

General Terms of Purchase of Scheidt & Bachmann GmbH

1.0 Conclusion of contract

1.1 We shall place all orders for goods and services, now and in future, exclusively on the basis of the present General Terms of Purchase. No other conditions, including those to which we do not expressly object, shall become part of the contract. If we accept goods or services without express objection, this cannot in any circumstances be interpreted as acceptance of the other party's general terms of delivery.

1.2 Placed orders are to be accepted by the supplier within 8 days in writing on the form entitled "acceptance of order" enclosed with the order. No response by a supplier with which we have regular business relations shall be deemed as acceptance of the order.

1.3 Contracts of all kinds, as well as amendments and supplements to same, must be made in writing. Oral agreements are binding on us only if confirmed by us in writing.

2.0 Prices, shipping, packaging

2.1 The agreed prices are maximum prices including all ancillary costs, such as for packaging, carriage and customs duties, for delivery to the forwarding address or place of use specified by us. The statutory German turnover tax must be shown separately on the invoice (if applicable). All other taxes and duties are to be included.

2.2 Shipping shall take place at the risk of the supplier; the means of transport shall be intended to ensure compliance with the agreed date of delivery.

2.3 Each delivery is to be accompanied by a delivery note, clearly stating at least our order and article numbers.

2.4 The supplier shall, in case of goods with a limited storage life, state the expiry date and, in case of goods subject to special storage and/or disposal regulations, state this information clearly visible on the merchandise and packaging and in all order confirmations and delivery notes. The supplier shall be liable for all damage caused by non-compliance with this labeling obligation.

2.5 The supplier is obliged to inform us in all cases in which certificates of origin are required or export restrictions exist insofar as it must be aware thereof or is able reasonably to procure such knowledge. This information must be stated clearly visible on the order confirmations, delivery notes and invoices. We shall be furnished with any necessary certificates of origin separate from the delivery without special request.

2.6 Insofar as possible and allowed, we shall dispose of packaging materials and charge the costs to the supplier. Otherwise the supplier shall collect packaging from the forwarding address or place of use specified by us without undue delay and dispose of same in the proper manner.

3.0 Invoicing and payment

3.1 Invoices are to be sent to us in duplicate separate from the goods. Our order and article numbers must be stated in full. Invoices shall be sent to us latest within 14 days after a request from our side.

3.2 Payment shall be made at our discretion either within 14 days of receiving the invoice subject to 3% discount or within 30 days net.

3.3 The period for payment starts one day after receipt of the proper invoice provided that the goods are not defective. If the goods arrive at the place of reception later than the invoice, the payment period does not start until one day after receipt of the flawless goods. In case of premature delivery, the agreed delivery date is deemed to be the start of the payment period; invoices shall be automatically assigned the due date as the value date.

3.4 Payment shall not be deemed as recognition of a delivery or service being free from defects.

4.0 Delivery dates, default in delivery, force majeure

4.1 The delivery dates and quantities are binding. Compliance with the delivery date is governed by proper delivery to the forwarding address or place of use specified by us; in case of services, the ruling contained in the order applies. Part deliveries that have not been agreed are not allowed and shall not be deemed to constitute fulfillment of the contract. Premature deliveries are allowed only if we have given prior written consent. Costs we incur because of interim storage shall be borne by the supplier.

4.2 If the supplier discovers that the agreed dates cannot be met for any reason whatsoever, it must notify us in writing without undue delay, stating the duration and reasons for the delay.

4.3 In case of late delivery the supplier will be liable to the extent envisaged by law. Accepting late delivery or performance does not constitute a waiver of compensation claims.

4.4 After the expiry of a period of grace set by us, we are entitled to claim damages instead of delivery/performance. The right to claim delivery/performance expires in case we choose to claim damages.

