

**Controlling Agreement**

entered into by and between

- (1) **Dürr Aktiengesellschaft**, Carl-Benz-Strasse 34, 74321 Bietigheim-Bissingen,  
represented by the Board of Management,

- hereinafter referred to as “Dürr AG” -

and

- (2) **Carl Schenck Aktiengesellschaft**, Landwehrstrasse 55, 64293 Darmstadt,  
represented by the Board of Management,

- hereinafter referred to as “the Company” -

**WHEREAS:**

- (A) The Company with registered office in Darmstadt is entered in the Commercial Register of the District Court of Darmstadt under No. HRB 1818.
- (B) Dürr AG, with registered office in Stuttgart, listed in the Commercial Register of the District Court of Stuttgart under No. HRB 13677, holds all shares in the Company.
- (C) Dürr AG and the Company intend to enter into a Controlling Agreement (“the Agreement”) subject to the following terms and conditions.

NOW THEREFORE, the parties hereto agree the following:

## **§ 1 Management**

- (1) The Company subjects the management of its enterprise to Dürr AG.
- (2) Accordingly, Dürr AG is entitled to issue instructions to the Board of Management of the Company concerning the management thereof. The Board of Management of the Company shall be obliged to obey such instructions. Dürr AG may demand to inspect the books and documents of the Company and obtain information on the Company's business affairs at any time. The management and representation of the Company remain within the scope of responsibility of the Company's Board of Management.
- (3) Dürr AG shall arrange for instructions to be carried out by its Board of Management or – to the extent legally permissible – by persons commissioned to do so, stating the extent and duration of their authority to accept instructions. In carrying out instructions, the degree of care of a prudent and conscientious business executive is to be exercised.
- (4) Instructions shall be issued in writing or by facsimile or, if expressed orally, confirmed without delay in writing or by facsimile.
- (5) Dürr AG may not instruct the Board of Management of the Company to amend, maintain or terminate this Agreement.

## **§ 2 Assumption of loss**

- (1) In accordance with the provisions of Section 302 of the German Stock Corporation Act, which is to be applied to this Agreement in its current version and in its entirety from time to time, for the duration of the Agreement Dürr AG shall be obligated to settle any annual deficit or shortfall that would otherwise arise to the extent that such deficit or shortfall would not be settled using amounts withdrawn from other revenue reserves to the extent legally possible that were apportioned to such reserves during the term of the Agreement.
- (2) Dürr AG shall only be entitled to declare a set-off vis-à-vis a claim by the Company for the assumption of loss in accordance with (1) above with claims of its own or exercise a right of retention if the claim raised by Dürr AG is valuable in nature. In particular, the claim will not be deemed to be valuable if the Company's existence is in danger.

- (3) Dürr AG undertakes to pay interest on the claim for the assumption of loss at a rate of 5 percent from the respective balance sheet date of the Company (maturity).
- (4) The obligation to assume a loss incurred applies for the first time to the financial year 2013 of the Company commencing on January 1, 2013. In the event that this Agreement should not be entered in the Commercial Register by the close of December 31, 2013, there shall be an obligation to assume the loss for the first time in the financial year of the Company in which this Agreement becomes effective by entry in the Commercial Register at the registered office of the Company (cf. Section § 3 (2) below).
- (5) In addition, Sections 302 (3) and (4) of the German Stock Corporation Act shall apply accordingly in its current version prevailing from time to time.

### **§ 3 Effective date and duration of the Agreement**

- (1) To be legally effective, the Agreement shall be subject to the approval at the Annual General Meeting of Dürr AG and the Annual General Meeting of the Company.
- (2) The Agreement shall become effective upon entry in the Commercial Register at the Company's registered office.
- (3) The Agreement is entered into for an indefinite period. It may be terminated at the end of a financial year of the Company subject to six months' prior notice. Such notice of termination shall be in writing.
- (4) The right to extraordinary termination of the Agreement for good cause shall remain unaffected. In particular, Dürr AG shall be entitled to termination for good cause if it is no longer entitled to the majority of voting rights conferred by the shares in the Company.
- (5) If the Agreement is terminated, Dürr AG shall provide the Company's creditors with collateral security pursuant to Section 303 of the German Stock Corporation Act.

### **§ 4 Severability clause**

Should any provision of this Agreement or any provision included in it in the future be or become invalid or unfeasible either wholly or in part, or should this Agreement contain a legal gap, this shall not affect the validity of the remaining provisions thereof.

The parties undertake to agree to an appropriate provision in lieu of the invalid or unfeasible provision or to fill the gap encountered that best approximates what is legally permissible, what the parties intended or what they would have intended concerning the sense and purpose of this Agreement, had they considered the point in question.

Bietigheim-Bissingen, ..., 2013

Darmstadt, ..., 2013

Dürr Aktiengesellschaft

Carl Schenck Aktiengesellschaft

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Ralf Dieter

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Dr. Ralf-Michael Fuchs

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Ralph Heuwing

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Andreas Birk

***Please note:***

**This is a convenience translation. Only the German text is legally binding.**