

§ 1 Scope of the provisions

The following General Terms and Conditions of Purchase apply to all current and future orders and purchase orders placed by Schnorr GmbH (hereinafter referred to as: the "Purchaser"), in particular to our purchases of goods and to services and work commissioned by us. General terms and conditions of business of the supplier shall only apply if we have explicitly consented to such terms and conditions in writing. The following terms and conditions shall also apply if we accept delivery from the supplier without reservation although we have knowledge of terms and conditions of the supplier conflicting with or deviating from our Terms and Conditions.

§ 2 Conclusion of the contract and changes to a contract

1. The written statements are authoritative in determining the scope of the purchase order. If a contract has been entered into without written statements having been mutually received, then the written purchase order placed by the Purchaser is binding. Purchase orders must be confirmed by the supplier within 10 working days of the order date shown and must indicate the reference number. If the supplier fails to confirm the purchase order of the Purchaser prior to expiry of the 10th working day at the latest, the Purchaser is entitled to revoke the order.
2. Purchase orders, contracts and delivery call offs and amendments and alterations thereto must be made in writing in order to be valid. Oral agreements of all types – including retrospective amendments and supplements to our Terms and Conditions of Purchase – must be confirmed by us in writing in order to be valid. The written form requirement is also deemed met by means of remote data transfer and telefax.
3. Cost estimates are not subject to charge unless explicitly otherwise agreed in writing.
4. Delivery call offs in the context of an on-going business relationship become binding if no objection is raised by the supplier within two working days of receipt.

§ 3 Delivery, time limits and dates

1. Agreed dates and time limits are binding. The criterion determining compliance with the delivery date or time limit for delivery is the date of receipt of the goods by us or due performance of the service or transmission of the respective documentation to the place indicated by the Purchaser. If the parties have not agreed to "free at factory" delivery (DDU or DDP pursuant to Incoterms 2010), the supplier shall make the goods available in good time taking account of the loading and shipping time to be agreed with the carrier.
2. If the supplier has assumed responsibility for erection or assembly and unless otherwise agreed, the supplier shall bear all the necessary incidental costs such as travel costs, provision of tooling and daily allowances, subject to any deviating provisions. The supplier's personnel/persons employed in the performance of an obligation, who conduct work on our factory site in performance of the contract, must comply with the provisions of the respective factory regulations. Liability for accidents sustained by such persons on the factory site is excluded unless the accident was caused by us deliberately or by gross negligence or if the injury is a fatal injury, a physical injury or damage to health or constitutes a violation of material contractual obligations. Compensation for a violation of material contractual obligations is, however, limited to damage that is typically foreseeable for the type of contract, unless there is liability due to intent or gross negligence or to a fatal injury, a physical injury or damage to health. Material contractual obligations are those obligations which the due execution of the contract is dependent upon having performed and which the supplier may regularly rely on performance of.
3. The supplier shall produce and supply the ordered goods so that the safe use thereof is possible; in particular any storage and operating regulations or handling instructions must be provided together with the service/delivery without any specific request to do so being required. Attention must be unequivocally drawn to any dangers by affixing clearly visible clear and generally understandable or generally recognized hazard symbols and warning notices.
4. The delivery or performance date indicated in the purchase order is binding. If the supplier anticipates any difficulties arising with regard to the production, supply of precursor material, adherence to the delivery date or similar circumstances which could prevent the supplier from delivering on time or from delivering the quality agreed, then the supplier must notify us hereof without undue delay.
5. If dates agreed upon are not adhered to we have the right, subject to further statutory claims, to demand flat rate default damage in an amount equal to 0.5% of the agreed price for each week of default commenced, but not exceeding 5 % of the price agreed for that part of the consignment which it was unable to put to pertinent operation due to the delay. The right to assert further claims based on delayed delivery is unaffected hereby.
6. Acceptance of the delayed delivery or performance without reservation does not constitute a waiver of the claims for compensation to which we are entitled due to the delayed delivery or performance; this shall apply pending payment in full of the consideration owed by us for the delivery or performance affected.
7. Part deliveries are inadmissible in principle unless we explicitly agreed to them or can be reasonably expected to accept them.
8. We have the right to use the software which belongs to the scope of the product delivery and also the respective documentation to the extent admissible by statute (§ 69a et seqq. German Copyright Act (UrhG)).
9. We also have the right of use to such software and the respective documentation together with the agreed performance features and to the extent necessary for the use of the product in accordance with the contract. We may also make a backup copy without any explicit agreement.
10. For the case of default in acceptance, the statutory rules shall apply. The performance must nonetheless actually be offered by the supplier, even if a period of time has been specified for our assistance or our cooperation (e.g. supply of materials).

