



## **GENERAL CONDITIONS OF PURCHASE**

Edition 05/2020

### **I. Contents of Contract and its Conclusion**

1. These General Conditions of Purchase ("Conditions") shall apply to all – present and future – orders of goods and services and their transactions. Conflicting conditions or any of the Supplier's purchase conditions which differ from these Conditions will not be accepted unless otherwise specified in our contract with the Supplier. If we accept the goods without further objection, this may in no case be considered as our acceptance of Supplier's conditions.
2. If, for a specific order, special conditions are agreed in writing which differ from these Conditions then these Conditions are subordinate and supplementary only.
3. The preparation of offers is for us at no charge and not binding.
4. If the supplier does not accept an order within two weeks of receipt, we are entitled to withdraw at any time.
5. In the case of deliveries of goods, the relevant quality assurance agreements and logistics guidelines in their currently valid versions form an integral part of this contract.

### **II. Prices**

The prices agreed to represent free house delivery to the receiving location, including freight, packaging and similar costs. In case of deliveries where we pay the cost, we shall take over only the most favorable freight costs unless we have specified a special type of shipment.

### **III. Payment**

1. The following payment conditions apply if nothing else has been agreed to: We will balance your invoices from the 1st to the 15th of a month on the last of the same month, invoices from the 16th to the last of one month, on the 15th of the following month, each with a 3% discount. In the case of a later delivery, the date of the goods receipt will be used instead of the invoice date. Receivables from business with other companies in the SCHAUBURG Group can be offset. If we find defects in any delivery, we are entitled to reduce subsequent invoices by the invoice value of the defective delivered products. The amount withheld will be paid out after the guarantee has been fulfilled.
2. Payments will take place by check or bank transfer. Payment is considered to be on time when the check is put in the mail or the transfer papers are given to the bank on the due date.
3. Invoices must be submitted stating the order number, order item, account assignment, unloading point, supplier number, part number, quantity and unit price as well as the quantity per delivery.

### **IV. Delivery Deadlines**

1. Delivery deadlines and dates are binding. The Supplier shall notify us immediately of imminent delays in delivery.
2. In the event of a delay in delivery, we are entitled to statutory claims. In particular, we are entitled to demand compensation instead of performance after the expiry of a reasonable grace period.
3. The unconditional acceptance of the delayed delivery or service does not include a waiver of the claims for compensation due to the late delivery or service or a possibly forfeited contractual penalty; this applies until the payment owed by us for the delivery or service concerned has been paid in full.
4. The supplier can only invoke reasons for a delay for which the supplier is not responsible if he has complied with the notification obligation

### **V. Retention of Title**

With regard to the rights of retention of title of the contractor, its terms and conditions apply, with the proviso that ownership of the object of sale passes to us upon payment of this object and accordingly the forms of extension of the so-called current account and group reservation do not apply.

### **VI. Execution of Deliveries and Transfer of Risk**

1. The supplier carries the risk of accidental loss and accidental deterioration, even with prepaid and free house deliveries, until the goods have been handed over at the place of delivery.
2. Partial deliveries require our agreement.
3. Quantities exceeding or less than those ordered are permitted only within the usual trade conditions.
4. The Supplier shall ensure that it will continue to be able, for a period of 15 years following the termination of the supply relationship and on reason-able terms and conditions, to deliver to us the supplied articles or parts thereof as spare parts

### **VII. Declarations of Origin**

In the event that the contractor declares the origin of the goods sold, the following applies:

1. The contractor is obliged to enable customs administration to review the proofs of origin and to provide the necessary information and to provide the necessary confirmations.
2. The contractor is obliged to compensate for the damage caused by the fact that the declared origin is not recognized by the competent authority as a result of incorrect certification or a lack of verification options. However, this liability only arises in the case of culpable behaviour on the part of the contractor or in the absence of guaranteed properties.





### **VIII. Confidentiality**

1. The supplier will keep the information provided by us, such as drawings, documents, knowledge, samples, means of production, models, data carriers etc. secret, not make them accessible to third parties (including sub-suppliers) without our written consent and not to anyone other than that of use us for specific purposes. This applies accordingly to reproductions of the beforementioned. This obligation does not apply to information that was already known to him when he received it, without obligation to maintain secrecy, or that subsequently became known without authorization, that is or is generally known without breach of contract by one of the parties, or for which he is in writing permission for other use has been granted.
2. In the event of a breach of these obligations, a contractual penalty of EUR 25,000 (twenty-five thousand) will be payable immediately for each violation. The supplier reserves the right to have the appropriateness of the contractual penalty judged. Any contractual penalties paid are to be offset against claims for damages.

### **IX. Quality management**

The supplier must constantly monitor the quality of his services. Before the respective delivery items are delivered, the supplier will ensure that the delivery items intended for delivery are free of defects and meet the agreed technical requirements. The supplier shall confirm this in before each delivery in writing without being called upon to do so.