4.5 Force majeure that endures for more than 4 weeks in each case, such as a shutdown of systems as a result of lightning, whirlwind, explosion, fire etc., but excluding boycotts, strikes, all kinds of lockout, sit-down strikes, occupation of factories and real estate, work stoppages and late deliveries at the facilities of the party seeking discharge, releases the supplier from its obligation to perform for the duration of the hindrance and in respect of its effect. The parties are obliged within reasonable bounds to furnish the necessary information without undue delay and to adapt their obligations according to the changed circumstances in good faith. If the incident of force majeure lasts for longer than 6 weeks, each party is entitled to terminate the contract without any obligation to give compensation.

5.0 Warranty

5.1 The supplier shall be liable for its deliveries and services in each case at least as provided by statutory regulation irrespective of whether the liability is covered by the provisions below.

5.2 The goods delivered or services rendered by the supplier must comply with the stipulations of our order; any kind of variance requires our prior written consent. We inspect incoming goods only to the extent prescribed by law. Such

inspection generally covers examining the quantity, identity and outward appearance (transit damage) for obvious defects.

5.3 The supplier shall expressly warrant that all the goods it delivers and services it performs comply with the state of the art, relevant legal provisions and the regulations, ordinances and directives issued by public authorities, employers' liability insurance associations and industry associations, and that they are suitable for the agreed purpose. If orders refer to specifications according to standard and/or DIN/ISO regulations, the most recent version shall be valid in each case unless a specific version is stipulated. The supplier undertakes and pledges to apply a quality management system that complies with the requirements of the most recent version of the standards DIN ISO 9001 (quality management - requirements) or comparable standard (e.g. ISO/TS 16949).

5.4 The supplier must eliminate, on request, deficiencies in goods/services of which notice is given during the warranty period, also including non-compliance with guaranteed data and standards as per data books and data sheets as well as the absence of warranted properties by repairing or exchanging the defective parts according to our discretion without undue delay and free of charge, also covering all ancillary costs. Returns comprising supplied goods with notified defects shall be made at the expense and risk of the contractor. The supplier is also obliged to reimburse reasonable inspection costs necessarily incurred by us to determine the deficiencies.

5.5 In urgent cases, in particular if further delay in performing the warranty would give rise to a greater loss and due to the particular urgency it is not possible to give the supplier an opportunity to remedy, we are entitled, without restricting our warranty rights, to eliminate or have eliminated the discovered defects at the supplier's expense without setting a time limit. The supplier may object concerning the obligation to reimburse in accordance with § 439 Abs.3 BGB.

5.6 After the expiry of grace period set by us for a subsequent improvement or replacement delivery we are entitled to claim withdrawal or diminution in the extent of the statutory provisions. We expressly reserve our right to claim damages. This also applies in respect to damage claims instead of claims for performance.

5.7 In addition to the foregoing rights, in the event that the supplier does not fulfill its warranty obligations within a period set by us, we are entitled to reject the entire delivery or delivery lot if we have justified reasons to believe that part of the lot or the whole delivery is affected by the same kind of defect. This is the case if the defect in question is detected in more than 5% of the delivered products within the warranty period. In this case our warranty rights by law or contract shall be extended on the entire delivery or delivery lot.

5.8 If the supplier does not fulfil its warranty obligation within a period set by us, we can take or have taken by third parties the necessary measures at the supplier's expense and risk without prejudice to its warranty obligation. Such costs shall be payable to us without undue delay; a set-off is allowed only with claims against us that are undisputed or have been finally and non-appealably established.

5.9 To safeguard our interests, the supplier now assigns to us its due warranty claims against its suppliers. We accept said assignment, but retain the right to decide whether to obtain satisfaction from the supplier or its suppliers.

5.10 The warranty period is 36 months, save as otherwise expressly agreed, and starts on the day we receive the goods. In case of goods and services that are subject to our acceptance, the warranty period starts on the acceptance date. In case of premature delivery, the agreed delivery date is deemed to be the start of the warranty period.

5.11 The warranty period for repaired or replaced products within the performance of warranty shall be 36 months beginning from the start of the repair or replacement, save minor defects or defects that have been eliminated with only small effort by supplier.

