

General Terms and Conditions of Purchase of:

Oskar Dilo Maschinenfabrik KG, Eberbach
Dilo Systems GmbH, Eberbach
Dilo Machines GmbH, Eberbach
DG Engineering GmbH, Eberbach
Spinnbau GmbH, Bremen
Temafa Maschinenfabrik GmbH, Bergisch Gladbach

1. Validity of Agreement: These Terms and Conditions of Purchase are valid for all our material purchase contracts, purchase contracts for work and labour and service purchase contracts in the form of individual or framework contracts, in which is referred to the present General Conditions of Purchase.

Our Terms and Conditions of Purchase are exclusively valid even if – in individual cases – we do not contradict the inclusion of the terms of our supplier or, being aware of those terms, accept the delivery without reservation. Once our Terms and Conditions have been agreed upon, they are also valid for all subsequent businesses with a supplier, even if they are not explicitly referred to. The invalidity of single clauses does not affect the validity of all other clauses in the present Terms and Conditions of Purchase.

2. Quotations: Before submitting an offer, the supplier has to gather comprehensive information about the task set, including the interfaces to other tasks in this context.

3. Order Confirmation: The supplier must confirm in writing our order without any delay. The order confirmation must state prices, discounts and cash discounts if they differ from the present Terms and Conditions as well as the earliest possible binding delivery date. Should we not receive an order confirmation within 8 days, we consider our order accepted without reservation.

The time and place of delivery may be changed by us in writing by 14 calendar days at the latest before the agreed delivery date. Product specifications can be changed by us no later than 1 calendar month before the agreed delivery date, insofar as these can be implemented within the normal production process of the supplier without considerable additional effort. Against proof, the resulting additional costs are borne by us, unavoidable delivery delays caused by these change requests are considered as caused by us. The Supplier shall, after careful estimation, notify us in writing of any additional costs or delays in delivery expected of him in due time prior to the delivery date, but at least within 7 working days of receipt of our notification.

We reserve the right - especially in the case of framework agreements - to cancel the contract on reasonable grounds if the delivery item in question can no longer or for the foreseeable future not be used due to circumstances that have occurred in the meantime. Partial services already provided by the supplier will be remunerated by us against proof.

4. Delivery Time, Delayed Delivery: The agreed delivery time must be kept. Premature deliveries are not permitted unless they have been approved by us in writing. The supplier must notify us immediately of any changes, detailing the reasons. This does not affect our rights from delayed delivery. Particularly costs arising from delayed delivery are at the expense of the supplier.

In case of delayed delivery we reserve the right, after previous written notice, to demand a penalty of 1 % of the order value for every commenced week, maximum 5 %. We also reserve the right to claim further damages; the contractual penalty is to be counted against the claim for damages.

Moreover, after the unsuccessful setting of a reasonable period of grace, we are entitled to withdraw from the contract and claim damages for non-performance. In the event of a delay in delivery, we are also entitled to withdraw immediately if the delayed delivery would lead to unreasonable delays or unreasonable additional effort in the course of assembly.

In addition, we are fully entitled to the statutory claims in the event of delay in delivery.

If we are prevented by circumstances of Force Majeure from accepting the delivery item, we are not responsible for this and shall not be liable for any resulting damage to the supplier.

An event of force majeure includes without limitation: natural disasters, strikes, lock-out, sabotage, industrial dispute, war, civil war or warlike operations, threats of terrorism, civil commotion, usurpation of civil or military government, restrictions in the use of power. Identically treated as events of force majeure are all circumstances which are beyond the reasonable control of us ("Force Majeure").

Equal to such event of Force Majeure at the place of performance of duties is such event in a different place, if an extension of such risk to the place of performance in a foreseeable time cannot be excluded, and therefore prevents us from accepting the delivery item.

The supplier must conclude a transport insurance for the delivery corresponding to the value of the delivery item.

5. Retention of Title: Retention of title of the supplier are only valid until payment of the respective delivery item; extended or prolonged retention of title is inadmissible.

6. Shipment: In case no other agreement has been made, shipment must be made free of freight charges and expenses to the agreed place of performance. If no place of performance has been specified in the contract, shipment must be made to our premises in Eberbach.

