

GENERAL TERMS AND CONDITIONS OF PURCHASE

1. General

- 1.1 The following general terms and conditions of purchase apply exclusively to our conclusions of contracts and orders. Deviating general terms and conditions of business of the supplier are considered as stipulated only if and when their validity has been confirmed by us in writing. We are also not obligated to them if we do not contradict them again in writing after receipt. The acceptance of deliveries and services or payment thereof does not constitute an approval to the general terms and conditions of business of the supplier.
- 1.2 Only written and legally signed orders and contracts are legally binding. Collateral agreements and alterations to the individual contracts are only binding when confirmed in writing.
- 1.3 Except as otherwise provided herein, the "Incoterms" established by the International Chamber of Commerce shall apply in their current version to the Trade Terms.

2. Granting of Orders

- 2.1 Our orders are only binding if the supplier confirms them within 10 days (after the order date) by providing a legally binding signature on the enclosed order acceptance form. Thereafter, no conclusive effect for us is applicable. Sec. 150 of the German Civil Code applies to belated confirmations.

3. Prices

- 3.1 The prices listed in our contracts, orders, and call purchase plans are fixed prices in EURO plus any statutory value added tax, and apply in principle to freight prepaid deliveries to our works, including packaging, unless otherwise explicitly agreed upon.
- 3.2 If orders are placed without a previous price agreement, then prices and price units must be presented to us for approval at the time the order is accepted, at the latest.

4. Dates of Delivery and Services

- 4.1 Stipulated dates of delivery and service are binding. Deliveries and services must be carried out according to the dates scheduled in our orders and call purchase plans, unless deviations thereof have been acknowledged by us in writing.

- 4.2** In case the supplier does not observe the stipulated dates or deadlines of delivery or service, he defaults in delivery if he does not perform despite a reminder (dispensable for performance deadlines determined or determinable by the calendar). In this case, we are entitled to the legal claims. In particular, in addition to compensation for damages due to the delay of performance after a reasonable deadline being given to the supplier expires in vain, we are entitled to choose between withdrawal from the contract and/or compensation for damages instead of demanding performance of service. We are also entitled to these rights with regard to the entire contract if the performance of service has not been effected in part by the end of the extended deadline, and partial fulfilment of the contract is of no interest to us. The latter does not apply, if the supplier was entitled to partial delivery in an individual case.
- 4.3** The acceptance of delayed deliveries or services does not preclude the assertion of damage claims due to the delay of delivery.
- 4.4** Even if the supplier is not responsible for the excess of the delivery or service deadline, in urgent cases (e.g. due to own deadline obligations), we are entitled to withdraw from the contract upon expiration of the reasonably extended deadline.
- 4.5** Partial deliveries are not permitted, unless otherwise stipulated in the individual contract.
- 4.6** Provided that otherwise explicitly agreed upon with us in writing, in case of deliveries being made prematurely, we reserve the right to accordingly make later payment of the purchase price or to return the goods to the supplier's address at his expense.

5. Penalty for Breach of Contract

- 5.1** For delays, after deduction of any damage claims, we are entitled to claim a penalty for breach of contract of 0.5 % per week to a max. of 5 % of the value of the overdue scope of delivery or service, whereby we are obligated to inform the supplier of the penalty for breach of contract proviso within 15 work days, counted from the receipt of the delayed delivery or service.

6. Dispatch, Packaging and Passing of Risk

- 6.1** The subject of delivery shall be dispatched to the address being named in the written order.
- 6.2** In regard to packaging, the supplier shall observe the statutory regulations, in particular the currently valid version of the packaging ordinance. In case the supplier requires the packaging material to be returned to him, this shall be marked clearly on the delivery notes. If such instructions are absent, we are entitled to dispose the packaging at the expense of the supplier. The same applies to one-way packaging.
- 6.3** The supplier carries the risk until the goods are received by us. This also applies in individual cases where delivery ex works has been stipulated or when we undertake the dispatch ourselves or by a third party at our expense.

7. Receiving Inspection, Quality Assurance

7.1 The values determined by us during the receiving inspection are decisive for the number of pieces, sizes, weight, and quality of a delivery. The acceptance takes place subject to the examination for accuracy and suitability, and otherwise according to the quality regulations of Schabmüller GmbH. Our control personnel is entitled to check the quality of the material and/or the manufacturing process of the subject of delivery during working hours at the supplier's factory. The payment of the purchase price does not represent acknowledgement of the delivery being free from defects and as prescribed. Upon acceptance and confirmation of our order respectively our call purchase plan, the supplier is obliged to maintain the technical data required for his deliveries and to control permanently the quality of his products. The supervision of quality respectively the acceptance of goods at the supplier's factory by our control personnel does not release the supplier from his liability for faults or deficiencies of the goods or services.

