaser.

The goods, subject of the order, shall comply with the laws, regulations, standards and directives (in particular the Machinery Directive 2006/42/EC of 17 May 2006) in force on the day of receipt, and shall comply with the specifications of the order and all contractual documents.
The Vendor undertakes to regularly inform the Purchaser of the evolution of his technology, especially during the execution of the present order.

The Vendor shall guarantee that the supplies delivered

- Do not contain silicone, even in traces due to processing (specific to the activities of the Guyancourt site);
- Can perform all the services for which they are intended.

The supplies will be identified by the Vendor according to the instructions given to him by the Purchaser.

6 ACCEPTANCE

Acceptance shall be carried out in accordance with the conditions specified in the order or any special conditions.

It will only be carried out after the Purchaser, or his Representative, has checked the quality, apparent conformity and quantities.

In the event of non-conformity of the goods, the Purchaser, without prejudice to any damages he may claim, may decide to:

- Keep the non-conforming goods at the disposal of the Vendor, for a period of 72 hours, so that the Vendor can take possession of them, cancel the sale and demand the reimbursement of the advance payments made;
- Return immediately the goods ordered to the Vendor at its own cost and risk, to cancel the order and to demand the reimbursement of the advance payments made;
- Demand delivery of the conforming goods by the quickest means of transport, with any additional transport costs to be borne by the Vendor, and to return the non-conforming goods at the Vendor's expense and risk.

7 SHIPMENTS

Packages must be marked with a shipping note indicating the Purchaser's order number and the precise reference and description of the items delivered. Each consignment note must relate to a single order only, even in the case of grouped shipments.
In the case of shipments of heavy or large equipment, the Vendor is obliged to check with the Purchaser that the site is in a condition to receive the equipment.
The Vendor is responsible for handling, storage and transport.
Prior to delivery, the Vendor must check that the supplies comply with the contractual stipulations and carry out the regulatory controls and verifications.

The packaging and labelling must ensure efficient protection, both for handling and for storage until the final destination, and must comply with the laws, regulations and standards in force.
Any damage caused by defective or inadequate packaging shall be borne exclusively by the Vendor.

If the goods are sold "ex works" and transport is managed by the Vendor on behalf of the Purchaser, they must be sent to the destination at the most advantageous rates, even if this means that the shipment must be made carriage paid by the Vendor.
In the event of non-compliance with this rule, the Vendor shall bear the excess costs he has thus incurred.

The reference Incoterm is specified on the order (Incoterms 2020 codified by the International Chamber of Commerce).

8 INVOICING – PAYMENT

Unless expressly agreed otherwise, any invoice shall relate to only one of the Purchaser's orders, even in the case of grouped shipments.
Each request for an advance payment shall be subject to a separate invoice from the Vendor.
Invoices must strictly correspond to the payment terms specified in the order. In the event of a difference or grouping, the invoice will be returned to the Vendor.

Invoices must be sent, for each order, by email to the address mentioned in the order header, for the attention of the Purchaser's Accounting Department.
They shall bear the order references, the date of dispatch or delivery, the place of delivery, the number and date of the delivery or dispatch note and the customs code.
The VAT applied will be that in force according to the territoriality of the transaction. The exact details of the Vendor's bank and its IBAN and SWIFT numbers must also be indicated for an appropriate transfer.
Invoices that do not contain the above information will be returned for amendment without the Vendor being able to claim interest for non-payment.

The Vendor may only issue an invoice or a request for a down payment to the Purchaser when all the corresponding obligations have been fulfilled.
Otherwise, the Purchaser reserves the right to withhold payments.
In the event of factoring or assignment of receivables, it is the Vendor's responsibility to inform the factoring company or bank of this possibility of withholding payments.

Unless otherwise agreed, payments shall be made within 45 days end of the month or 60 days net. The terms of payment are specified in the order.

9 WARRANTY

The Vendor's contractual warranty covers defects in design, manufacture, material and execution. This warranty takes effect on the day of receipt of the goods and ends 24 months later unless otherwise provided for in the order.

In the event that this guarantee is called into play, the Purchaser, without prejudice to any damages that he may claim, may request either:

- the replacement
- the repair
- the modification

of the defective goods at the Vendor's expense.

The Purchaser also reserves the right to terminate the contract in accordance with Article 11 hereof.

The Vendor shall especially bear the cost of spare parts, labor and transport costs in connection with the fulfilment of his warranty obligation.

If it is established by the Purchaser that the defect is due to a repetitive manufacturing error, the Vendor must replace, modify or repair, at the request of the Purchaser, all identical parts or elements of the other equipment covered by the contract, even if these have not given rise to any incident.

The Vendor is obliged to provide assistance within 48 hours or, failing that, within the period indicated by the Purchaser, from the Purchaser's request.

The supply or the part of the supply that is repaired or replaced shall be guaranteed under the same conditions and for a period equal to the initial guarantee period.

Without prejudice to the above provisions, the Vendor is bound by the legal warranty for hidden defects (articles 1641 et seq. of the Civil Code).

10 INDUSTRIAL PROPERTY

The Purchaser is and shall remain the sole owner of all information and documents transmitted to the Vendor for the purposes of the order.
They may only be reproduced and used by the Vendor for the exclusive purpose of the order.
The tools, drawings, specifications, models, CDs or any other technical documents ordered or given to the Vendor for the execution of the orders entrusted to him, remain the full and entire property of the Purchaser.
The Vendor undertakes to respect and ensure that its employees respect the strictly confidential nature of such documents. Where applicable, the Vendor shall indemnify and hold harmless the Purchaser for any breach of this obligation.