11. Insofar as we are in default of acceptance of the delivery/performance or of a collaboration obligation incumbent on us, the claim for compensation which the supplier is entitled to shall be limited to 0.2 % of the value of the delivery or performance for each full week of default but not exceeding, on aggregate, 2% of the price agreed; this shall not apply insofar as the default is based on intent or gross negligence.

§ 4 Time limits and dates; shipping instructions, passing of risk and terms of payment

1. Save as otherwise agreed the prices are understood as being delivered free domicile duty paid (DDP in accordance with Incoterms 2010) including packaging. Value added tax is included therein, if not otherwise identified. Consignments weighing up to 31.5 kg are to be sent via DPD to the address of the Purchaser. Consignments weighing over 31.5 kg are to be transported using the freight forwarder Gebr. Weiss GmbH & Co. KG, Zeppelinstrasse 90, 73730 Esslingen, insofar as we have to (jointly) bear the transport costs in accordance with a separate agreement; any additional costs incurred by commissioning different freight forwarders shall be borne by the supplier.
2. The supplier shall bear the risk of accidental loss, destruction or deterioration of the goods pending acceptance of the goods by us or our agent at the place to which the goods are to be delivered in accordance with the order.
3. Save as otherwise agreed, the invoice shall be paid either within 14 days subject to deduction of 3 % discount or within 30 days with no deduction, calculated with effect from the due date of the claim for payment and receipt of both the invoice and the goods or performance of the service. Payment shall be made subject to verification of the invoice. If the delivery/performance is not received by us until after issuance of the invoice, then the time limits shall not start to run until after receipt of the delivery/performance.
4. The supplier is obliged to quote our exact order number on all invoices and other payment requests; if the supplier fails to do so, we shall not be responsible for any delays in processing caused as a result. A single copy of the invoice quoting our order number and the invoice number and any other allocation data is to be addressed to our purchasing department (Einkaufsabteilung); it may not be included with the consignments.

§ 5 Off-set, assignment

1. Rights ensuing from a purchase order may only be assigned or transferred to third parties with the mutual agreement of the parties, unless the transaction is a commercial transaction for both parties. Our consent is deemed to have been given if, in the normal course of business, the supplier has granted extended reservation of title to its supplier.
2. We are entitled to rights of set-off and retention to the extent provided by statute.
3. The supplier may only offset our claims against claims which are recognized by us, are undisputed or established with final legal effect.

§ 6 Details of quality, warranty for defects; liability

1. The supplier provides a warranty for its supplies/performance being in compliance with the quality agreed in the contract, in particular with our specifications, the other requirements and standards, in addition with recognized good engineering practice and finally with the labour protection and accident prevention regulations, as specified in particular in European and German industrial standards (DIN/EU standards) and other recognized technical provisions.
2. Acceptance is effected subject to an examination being conducted with regard to freedom from defects, also including, in particular, an examination of correctness and completeness, quality and quantity, insofar and as soon as this is pertinent in the normal course of business.
3. In the event of over-delivery exceeding the amount customary in the trade, we reserve the right to return the amount of excess goods at the supplier's expense.
4. The statutory provisions relating to defects as to quality and defects of title shall apply unless otherwise provided for herein below.
5. In principle we have the right to select the type of supplementary performance. The supplier may refuse to comply with the type of supplementary performance we have selected if it is only possible at unreasonable cost.
6. If the supplier should fail to commence rectification of the defect without undue delay after being requested by us to remedy the defect, then in urgent cases, in particular to avert acute danger or avoid greater damage, we have the right to conduct this ourselves at the supplier's expense or to have it carried out by a third party at the supplier's expense.
7. In the event of defects of title, the supplier shall also indemnify us against any third party claims which may exist, unless the supplier is not accountable for the defect of title.
8. Claims for defects shall be subject to a three year limitation period – except in cases of fraudulent intent – unless the product has been used for a building construction in accordance with the customary use thereof and caused the deficiency thereof. The limitation period starts to run on the date of delivery of the subject matter of the contract (date of passing of risk). Any tolling of the statute of limitations shall be governed by the provisions of statute.
9. If the supplier complies with its supplementary performance obligation by supplying a replacement, the limitation period applying to the goods delivered as a replacement shall start to run anew on the date of delivery thereof unless, in effecting supplementary performance, the supplier explicitly and appropriately made the reservation that the replacement was only being delivered by way of accommodation, in order to avoid disputes or in the interests of the continuation of the supply relationship.
10. If we incur costs due to the defective delivery of contractual goods, in particular transport, infrastructure, labour and material costs or incoming goods inspection costs exceeding that which is customary, then the supplier shall bear such costs, unless the supplier is not responsible for the breach of duty.