8. Warranty

- 8.1** The supplier warrants that his delivery or service has the stipulated and customary quality, corresponds to the recognized regulations and the newest state of technology as well as to the statutory environmental protection and work safety legal requirements (safety regulations, etc.), and that his delivery or service is free from defects which are appropriate to cancel or reduce the value or suitability for the normal use or the use required in the order.
- 8.2** Obvious defects shall be considered as being notified on time within two weeks of delivery and hidden defects within two weeks of discovery.
- 8.3** The warranty period shall be 24 months, beginning with the passing of risk.
- 8.4** We are entitled to uncurtailed statutory warranty claims. In any case, we are entitled to choose between the elimination of defects (remedy of defects) or the supply of material free from defects (replacement) free of charge. The right to claim compensation for damages instead of performance of service remain unaffected.
- 8.5** In case the supplier does not fulfil his warranty obligations or the replacement/remedy of defects fails or in urgent cases, we are entitled to substitute performance after advising the supplier about the defect.
- 8.6** For replacement deliveries, the two-year warranty period restarts with passing of risk.
- 8.7** In case of compensation for damages instead of performance of service, the supplier is liable to us for compensation of all damages, including direct and indirect consequential damage.
- 8.8** The supplier is obligated to release us from any liability for all claims which could arise from infringement on industrial property rights and copyrights or from infringement on third party rights.

9. Production Means, Material Provisions

- 9.1** Production Means, such as models, patterns, dies, tools, drawings and similar, which have been provided to the supplier by us or which have been produced by the supplier at our expense according to our specifications, as well as material and resources being provided to the supplier free of charge for handling or processing.
- 9.2** The supplier is only entitled to exclusively deliver subjects of delivery respectively material specifications, which were developed by or produced for the Schabmüller GmbH or its licensing partners to the works of Schabmüller GmbH. Direct deliveries to third parties are absolutely excluded. Upon a violation of the contract, we are entitled to withdraw from the contract and to demand the immediate return of the provided production means as well as compensation for damages incurred by us. The supplier shall keep the provided material and production means in safe custody with the due diligence of a prudent businessman, and is obligated to inform us immediately if seizures are made, a risk of seizure is threatening, or if our claim is endangered in any other way. Provided that deviations appear in the production means, e.g. between the pattern and drawing or between the production facility and drawing, the supplier is obliged to point out the deviations to us before the beginning of production.

10. Secrecy

- 10.1** The supplier is obligated to treat our orders and the details associated with them as business secrets. The supplier may not use the fact of the business relationship for advertising purposes or public relations without our explicit permission.

11. Force Majeure

- 11.1** In case of war, industrial actions, monetary and commercial policy measures or other events of force majeure or faultless non-delivery of pre-materials, we are entitled to postpone the acceptance respectively receipt of the ordered goods or requested services by the length of time of the hindrance plus an appropriate preparation time. Should interest in the delivery or service be dropped on our part as a result of the hindering event (e.g. as a result of the impossibility to fulfil our obligations towards third parties), then we are entitled to the right of withdrawal – excluding any claims for compensatory damages on the part of the supplier.

12. Assignment of Claims, Performance of Contract by Third Parties

- 12.1** An assignment of claims addressed to us to third parties is not permitted without our explicit written approval. For assignments which take place based on an extended reservation of title, permission is considered as granted from the outset, however, subject to the condition that we reserve the same rights towards the assignee as we would be entitled to towards the supplier without the assignment.

12.2 The supplier may not transfer the performance of the contract either wholly or partly to third parties without our explicit written permission. Even if this permission is granted, the supplier retains complete responsibility towards us for the fulfilment of the contract. Sub-suppliers shall be named to us upon request.

13. Data Protection

13.1 We are entitled to process the personal data obtained within the framework of the business connection in the sense of the Federal Data Protection Act.

14. Terms of Payment

14.1 Provided that otherwise stipulated in writing herein, we may choose to make payment for delivered goods or performed services either 30 days upon receipt of the invoice with a 3% discount or 60 days after the invoice date net. In case of receipt of the goods before the invoice, the discount period shall be dependent on the incoming of the goods.

15. Right of Set-off and Retention

15.1 The set-off with counterclaims of the supplier is only permitted insofar as we acknowledge them as existing and due or if they have been determined with final and binding effect. The supplier is entitled to a right of retention only insofar as it is based on the same contract relationship.

16. Place of Performance and Place of Jurisdiction

16.1 Place of performance is Berching and place of jurisdiction is Neumarkt i.d.Opf. (Germany). However, we are entitled to initiate proceedings against the supplier at the court of his principle place of business. All legal relationships between us and the supplier shall be governed by the laws of the Federal Republic of Germany as being applicable for the legal relationships of domestic parties.