

**1. Scope of Application**

The following Terms and Conditions of Purchase shall apply to our business transactions with businesspersons as defined in § 14 of the German Civil Code (BGB).

Any orders placed or contracts made with suppliers shall be exclusively subject to the following Terms and Conditions of Purchase: we do not accept any conditions of the Supplier which conflict with or deviate from our Terms and Conditions of Purchase unless expressly agreed in writing.

Our Terms and Conditions of Purchase shall equally apply if it is known to us that the conditions of the Supplier conflict with or deviate from our Terms and Conditions of Purchase, and we accept deliveries or services from the Supplier without objection or reservation.

Our Terms and Conditions of Purchase shall also apply to any future business conducted with the Supplier.

**2. Orders and Order Documents**

Cost estimates shall be free of charge unless otherwise expressly agreed in writing.

Any orders and acceptance of orders as well as changes and supplements to the latter shall be made in writing or in textual form. All orders shall be confirmed by the Supplier within 5 working days.

If delivery on call is agreed upon, delivery schedules shall become binding unless rejected by the Supplier within 5 working days.

Deliveries or services shall not be assigned or subcontracted to third parties in full or in part without our written consent.

Images, drawings, calculations and other documents or data records shall not be made available to third parties without our prior express consent in writing. Any such documents or data shall be used exclusively for our orders and shall be promptly returned to us after the completion or non-acceptance of the order.

**3. Delivery Dates and Delays in Delivery**

Agreed delivery dates shall be binding and shall be considered to have been fulfilled only when all agreed deliveries and services, including documentation, have been fully supplied. Deliveries in part or in advance shall be permitted only with our written consent.

The agreed delivery date shall be understood as the date of delivery to the Purchaser's place of business. If the Supplier becomes aware that any potential delay is likely to occur, the Supplier shall, without prejudice to his or her liability for such delay, promptly notify us in writing (by fax, e-mail) and recommend ways to avoid or reduce losses. Any additional expenses or effort involved (e. g. costs for transport, acceptance or inspection caused by additional deliveries) shall be borne by the Supplier.

Any acceptance or use of delayed deliveries or services made by us without objection or reservation shall in no way affect any claims to which we may be entitled as a result of the delay.

In case of delay in delivery, we shall be entitled to all claims provided by law. In particular, we shall be entitled to claim damages in lieu of the original service and to withdraw from the contract if the Supplier has still failed to deliver after the expiration of a reasonable deadline. Should we claim damages, the Supplier shall be entitled to prove that the breach of contract occurred without any fault of the Supplier.

**4. Delay in Acceptance – Force Majeure**

In case of Force Majeure, in particular strikes, lockouts or other significant and unforeseen disturbances to our business, we shall be entitled – taking into consideration the time and effort invested as well as any other use options available to the customer – to withdraw from the contract in full or in part, or to postpone delivery dates until such time as the disturbance and any consequences arising from the latter are eliminated.

**5. Delivery DDP (Incoterms 2000)**

All deliveries shall be made DDP (INCOTERMS 2000) at the Purchaser's place of business unless otherwise expressly agreed in writing. Note: This usually requires goods to be delivered duty paid to the Purchaser at the risk and expense of the Supplier.

**6. Delivery Note, Identification and Labelling**

Delivery notes shall state the order number and the quantity as well as the item or drawing number. Accompanying documents shall be clearly identified and contain the following details:

- Supplier
- Order number
- Quantity
- Item or drawing number
- Net and gross weight
- Commodity code and/or customs tariff number
- Hazardous substances

Self-adhesive labels or accompanying documents shall be in sufficient size and number, and be attached in such a manner, as to not be damaged during transport or when removing packing material, and shall allow the goods to be identified at any time.

**7. Supply Quantities**

Supplies shall be invoiced and paid for according to such weight and/or quantity as is established upon acceptance of the goods by Schischek or by any receiving agent notified to the Supplier. We shall not accept any charges for drafts, drawings or samples unless proof of a written agreement to such an effect is furnished.

