

General Terms and Conditions for the Purchase of Goods

Terex GmbH – Business Units Terex | Schaeff and Terex | Kaelble Terex | Ersatzteile GmbH HFM GmbH Schaeff Komponenten GmbH & Co.KG

1. General

The following conditions apply to all orders of TEREX | Fuchs GmbH (TEREX | Fuchs) and shall be part of the agreement between the Supplier and us and therefore be binding for both parties. Supplier's commercial conditions shall only apply to the extent that these conditions have explicitly been accepted by us in writing.

Our orders must be confirmed within five (5) days after their receipt. Supplier's order confirmation shall state a binding date for delivery. Otherwise we are entitled to withdraw from the order.

All delivery notes and invoices shall contain our order number and material number. Dispatch notes and any other correspondence shall name the ordering department and our reference.

2. Order

Only written orders shall be binding. Any oral order or orders received by telephon as well as any supplements to the agreement need to be confirmed in writing. E-mails are considered to be written forms.

3. Delivery

Our orders will be placed in accordance with our production plannings. Therefore it is essential that the delivery dates agreed upon between the parties will be met by the Supplier. Partial and early deliveries are only allowed to the extent agreed between the parties and shall be marked as such by the Supplier.

The Supplier is obliged to inform us in writing about any circumstance that occurs or which Supplier has been informed of, that leads or might lead to a delay in delivery.

If goods need to be send by express due to Supplier's fault, any additional costs hereby incurred will be born to the Supplier. In case of an early delivery – unless otherwise agreed upon – payment will be made in accordance with the originally designated delivery date.

Unless otherwise agreed upon the delivery is carried out DDP (delivered duty paid) according to Incoterms ICC 2000.

Penalties for late delivery - if any – may be claimed in addition to the fulfillment of an order. Penalties will be claimed no later than ten (10) business days after acceptance of the delayed goods. Any additional rights shall remain unaffected.

Force majeure, legal strikes, operational breakdowns or other hindrances, that are beyond our control will discharge us from our obligation to take delivery / acceptance of the goods for the time they occur and allow us to reschedule delivery dates. The same applies to unavoidable conversions to our production.

4. Invoice and Payment

Invoices are to be send to our central accounting department in our plant in Langenburg. Invoices may not be enclosed with the delivery. Improper invoices will only be accepted from the date they have been corrected.

The prices are subject to the DDP regulation (delivery duty paid) according the Incoterms ICC 2000. Invoicing shall take

place in accordance with the weight and/or amount of pieces actually delivered. No payment will be made for any weight and/or amounts delivered that exceeds the maximum weight and/or maximum amount ordered by us.

Payment will be made within 14 days after receipt of an invoice with a cash discount of 3 % or within 30 days after receipt of an invoice with a cash discount of 2 %. Otherwise payment will be placed within 90 days net after delivery and receipt of an invoice.

Means of payment (including but not limited to promissory notes and commercial bills) are at our discretion. In case of payment by promissory notes or commercial bills the discount at the rate valid at the day of its delivery will be born with us.

5. Drawings, Tools

We retain ownership and title in any tools, drawings, samples, models and other documents which have been provided to the Supplier in the course of our business relationship.

Ownership and title in the tools manufactured by the Supplier (or a third party) and paid for by us will be transferred upon payment. The parties agree on a constructive possession of chattels (*Besitzmittlungsverhältnis*), e.g. the Supplier will possess the goods for us free of charge and treat them with the same care usally employed in its own affairs. The Supplier agrees to keep the tools separated from any goods owned by the Supplier or third parties and that he will maintain an appropriate insurance against customary risks. The Supplier is obliged to identify the tools as beeing owned by us (e.g. on the tools themselves and in his books of account).

After completion of our order, the Supplier is obliged to return all tools and documents owned by TEREX | Fuchs free of charge. The Supplier agrees not to use the tools and documents for purposes other than fulfillment of our order. The Supplier also agrees to handle any documentation confidentially and will not disclose them to third parties.

6. Documentation

The Supplier shall provide sufficient documentation with respect to the goods, e.g. spare part documentation, manuals, service documentation. The documentation shall be made available no later than two (2) months prior to the start of the serial production of the end product. Otherwise the Supplier will be made liable for damages that are caused through improper assembly or operation.

7. Assignment

The Supplier may assign or pledge its claims against us only with our prior written approval.

8. Warranty

The Supplier warrants proper construction of the goods and that the materials used are of best quality and these materials are fit for the purpose indicated. The Supplier also warrants proper performance in accordance with the drawings and specifications agreed upon between the parties as well as faultless assembly, unobjectionable performance and effect etc. and that the goods do not infringe any intellectual property rights.

During the warranty period the Supplier will correct any warranty defect free of charge through repair or exchange service at our discretion at the machine's location. Any costs and expenses incurred in connection with defect remedying,

e.g. assembling and disassembling costs, travel expenses and carriage, will be born by the Supplier.

In urgent cases, where relief by the Supplier may not be achieved in time, we are entitled to remedy the defect ourselves at Supplier's expense or mandate a third party to do so. Any claims for damages, e.g. the right to claim damages instead of performance, remains unaffected.

Unless a longer warranty period is stated by applicable law, the warranty period shall be 36 months from the delivery to our customers, but in no case longer than 48 months from the time the risk of loss or damage is transferred to us.

We are entitled to inspect and accept the products at the Supplier's premises. Any such inspection / acceptance does not affect any warranty rights. The Supplier shall carry out continuous quality testings and shall establish and maintain procedures to ensure a high quality standard. We are entitled to verify whether the products are in conformity with agreed upon quality standards and refuse them in case of deficiencies. Upon request, the Supplier will provide control and/or test reports.

For the purpose of acceptance, the Supplier will – during regular business hours - provide us with free and safe access to its facilities. Moreover the Supplier will grant us the right to inform ourselves without prior notification about the production / delivery status during regular business hours.

In case that a product – in whole or in part - will be refused because of deficiencies in the quality agreed upon between the parties, the Supplier agrees to make the product available to us until delivery of a substitute will be received by us, provided that the placing of the defective product to our disposal can reasonably be expected on the grounds of the type of defect or the remedy chosen by us.

After receipt of the goods at the designated plant, we will examine them for obvious defects, identity and damages caused through transit. Any further duty to examine the goods does not apply. Any defects or other variances will be reported to the Supplier within a reasonable deadline. Section 377 para. 2 of the German Trade Act (*Handelsgesetzbuch, HGB*) does not apply.

9. Spare parts supply

The supplier ensures a delivery with spare parts for ten (10) years after discontinuation of the serial production for TEREX | Fuchs.

10. Place of Performance, Place of Jurisdiction, Choice of Law

Unless otherwise agreed upon, the place of performance for all obligations under this agreement shall be the place of business of our ordering plant.

The place of jurisdiction – depending upon the subject matter - shall be Langenburg / Ellwangen. However, we are entitled to put forward our claims at the Supplier's place of jurisdiction.

German law applies. The United Nations Convention on Contracts for the International sale of Goods (CISG) does not apply.

11. Invalidity

In the event that any provision of this agreement is held to be invalid or incomplete, the remaining provisions remain in full force and effect.

Version: March 2007