§7 Product liability

1. The supplier shall provide a warranty for its goods delivered/performance being defect-free within the meaning of the German Product Liability Act.
2. In the event of claims being asserted against us by third parties on account of product liability, the supplier is obliged to indemnify us from claims of this nature insofar and to the extent that the damage is caused by a defect in the contractual goods supplied by the supplier. In cases of liability dependent on fault this shall, however, only apply if the supplier is at fault.
3. In cases based on subsec. 7.1 above, the supplier shall bear all the costs and expenses including the costs of taking any legal action.
4. In all other respects the provisions of statute shall apply.
5. Prior to conducting a product recall which is the consequence – in whole or in part – of a defect in contractual goods supplied by the supplier, we shall inform the supplier, offer the supplier the possibility of collaborating and exchange information with the supplier on conducting the product recall efficiently, unless no such notification of or collaboration by the supplier is possible because of the particular urgency required. Insofar as a product recall is conducted as a consequence of a defect in a contractual good supplied by the supplier, the supplier shall bear the costs of the recall, unless the supplier is not responsible for the breach of duty.

§8 Reservation of title; parts provided

1. Insofar as we provide the supplier with parts, we reserve the title to such parts. Any processing or transformation by the supplier is performed for us. If our goods subject to reservation of title are processed with other items not belonging to us, then we acquire joint ownership in the new product in the same proportion as that of the value of our product with respect to that of the other items processed at the time of such processing.
2. If the parts provided by us are indivisibly intermingled with other items not belonging to us, then we acquire joint ownership in the new product in the same proportion as that of the value of the goods subject to reservation of title with respect to that of the other intermingled items at the time of such intermingling. If such intermingling is conducted in such a manner that the items not belonging to us are deemed to be the principle product, then it is deemed agreed that the supplier transfers proportionate ownership to us. The supplier shall store the solely owned or jointly owned property thus created on our behalf.

§9 Documentation and confidentiality, references

1. All business and technical information we make available (including characteristics which can be derived from any items, documents or software handed over, and other knowledge or experience) is to be kept secret vis-à-vis third parties as long and insofar as it is not provably public knowledge, was rightfully received by supplier from a third party without any obligation of confidentiality or was independently developed by supplier without use of the disclosed information, and it may only be made available to those persons in the supplier's own business who have to be involved in the use thereof for the purpose of the supplies to us and who have similarly been committed to uphold secrecy; it remains our exclusive property. Without our prior written consent such information may not be duplicated or used commercially except for supplies to us. If we so request, all of the information stemming from us (including, if appropriate, any copies or records made thereof) and items provided on loan must be returned to us in full without undue delay or be destroyed.
2. We reserve all rights to such information (including copyright and the right to register industrial property rights such as patents, utility models, semiconductor protection etc.). Insofar as third parties have made these available to us, this reservation of all rights also applies with respect to such third parties.
3. Products manufactured in accordance with documents drafted by us, such as drawings, models et cetera, or in accordance with our confidential details or using our tools or replicated tools may not be used by the supplier neither by the supplier itself, nor offered or supplied to third parties. Only we are entitled to the rights of use and they are to be transferred to us upon demand.
4. The supplier may only refer to the Purchaser if the Purchaser has given its written consent.

§10 Orders for computer, electronic and control software

1. If the Purchaser orders computer, electronic, control or other software (hereinafter collectively referred to as "Software"), when developing and producing the Software the supplier shall comply with the requirements specifications (Pflichtenhefte) compiled by us or our customer and with the know-how otherwise conveyed to the supplier either orally or in writing (hereinafter referred to as "Contract Know-how"). We have full ownership of the requirements specifications provided to the supplier for use and of the Contract Know-how provided to the supplier. Furthermore we are and remain the sole owners of all protective rights, copyright, rights of use and exploitation rights and of all other rights to the requirements specifications and the Contract Know-how.
2. Supplier grants to Purchaser for any work results in this respect without limitation in place, time or manner the exclusive and irrevocable rights of use in any known or unknown manner at the time of their development, and furthermore exclusive and unlimited title for those work results, where title may be transferred. Purchaser is in particular without limitation entitled to reproduction, editing (including the combination of software with other programs, the transformation and the conversion for other programming languages and other operating systems), transmission in other forms of presentation and modification in any other way of the work results, to proceeding or amending, to distribution of the work results in modified or unmodified versions or to wire-bound or wireless public reproduction.
3. The supplier is obliged to ensure, by reaching respective agreements with its employees involved in the development and production of the Software and with

any sub-contractors engaged by the supplier and freelance employees, that the aforementioned rights to the Software and to the respective descriptions, documentation and data media are transferred to us in accordance with the foregoing provisions.