7. Packaging: The supplier has, if we wish, to take back all or part of its packaging.

8. Transfer of Risk: The transfer of risk to us takes place after arrival and receipt of the goods at our premises and after receipt of proper shipping documents. Until this, the goods are stored with us at the costs and risk of the supplier.

9. Invoicing: Invoices in duplicate must be received within 8 days from shipment of the goods.

10. Payment: Payment including VAT will be effected at our choice either within 14 days with 3 % discount or within 30 days with 2 % discount or within 60 days net. Decisive for the deadline run is the date of placing the order with our bank.

11. Safety Devices: Goods such as machines, units, vehicles must have the necessary safety devices as per the accident prevention regulations of the Institutions for Statutory Accident Insurance and Prevention as well as per the applicable law.

12. Warranty: For the period of three years from acceptance of the goods the supplier is obliged to remedy immediately all deficiencies that are due to defective or inferior material, improper workmanship or construction at his costs DDP place of delivery or to replace affected parts. In urgent cases where it is unreasonable to ask the supplier for supplementary performance or if the supplier delays his warranty obligations, we reserve the right to remedy the deficiencies ourselves or to have the deficiencies remedied at the cost of the supplier or to purchase replacement.

The statutory provisions (§§ 377, 381 HGB (German Commercial Code)) apply to commercial inspection and notification of defects with the following provisions:

Our obligation to inspect is limited to defects that become apparent during our incoming goods inspection under external examination including the delivery documents (e.g. transport damage, incorrect or short delivery) or are identifiable in sample checks during our quality control. Insofar as acceptance has been agreed, there is no obligation to inspect. Moreover, it depends on the extent to which an investigation, taking into account the circumstances of the individual case, is feasible in the ordinary course of business. Our obligation of notification of defects discovered later remains unaffected. Notwithstanding our obligation to inspect, our complaint (notice of defect) shall in any case be considered as prompt and timely if it is sent within 5 working days of discovery or, in case of obvious defects, upon delivery.

Deviating from § 442 alinea 1 p. 2 BGB (German Civil Code) we are fully entitled to claims for defects, even if the defect remained unknown to us at the conclusion of the contract due to gross negligence.

The supplementary performance also includes the removal of defective goods and reinstallation, if the goods have been installed according to their nature and purpose of use in another thing or attached to another thing; our statutory claim for compensation for corresponding expenses remains unaffected. The supplier bears the expenses necessary for the purpose of the examination and supplementary performance even if it turns out that there was actually no defect. Our liability for damages in case of unjustified request to remedy defects remains unaffected; however, we are liable only if we have recognized or grossly negligent did not recognize that there was no defect.

Notwithstanding our statutory rights and the provisions in the preceding paragraph following applies: If the supplier does not fulfill his obligation to supplementary performance - at our discretion by elimination of the defect (rectification) or by delivering a defect-free item (replacement) - within a reasonable period of time set by us, we can remedy the defect ourselves and demand compensation from the supplier for the necessary expenses or a corresponding advance. If the supplementary performance by the supplier has failed or is unreasonable for us (e.g. because of special urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), no deadline is required. We will inform the supplier about such circumstances immediately, if possible beforehand.

If the contract does not stipulate other agreements or if the applicable law does not require longer periods, claims under material defects on assembly parts and accessories for our machines expire in three years.

13. Other Liability: Incidentally, the supplier is liable in accordance with the statutory provisions for the culpably caused damage.

He undertakes to provide extended operating and product liability insurance coverage (for built-in components: incorporating a machine clause), including full coverage under the so-called product liability model, that means in particular also for removal and installation costs, with a coverage of at least EUR 5 million. The supplier will provide us with a corresponding confirmation of insurance upon request.

14. Supplier recourse: We are entitled to our legally determined recourse claims within a supply chain (supplier recourse in accordance with §§ 445a, 445b, 478 BGB) in addition to the claims for defects without limitation. In particular, we are entitled to demand exactly the type of supplementary performance (repair or replacement) from the supplier, which we owe to our customer in individual cases. Our legal right to choose (§ 439 alinea 1 BGB) is not restricted by this.

Before we acknowledge or fulfill a claim asserted by our customer (including reimbursement of expenses according to §§ 445a alinea 1, 439 alinea 2 and 3 BGB), we will inform the supplier and ask for a written statement with a short statement of the facts. If a substantiated statement is not made within a reasonable period of time and if no mutually agreed solution is brought about, the deficiency claim actually granted by us shall be deemed due to our customer. In this case, the supplier is in charge of the evidence to the contrary.