### **X. Liability for Defects and Statute of Limitations, Supplier Recourse**

1. The contractor has to guarantee that his deliveries and services correspond to the recognized rules of technology and the contractually agreed properties, standards as well as the safety, occupational safety, accident prevention and other regulations that have guaranteed properties and are not subject to errors that affect the value or suitability of the products for the usual or the contractually intended purpose more than insignificant.
2. The goods are checked for quality and completeness after receipt to the extent that is reasonable and technically possible for us. A period of 14 days after receipt of the goods by us and - in the case of third-party business - 14 days after receipt of the goods by our customer applies to the notification of obvious defects and the apparent lack of guaranteed properties.
3. The complaint of non-obvious defects and the non-obvious lack of guaranteed properties is admissible up to 14 days after discovery of the defect by us or our customer.
4. If a product is defective or if it does not have guaranteed properties, we are entitled to the statutory rights of our choice as well as the right to rectification or replacement delivery and to reimbursement of the necessary expenses. If the contractor does not undertake the rectification or subsequent delivery after a corresponding request within a reasonable grace period or only insufficiently, we can remedy the defects at his expense or have them remedied by third parties or make cover purchases.
5. In the absence of warranted properties and in cases of culpable bad or incorrect delivery, we are entitled to claim damages for non-performance instead of the claims according to No. 4 above.
6. In the event of imminent danger, we are entitled, after notifying the seller accordingly, to remedy the defect ourselves at the seller's expense.
7. The contractor gives us a guarantee of 36 months for all delivery items, unless otherwise agreed. The same applies to subsequent deliveries as part of the contractor's guarantee.
8. The contractor hereby assigns to us - on account of performance - all claims which it is entitled to against its upstream suppliers and in connection with the delivery of defective goods or goods which lack the guaranteed properties. He will provide us with all the documents required to assert such claims.
9. We are entitled to our statutory rights of recourse within the supply chain (§§ 445 a, 445 b, 478 German Civil Code) in addition to other claims for material defects. We are particularly entitled to request the same type of supplementary performance (rectification or replacement delivery) from the seller that we owe to our customer in individual cases. This does not restrict our statutory right to choose (Section 439 (1) German Civil Code). We are also entitled to recourse within the supply chain if the defective goods are made by us or another entrepreneur, e.g. was processed by incorporation in another product.

### **XI. Product Liability and Recall**

1. In the event a product liability claim is asserted against us, the Supplier agrees to hold us harmless from such claims if and to the extent the damage was caused by a defect of the supplies or services. The above indemnification shall not apply if the claim is based on our intentional or grossly negligent breach of duties. If the cause of the damage falls within the area of responsibility of the Supplier, the Supplier shall have the burden of proof to that extent. In the above cases the Supplier assumes all costs and expenses, including the costs for any legal action or a recall campaign. In addition, the legal stipulations shall apply. Further damages shall remain unaffected.
2. The Supplier shall maintain a product liability insurance with an adequate minimum insurance amount of € 5 million for each single occurrence of personal and property damage.

### **XII. Provisions**

Materials, parts, containers, special packaging, tools, measuring equipment or similar provided by us remain our property. When processing, combining and mixing supplies, we receive co-ownership of the new product in the ratio of the value of the supply to the value of the overall product. The supplier is not entitled to a right of retention for whatever reason.

### **XIII. Tools, models, drawings and other documents**

1. Materials, special packaging, tooling, models, drawings and other documents supplied by or prepared for us remain our property and may only be used to perform our orders. They may not be given to third parties without our approval and must be retained until further notice, at a maximum two years after their last usage, in an orderly condition and then returned to us.
2. The manufacture and processing of such tools, models, drawings and other documents, which the contractor produces on our behalf, are carried out for us as the manufacturer with the result that we acquire ownership of them. Any repairs to the tools or devices are at the expense of the user. The same applies to any replacement of tools and devices that becomes necessary before the agreed application rate has been met.
3. Tool costs are paid purely net after the successful presentation of failure patterns.





**XIV. Severability clause**

If a provision is or becomes ineffective, the validity of the other provisions is not affected. As far as reasonably possible, the parties are obliged in good faith to replace ineffective provisions with effective regulations that have the same economic result.

**XV. Place of Performance, Jurisdiction, Applicable Law**

1. Unless otherwise agreed, the place of performance for the delivery is our company.
2. The place of jurisdiction, insofar as permitted by Section 38 of the Code of Civil Procedure, is the seat of our main branch. We can also sue the contractor at his place of jurisdiction as well as at the place of jurisdiction of our branch registered with the commercial register with which the contract was concluded.
3. The law of the Federal Republic of Germany applies to all legal relationships between us and the contractor in addition to these conditions.

**XIII. Applicable Version**

In cases of doubt, the German version of these General Conditions of Purchase shall prevail.