4. The supplier warrants that the Software developed or produced by the supplier is free of third party protective rights which could restrict or impair the use of the Software by the Purchaser and/or its customers. The supplier indemnifies the Purchaser to this effect from all third party claims on account of an infringement of industrial property rights by its services and from the costs associated therewith, unless the supplier is not responsible for the breach of duty.
5. The parties shall inform one another without undue delay as soon as a third party alleges any infringement of protective rights through the services of the supplier or asserts any claims on account of an infringement of its protective rights.
6. If any claims are asserted against us or to be anticipated on account of an infringement of industrial property rights, the supplier may amend or substitute at its expense the Software developed and produced by the supplier to an extent which we or our customers can be reasonably expected to accept.

§11 Employees of the Supplier

1. Supplier warrants that employees of Supplier from outside the European Union shall only be deployed, if such employees are in possession of a valid work permit and a valid social security card. Supplier assures that any sub-contractors of Supplier comply with the aforementioned obligations as well.
2. If and to the extent Supplier supplies work or services (Werk- oder Dienstleistungen), Supplier shall be obliged vis-à-vis Purchaser to pay their employees the minimum wage and to pay the contributions to the relevant paid leave funds as provided for in the Minimum Wage Act (MiLoG), the Employee Assignment Act (AEntG) and the Social Security Code IV and the Social Security Code VII. Supplier assures that any sub-contractors of Supplier comply with the aforementioned obligations as well.
3. If and to the extent Supplier supplies work or services (Werk- oder Dienstleistungen), in the event of any breach of Supplier or any of their sub-contractor of the aforementioned obligations, Supplier indemnifies and holds Purchaser harmless from any claims made against Purchaser as guarantor pursuant the Minimum Wage Act (MiLoG), the Employee Assignment Act (AEntG) and/or the Social Security Code IV and/or the Social Security Code VII, unless Supplier is not responsible for the breach of duty. The same applies, if Purchaser's liability as guarantor results from further subcontracting and/or the assignment of a hirer.
4. In the event of a culpable breach of the obligation set out in the preceding Para. 2, Supplier shall, notwithstanding the right to claim further damages, pay a contractual penalty amounting to a net monthly salary per employee in question.

§12 Special tools

1. The term Special Tools means all samples, tools, models, moulds, measurement equipment, testing equipment, cutting tools, testing tools, drawings and templates and all other tools required to produce the goods, which the supplier did not yet use or acquire prior to the purchase order for the goods and which the supplier procured at its expense solely to produce the goods ordered by us. Excluded from this is that equipment and those tools which we provided the supplier with for production of the goods.
2. The supplier undertakes to obtain our written consent, which may only be refused for good cause, if the supplier would like to procure the Special Tools from suppliers other than those hitherto installed at the supplier or proposed by us, if we rely on absolute quality compliance because of the possibility of major damages for our customers in case of quality variances of the supplies and if we have advised the supplier accordingly. Good cause justifying refusal of our consent is deemed to be, in particular, a significant difference in quality compared with the products of the supplier of the Special Tools hitherto installed or proposed by us.
3. The supplier shall, under the preconditions of Sec. 11 Para. 2, keep the Special Tools in a proper condition and regularly maintain them at its own expense so that the proper production of the goods is guaranteed.

§12 Place of performance; applicable law; jurisdiction and venue; partial ineffectiveness

1. The place of performance for all orders and purchase orders placed by us is 71069 Sindelfingen, Germany.
2. The legal relationships between the supplier and us are solely governed by the laws of the Federal Republic of Germany to the exclusion of the conflict of laws provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).
3. The courts with jurisdiction for Sindelfingen shall have jurisdiction and venue over all legal disputes arising directly or indirectly from contractual relationships based on these Terms and Conditions of Purchase. We further have the right to take legal action against the supplier at our discretion at the court with jurisdiction at the registered office or principal place of business of the supplier or at the court with jurisdiction at the place of performance.
4. If individual provisions of these Terms and Conditions of Purchase should be ineffective, the effectiveness of the remainder hereof shall not be affected thereby.

Schnorr GmbH

Registered office of the company: Sindelfingen
Local Court of Stuttgart - Court of Registration - Registration no. HRB 737166
Managing Director: Andy Haunholter