6.0 Notice of defects

6.1 We shall give written notice of any evident defects of the delivery/performance without undue delay as soon as they are discovered in the course of a proper business handling. Within complex and time-consuming tests we shall give that notice within 20 working days and in all other cases no later than 10 working days after the receipt of the delivery. In case of defects that are not discovered by the incoming inspection according to clause 5.2, the time limit for giving notice starts with discovery of the defect. Notice of concealed defects can be given within 10 days of their discovery.

6.2 Our right to assert warranty claims is barred at the earliest with the expiration of the warranty. The notice of defects suspends the period of limitation.

7.0 Product liability

7.1 In case of claims against us for violation of official safety regulations or arising from domestic or foreign statutory product liability provisions because of a deficiency of our product attributable to a supplier's product, we are entitled to demand compensation from the supplier in respect of the loss caused by its products. This damage also includes the costs incurred by a precautionary recall campaign.

7.2 In the context of its liability for losses in the meaning of 7.1, the supplier is also obliged to reimburse any expenses according to § 683 and § 670 BGB (German Civil Code), and according to § 830, § 840 and § 426 BGB, such as arise from or in connection with a recall campaign executed by us. We shall notify the supplier of the content and scope of recall campaigns that are to be executed, insofar as possible and reasonable, and grant the supplier the opportunity to comment. Other statutory claims shall remain unaffected.

7.3 The supplier warrants that it has obtained and shall maintain appropriate extended product liability insurance, including cover for the risks stated in clause 4 of the "Special conditions and descriptions of risk for the product liability insurance of industrial and commercial enterprises" (1998 edition), including liability for reasonable costs incurred by the customer in investigating defects. We shall be given evidence that the insurance exists and of the sum insured on request; we are to be notified of any changes without undue delay. We may terminate with immediate effect or withdraw from the contract if a breach of the supplier's obligation under this clause 7.3 occurs.

8.0 Secrecy

8.1 The supplier undertakes to treat in confidence and not to disclose to any third party all commercial and technical details that are not common knowledge and of which it becomes aware through the business relationship. It shall impose a similar obligation on its employees and suppliers.

8.2 This obligation to observe secrecy remains effective after the present contract has been executed; it shall not expire unless and insofar as the production know-how contained in the surrendered illustrations, drawings, calculations and other documents has become common knowledge.

8.3 Process descriptions, drawings, specimens, models and other information we surrender to the supplier for execution of the order, processes developed by the supplier according to our specific information, and drawings, specimens and models etc. that are made must not be used by the supplier for purposes other than the execution of our order without our written consent. Upon request these must be handed over to us without undue delay together with all copies or duplicates, excluding all rights of retention.

8.4 The supplier shall be liable for all losses incurred by us because of the violation of one of these obligations.

9.0 Transferability

Passing on orders to third parties wholly or in part requires our prior written consent. Claims against us cannot be assigned and/or pledged.

10.0 Ownership rights

10.1 We reserve ownership of all documents, specimens, models, drawings, tools and, if applicable, workpieces etc. surrendered to the supplier for processing purposes; the supplier is obliged to use said items exclusively for producing the goods ordered by us. The supplier is obliged at its own expense to insure the items that belong to us at replacement value against fire, water damage and theft. At the same time the supplier now assigns all compensation claims arising from said insurance to us; we hereby accept the assignment. The supplier is obliged to execute any necessary servicing and inspection work on our tools and to execute all maintenance and repairs in good time at its own expense. It shall notify us of any incidents without undue delay; in case it culpably omits to do so, claims for compensation shall remain unaffected.

10.2 The supplier recognizes our exclusive copyright to the drawings, drafts, models etc. surrendered to it. In case the supplier acquires own copyright on the basis of its processing for us the drawings, drafts, models etc. surrendered to it, it now grants us an indefinite, exclusive and gratuitous license to such copyright.