**8. Prices, Payment and Assignment of Claims**

All prices are DDP (Incoterms 2000) at the Purchaser's place of business and are fixed prices unless otherwise expressly agreed in writing. Agreed prices shall constitute the total payment due for any supplies, expenses, charges, outlays and any other performances which may be required or useful in the fulfillment of the Supplier's obligations. Prices are net prices excluding turnover tax (Value Added Tax) payable according to statutory regulations as valid in Germany.

Payment shall only be made against commercial invoice. Invoices shall separately state the amount of Value Added Tax included.

Payments received within 14 days of the agreed or actual delivery date, or receipt of invoice (depending on which of the aforementioned occurs last), shall be subject to a 3% cash discount, within 30 days to a 2% cash discount; payments within 60 days shall be strictly net.

Any payments made by us are made under the reserve of invoice checking and do not constitute a declaration of acknowledgement. In case of justified complaints regarding defects, we may, without limiting our rights to cash discounts, withhold payment for a reasonable period of time needed to clarify the matter.

Any claims to which the Supplier may be entitled under this agreement may not be assigned or given in pledge to third parties without our prior written consent. The aforementioned shall not apply to extended reservation of proprietary rights. In the case of any assignment or pledge, we shall be entitled to render payments or services to the Supplier's creditors directly if, in our opinion, delivery may thus be made possible, facilitated or accelerated.

We shall be entitled to offset and retention rights as provided by law.

**9. Packaging**

The packaging shall ensure the best possible protection of the shipment under the given transport conditions against damage, loss and unintentional delivery of the wrong goods, and shall prevent damage caused by third parties. The company or person making the delivery shall, upon our request and free of charge, remove packing materials and ensure proper re-use or disposal thereof.

**10. Environmental Regulations**

The Supplier guarantees compliance with environmental regulations as valid and applicable in any places of manufacture, transport and delivery, including regulations on hazardous substances and goods. In the case that we are obliged to take back disused products from customers or users, the Supplier agrees to take back free of charge any such products which he or she has supplied.

**11. Confidentiality, Property Rights in Documents**

Each party to the contract shall not use drawings, particulars, calculations, documents, samples, models, compiled data or any other physical embodiment of knowledge (hereafter „information“) received from the other party during the parties' business relationship for any purposes other than to fulfil its obligations under the agreement and shall protect such information from disclosure to and use by any third party as if it were its own information, if any such information has been identified as confidential by the other party or if such confidential treatment is evidently in the other party's interest. The Supplier shall also impose such obligations of confidentiality on its own suppliers. Any information remains the property of the disclosing party and shall be promptly returned to the said party upon its first written request, including any copies and reproductions which may have been made.

The aforementioned obligation shall be effective from the first receipt of information until 5 years after the termination of the business relationship between the parties. Products which have been manufactured making use of our information shall not be used by the Supplier for his or her own purposes, nor offered or supplied to third parties unless such products are commercially available or had been manufactured or used by the Supplier prior to obtaining any of our products or information.

**12. Quality Management, Liability for Defects**

The Supplier guarantees that a quality management system which conforms with the generally accepted rules of technology and logistics shall be maintained in his or her business and that regular post-production quality checks shall be carried out within this framework, so that the Purchaser is not required to carry out double-checks during inspection of incoming goods. Our obligation to immediately examine goods for defects upon delivery shall be reduced to the extent that goods must, upon arrival, only be examined for damage in transit which is evident from the packaging, as well as for type and quantity on a random sample basis. We shall therefore be permitted to take packaged goods into stock without any further examination and use these in the production process without inspection. If the goods are found to be defective during our production process or on the occasion of inspections within the framework of our own quality management system (e.g. final quality checks of our products), we shall notify the Supplier of any such defects within 4 working days.

In case of quantity purchases the Supplier may, after receipt of any notification of defects, immediately request to personally sort out any goods affected by the defect within 48 hours if and to the extent that this may be carried out without harm to our operational business. We shall be entitled to remedy minor defects by ourselves and at the Supplier's expense after having notified the Supplier thereof. The same shall apply where defects have to be eliminated without delay to protect the production process and to ensure fulfillment of our supply obligations, if we have granted the Supplier a 48-hour period to replace the defective material.