Our claims from supplier recourse also apply if the defective goods are further processed by us or another contractor, e.g. by installation into another product.

15. Industrial Property Rights: The supplier assumes liability that the delivered goods are not subject to industrial property rights of third parties. In case of an infringement of such rights the supplier is obliged to pay all damages to us and to third parties for the duration of the validity of these rights. However, in such a case we also reserve the right to obtain the required approval from the owner of said rights for delivery, installation, use, re-sale etc. of the goods at the expense of the supplier. The above regulations do not apply insofar as the supplier proves that he is neither responsible for the infringement of industrial property rights, nor should have recognized it at the time of delivery if commercial diligence had been taken.

16. Drawings, Non-Disclosure: Information provided by us or drawings based upon such information etc. may only be used for other purposes pending prior written approval by us.

All information given by us to the supplier as well as results based upon such information (with exception of information accessible to the public) must not be disclosed to third parties by the supplier for a duration of three years from conclusion of the contract and may only be used in the supplier's works for deliveries to us. Should it be necessary to disclose confidential information to third parties for the execution of the order, the non-disclosure must be extended to them. In the event of a violation of non-disclosure, a contractual penalty of EUR 25,000 per infringement act shall be deemed to have been agreed, however, maximum EUR 50,000 per order. The assertion of further damages is reserved, the contractual penalty is to be set off against the claim for compensation.

17. Tools and Models: If we pay in full or part the costs for tools and models, these tools respectively models remain our property. The return of the tools respectively models to us is replaced by the supplier storing them free of charge. They must be marked as DILLO's property and suitably insured against all risks at supplier's expense.

They shall be renewed by the supplier at his own expense if they become unusable due to his fault, in the event of normal wear and tear, we will contribute 50% of the costs. The replaced tools also become our property. If we deem it necessary to ask the supplier to return the goods respectively models, he will do so without any objection. Tools and models may only be used for the production for third parties with our written approval.

18. Free Issue Equipment: Materials, tools etc. that we provide to the supplier for the execution of our orders remain our property. The supplier may only make intended use of this free issue equipment and may not release it to third parties, nor may he make other dispositions (e.g. pledge or assign security). Furthermore, the supplier must handle the tools and materials marked as our property with care and store them separately and well-arranged. In case of pledge or other claims of the objects by third parties, the supplier has to inform us immediately and to reserve our rights clearly stating the legal ownership of said objects. In addition, the supplier must insure at his expense the free issue equipment suitably against fire, water, theft and catastrophes. Upon our request, the supplier is obliged to return the free issue equipment insofar as these items are no more required for the order processing.

19. Minimum Wage, Compliance: The supplier assures that, when fulfilling the contract, he complies with the requirements of the law regulating a general minimum wage (MiLoG) and, in particular, pays the minimum wage on time. Nor will he use a subcontractor who does not pay the minimum wage or does not pay it on time. The supplier indemnifies us from liability pursuant to § 13 MiLoG in conjunction with § 14 of the Employee Lending Act. Insofar as he employs subcontractors, he will ensure that they also indemnify us from the stated liability.

The supplier further undertakes to take all necessary and appropriate measures to prevent corruption, in particular, neither grant nor accept any benefits that are not predominantly of a company nature, such as money, gifts or invitations.

20. Assignment of Claims: Claims from this contract can only be assigned to third parties with our written consent. This does not apply to monetary claims. A set-off or the exercise of a right of retention by the supplier is only permissible with undisputed, recognized or legally established claims.

21. Place of Performance: For delivery the destination is the place of performance, for the payment our respective registered office is the place of performance.

22. Place of Jurisdiction: Claims under purchase contracts as mentioned under paragraph 1 (see above) may only be made at the courts of law having jurisdiction for the business location of the purchaser.

However, we reserve the right to sue the supplier at any other general or particular place of jurisdiction.

23. Applicable Law: This Contract and the legal relations of the Parties shall be governed by and construed in accordance with the substantive law of the Federal Republic of Germany under exclusion of its Conflict of Laws rules. The law of the United Nations Convention on Contracts for the International Sale of Goods shall be excluded.