10.3 We shall retain ownership of any parts provided to the supplier. Processing or working into new forms by the supplier shall be executed on our behalf. If goods whose ownership we retain are processed with other items that do not belong to us, we shall acquire co-ownership of the new object in the ratio of the value of our object (purchase price plus turnover tax) to that of the other processed items at the time of processing.

10.4 If the object furnished by us is inseparably mixed with other items that do not belong to us, we shall acquire co-ownership of the new object in the ratio of the value of our object of retained ownership (purchase price plus turnover tax) to that of the other mixed items at the time of mixing. In case the mixing is such that the supplier's object is to be regarded as the principal object, it shall be deemed agreed that the supplier shall grant us pro rata co-ownership; the supplier shall hold in safe custody the sole ownership or co-ownership on our behalf.

10.5 Insofar as our security interests under 10.3 and/or 10.4 exceed by more than 20% the purchase price of the goods surrendered to the supplier subject to retention of ownership, we shall be obliged to release the security interests at the supplier's request.

11.0 Property rights

11.1 The supplier guarantees that the contractual products are free from property rights, copyrights and other rights of third parties that could restrict the use of the contractual products by us and our customers. If use in conformance with the contract is impaired or prohibited by asserted violations of property rights, copyrights and/or other rights, the supplier shall be nonetheless obliged to comply with the contractual provisions. To ensure compliance, the supplier can opt either to modify or substitute the contractual items so that they are no longer subject to the property rights, copyrights and other rights, or to obtain the right for the contractual items to be used in conformance with the contract without restriction and without additional cost to us.

11.2 In case of property rights, copyrights or other rights being asserted, the supplier shall accept sole liability to the party invoking the property rights, copyrights or other rights and shall release us internally from all liability. In case third parties assert against us and/or our customers claims to compel us/them to refrain from an act and/or for compensation either in or out of court, the supplier shall release us and our customers internally from all losses arising there from (such as development costs for a substitute solution that is not protected), including court costs and the reasonable cost of legal defense.

11.3 We undertake to notify the supplier in writing if claims are asserted against us for the violation of property rights, copyrights and/or other rights. In case of proceedings against us because of a violation of property rights, copyrights and/or other rights, the supplier shall accede to such proceedings on our side at the latest two weeks after notification by us. We are entitled to effect the permission of the entitled person to use the respective deliveries and services on the cost of the supplier.

11.4 Clauses 11.1 through 11.3 do not apply to the violation of foreign property rights as long as the supplier is not or is not bound to be aware that the goods are being supplied to the country concerned. In this respect the supplier shall be liable only to the extent envisaged by law.

12.0 Accident prevention

In case of work within our facility or premises, on construction sites and on our vehicles etc., the supplier mandated to perform such work shall be liable for compliance with all accident prevention regulations and otherwise relevant precautionary measures.

13.0 Insolvency of supplier, variation of product

13.1 If the supplier suspends payments, if bankruptcy proceedings are instituted against its assets or judicial or extra-judicial composition proceedings are instituted, or if check or bill protests are made against it, we are entitled to withdraw from the part of the contract that has not been fulfilled without giving rise to claims against us there from.

13.2 All our claims and rights, including but not limited to already delivered parts, shall be due in the moment that the supplier ceases to fulfil its payment obligations or supplier suffers any insolvency act.

13.3 If supplier intends to stop the production of any product ordered by us in the previous five years or if supplier intends to change the production process which leads to a modification of such a product, supplier shall inform us about its intention immediately. In case supplier is in breach of the foregoing obligation, supplier shall be liable to us for all damages resulting from the omission or delay.

14.0 General provisions

14.1 If individual parts of these general terms of purchase are legally ineffective, this shall not affect the effectiveness of the other provisions.

14.2 The place of performance for all deliveries and services shall be the forwarding address or place of use specified by us in the order. The transfer of risk shall also take place here.

14.3 The place of jurisdiction shall be Mönchengladbach.

14.4 The present terms of purchase are governed exclusively by the law of the Federal Republic of Germany to the exclusion of the provisions set by the Convention on Contracts for the international sale of goods (CISG) dated April 11th 1980.

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