If the same kind of defect occurs in more than 3% of the contractual products within the same production batch (replicated defect), any and all contractual products of that same production batch shall be deemed to be affected by this defect. The costs incurred in sorting out defective products from our production process or from our finished goods warehouse as well as the costs for any necessary safety warnings or product recalls shall be borne by the Supplier.

Any warranty claims against the supplier due to material defects shall be subject to a limitation period of 24 months, beginning from the delivery of the goods manufactured in our production process to our customers; any such claims shall, however, become time-barred at the latest after 36 months from the date of delivery. Where supplies or services are subject to acceptance, the date of acceptance shall be relevant in place of the date of delivery. In the case of repaired or replaced parts, the warranty period shall begin anew.

**13. Product Liability**

If claims are raised against us by our customers or by third parties on the grounds of product liability, the Supplier shall, without prejudice to any statutory claims to which we may be entitled, indemnify us from any such claims if and to the extent that the damage claimed was caused or materially contributed to by defects in products supplied by the Supplier (attribution of damage).

The Supplier's obligation to indemnify shall encompass reimbursement of any costs and expenses attributable to defects in the Supplier's products, including legal costs and costs for product recalls; this shall also apply to replicated defects, whether apparent or imminent. The Supplier agrees to effect and maintain product liability insurance for an amount of not less than € 10,000,000 per claim.

**14. Property Rights in Supplied Materials and Testing Devices**

Any materials supplied by us shall remain our property; they shall be stored separately and used by the Supplier exclusively for the purpose of processing our orders. The Supplier shall be liable without fault for any damage to or loss of such materials and, if necessary, shall effect and maintain insurance against such damage or loss at its own expense. If such damage or loss occurs, we shall be promptly notified in writing.

Should improvements be made on the customer's side in connection with orders placed, we shall have a gratuitous non-exclusive licence for our own commercial use of any such improvements. Any testing devices, tools or manufacturing resources provided to the Supplier shall remain our property. All of the aforementioned equipment shall be treated with care and returned to us after the contract has been fulfilled, even without any particular request to such effect.

**15. Industrial Property Rights**

The Supplier guarantees that the manufacture, use or distribution of products supplied by the same will not infringe any rights of third parties within the European Union.

Should claims be raised against us by any third party on the grounds of any infringement of industrial property rights as a result of the manufacture, use or distribution of products supplied by the Supplier, the Supplier shall indemnify us from such claims upon our first written request. The Supplier shall likewise be entitled to be indemnified by us from any claims which may arise if and to the extent that the Supplier has manufactured products on the basis of information provided by us and was reasonably unaware that infringements of industrial property rights of third parties may result from any such manufacture.

The obligation to indemnify shall apply to any foreseeable expenses which may be incurred by the other party to the contract in connection with any claims raised by third parties.

**16. Severability, Agreements**

Should any individual provisions under these Terms and Conditions of Purchase be or later become legally invalid, this shall not affect the legal validity of any of the other provisions hereunder. In any such case, the parties to the contract shall cooperate to reach a valid provision which approximates as closely as legally admissible the invalid provision.

Any additional agreements which have not been referred to in these Terms and Conditions of Purchase do not exist; any prior agreements made shall be superseded by this agreement. Amendments or supplements to this agreement shall only be binding if made in writing. The parties waive in advance any claims that such requirement of written form had been amended or annulled by oral agreement.

**17. Place of Jurisdiction, Applicable Law**

The public courts of the place of business shall have jurisdiction over any disputes arising from these Terms and Conditions of Purchase or from any agreements entered into in the execution thereof (e.g. delivery schedules). We may, however, also bring legal action against the Supplier, at our option, in the courts of the place of business of the Supplier or of any of its branches or in the courts of the place of delivery.

These Terms and Conditions of Purchase shall be governed by the substantive law of the Federal Republic of Germany without giving effect to its conflict of laws provisions.