The Vendor shall refrain from using, for the execution of the order, any product or part covered by industrial property rights belonging to a third party without the prior authorization of the owner of these rights.
The Vendor guarantees the Purchaser against any action by a third-party based on the violation of the above provisions. The Vendor undertakes to take responsibility for any claim or complaint against the Purchaser or his customer and to fully indemnify them against all costs, losses or damages suffered because of the existence of third-party rights in the material and goods delivered.

11 TERMINATION

The order may be terminated by the Purchaser as of right and without further judicial formality in the event of total or partial non-performance by the Vendor of any of its contractual obligations.
The termination shall take effect eight days from the date of sending a registered letter with acknowledgement of receipt addressed to the Vendor, without prejudice to any damages or interest that the Purchaser may claim for the loss suffered.
The Vendor shall, moreover, no later than one month after sending the notice of termination, reimburse the Purchaser for all sums paid to him as an advance payment or deposit, after deduction of the materials delivered and accepted by the Purchaser.

The order may also be fully or partially terminated as of right and without further judicial formality in the event of the purchaser's customer going into receivership or in the event of any action being taken against the purchaser's customer under legislation on receivership or liquidation or any other similar legislation having similar objectives or effects.
Termination shall take effect within eight days from the date of receipt of a registered letter with acknowledgement of receipt sent by the Purchaser to the Vendor.
The Purchaser, provided that it has been paid by its Customer for the services and/or supplies delivered by the Vendor, shall pay the Vendor, upon presentation of supporting documents, a sum corresponding to the services performed and/or the supplies delivered on the date of termination, to the exclusion of any other compensation relating in particular to indirect or immaterial damage, operating loss, loss of profit, etc.

The order may also be terminated by the Purchaser as of right and without any further judicial formality, by its own will and independently of any fault on the part of the Vendor, in the event of termination of the contract binding the Purchaser to its customer.
The termination shall take effect one month from the date of receipt of a registered letter with acknowledgement of receipt sent to the Vendor.
In this case, the Purchaser undertakes to reimburse the Vendor, upon presentation of the corresponding receipts, for the services performed and/or supplies delivered and/or the costs incurred on the date on which the termination takes effect, to the exclusion of any other compensation relating in particular to indirect or immaterial damage such as operating loss, loss of profit, etc.

12 ADVERTISING AND PUBLICITY

Under no circumstances and in no form may our order give rise to direct or indirect advertising without our written permission.

In the event of authorization, the Vendor undertakes to respect the forms of advertising and other conditions that may be imposed on him.

13 TRANSFER OF PROPERTY AND RISKS, RESERVE OF OWNERSHIP RIGHTS

The transfer of ownership takes place upon conclusion of the order, in accordance with Article 1583 of the Civil Code.

Transfer of risks takes place:

- for materials coming from French national territory, upon acceptance, as defined by the terms of the order;
- for materials coming from abroad, at the time of transfer of risks as defined by the Incoterm used in the order.

The goods, subject of the present order, shall under no circumstances be subject to a reserve of ownership rights on behalf of the Vendor.
Any such clause appearing on the acknowledgement of receipt of this order or any other document brought to the Purchaser's attention after this order shall be deemed unwritten.

14 LOAN OF EQUIPMENT

All supplies, models and tools made available to the Vendor by the Purchaser entail for the Vendor, who is the custodian, the obligation to ensure their proper maintenance and preservation.

The Vendor is responsible for any loss or damage that these supplies, models and tools may suffer or cause.

15 LIABILITY AND INSURANCE

The Vendor agrees to indemnify, guarantee and defend the Purchaser against all claims by any person for damages of any kind arising directly or indirectly from the material.

The Vendor shall subscribe to and maintain insurance from a first-rate company to cover the financial consequences arising from the calling into question of its liability in tort and/or contract for any bodily injury, material or immaterial damage, whether consequential or not, arising directly or indirectly as a result of the material supplied by the Vendor and caused to the Purchaser or to third parties.

16 FORCE MAJEURE

If, as a result of an event of force majeure occurring after the conclusion of the order, the Purchaser or the Vendor were unable to perform one of his obligations, the obligation affected by the event of force majeure would be suspended for the duration of the event constituting force majeure.

All circumstances beyond the control of the Purchaser or the Vendor, such as, but not limited to, a strike of the Purchaser's personnel, fire, explosion, natural disaster, riot, war, pandemic, refusal by the public authorities to grant import or export licenses or the cancellation by them of import or export licenses already granted, or any other circumstances beyond the control of either party, shall be considered as force majeure.

One of the parties shall notify the other by email and registered letter with acknowledgement of receipt within three days of the occurrence of the force majeure event.

If the circumstances of force majeure continue for more than one month, the contract will be terminated by either party without any further judicial formality.

17 PROCUREMENT OBLIGATION

The Vendor guarantees that the Purchaser will be supplied with the goods ordered and the original components of the goods for a period of ten years from the date of the main order, regardless of the amount or reason for the Purchaser's request for supply.

18 APPLICABLE LAW AND JURIDICTION

All our orders are subject to French law.

In case of dispute, the Commercial Court of Paris will be the competent jurisdiction.

19 SOCIAL CORPORATE RESPONSABILITY

The Vendor undertakes to comply with all risk prevention, anti-fraud and anti-corruption laws of all countries and regions in which it operates, especially French laws (such as L. n°2016-1691 of 9 December 2016 and n°2017-399 of 27 March 2017), the Bribery Act and the FCPA (Foreign Corrupt Practices).

The Vendor undertakes, for all of its activities concerned with the goods or services supplied to the Purchaser, to comply with all of the principles described in Chapter 1 of the Global Framework Agreement of 2/7/2013 on social, societal and environmental responsibility.

Furthermore, the Vendor shall inform its own suppliers or subcontractors of these obligations so that, throughout the supply chain, they are included in the applicable contracts