

## Terms and Conditions of Purchase

### § 1 Scope, Form

1. These General Terms and Conditions of Purchase (“Terms of Purchase”) apply to all business transactions entered into with our business partners and suppliers (“Contracting Parties”) for the purchase or delivery of movable goods to us, irrespective of whether the Contracting Party manufactures the goods himself or purchases them from his suppliers. These Terms of Purchase shall also apply to future business transactions, even if they are not expressly agreed upon again. However, the Terms of Purchase apply only if our Contracting Party is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law, a special fund under public law or an entrepreneur within the meaning of Section 14 of the German Civil Code (BGB).
2. The Contracting Party is Schomäcker Federnwerk GmbH, Borgholzhausener Straße 1, 49324 Melle, Germany (Amtsgericht Osnabrück (Osnabrück Local Court), HRB 18926).
3. We hereby expressly reject any general terms and conditions of the Contracting Party that contradict our Terms of Purchase. Commercial letters of confirmation from the Contracting Party shall not legally bind us, even if we do not expressly object to said letters.
4. The ineffectiveness of any individual contractual provision, including these terms, shall not affect the validity of the Contract as a whole.
5. Individual agreements concluded with our Contracting Party (including subsidiary agreements, additions and amendments) shall in all cases prevail over the provisions in these Terms of Purchase. The content of any such agreement shall be governed by a written contract or by our written confirmation, in the absence of proof to the contrary. Any quality assurance agreement that may have been entered into with our Contracting Party shall also prevail over these Terms of Purchase.
6. Any other legally relevant declarations and notifications by our Contracting Party concerning the Contract (e.g. the setting of deadlines, reminders, withdrawal) shall require at least text form. This shall be without prejudice to any formal legal requirements and other proofs, especially with regard to proofs of power of attorney issued by the declarant.

### § 2 Conclusion of Contract

1. Only orders that we have placed or confirmed in writing or in text form shall be valid. For the purpose of rectification or completion, the Contracting Party shall, before accepting the order, notify us of any obvious errors, such as clerical and computational errors, and of any omissions in the order, including the order documents; otherwise the Contract is deemed not to have been entered into. Before accepting our order, our Contracting Party shall likewise notify us of any reservations against the technical parameters or requirements underlying our order.
2. Within a period of three days, our Contracting Party shall confirm our order in writing or execute the order without reservation by shipping the goods, unless otherwise stated in our order. Late acceptance shall be deemed to be a new offer, and shall require our express acceptance.

### § 3 Delivery Times

1. The delivery time stated by us in the order shall be binding. The Contracting Party is required to notify us immediately in writing if he anticipates not being able, for whatever reason, to meet the agreed delivery times.
2. If the Contracting Party does not provide the services at all or within the agreed delivery time, or if he is in delay, then our rights – especially to withdraw from the Contract and to claim damages – shall be governed by the statutory provisions.

3. If the Contracting Party is in delay, we may – in addition to any further statutory claims – request compensation for damage caused by the delay at a flat rate of 1% of the net price for each full calendar week, however, not more than 5% in total of the net price of the goods delivered late. The right is reserved to provide evidence that higher damages, no damages at all, or much lower damages were incurred, as the case may be. Our acceptance of the late delivery shall not be deemed to be a waiver of damages, even if this is not expressly reserved.

#### **§ 4 Delivery, Transfer of Risk**

1. The Contracting Party shall bear the risk of procurement for the work to be performed, unless otherwise agreed in individual cases (e.g. restriction to stocks).

2. Goods shall be delivered “carriage paid” to the place specified in the order. If no point of destination is specified and nothing to the contrary has been agreed, then the goods shall be delivered to our business location in Melle. The point of destination in each case is also the place of performance for delivery and for any subsequent performance.

3. A delivery note stating the date (issue and dispatch), the content of the delivery (item number and number of items) and our order identification (date and number) shall be enclosed with the delivery.

If the delivery note is missing or incomplete, then we shall not be held responsible for any associated delays in processing and payment. A relevant consignment note containing the same information shall be sent to us separately from the delivery note.

4. The goods to be delivered shall be packed for transportation, marked and dispatched with the standard of care customary in the industry. We shall be notified of the dispatch at the time of shipping at the latest.

5. The risk of accidental loss and the accidental deterioration of the goods shall pass to us upon transfer at the place of performance. Where it is agreed that acceptance is required, acceptance shall govern the passing of risk. In other respects, the legal requirements of service contract law shall also apply accordingly where acceptance is required. Transfer and acceptance shall be deemed to have occurred if we are in default of acceptance.

#### **§ 5 Prices and Payment Terms**

1. The price specified in the order is binding. All prices are exclusive of statutory value-added tax, which shall be shown separately.

2. If nothing to the contrary has been agreed, and in particular Incoterms are not included, the agreed price shall include all services and ancillary services to be performed by the Contracting Party, such as assembly and installation, as well as all ancillary costs, e.g. for appropriate packaging, or for transport costs, including any transport insurance and liability insurance.

3. The agreed price shall be due for payment within 60 calendar days of complete delivery and performance and, where necessary, acceptance by us, as well as our receipt of a valid invoice. If we pay within 14 calendar days, the Contracting Party shall grant us a cash discount, amounting to 3% of the net amount of the invoice. For bank transfers, payment has been made on time when our bank receives our transfer order before expiry of the payment period; we shall not be held responsible for any delays caused by the banks involved in the payment procedure.

4. We shall owe no interest on late payments. The statutory provisions shall apply in the event of a default in payment.

5. We are entitled to offset rights, rights of retention and the plea of non-performance of the Contract to the extent permitted by law. In particular, we are entitled to withhold due payments, as long as we are still entitled to claims against the Contracting Party arising from incomplete or defective performance.

6. The Contracting Party only has a right of offset or retention in respect of counterclaims that have been established as final and conclusive or that are undisputed.

### **§ 6 Retention of Title**

Ownership of the goods shall be transferred to us unconditionally and regardless of whether the price has been paid. If, however, we accept an offer from the Contracting Party that is conditional on payment of the purchase price prior to transfer of ownership, then the Contracting Party's retention of title shall expire at the latest upon payment of the purchase price for the delivered goods. By way of precaution, in any case we also remain authorised to resell the goods under assignment in advance of the resultant claim, even before payment of the purchase price. Any forms of retention of title that go beyond this are consequently excluded.

### **§ 7 Our Documents and Materials**

1. We retain ownership rights and copyrights to our illustrations, plans, drawings, calculations, implementation instructions, product descriptions and other documents. Such documents shall be used solely for the contractual performance, and shall be returned to us, together with any copies and stored data, following the completion of the Contract. Such documents may not be disclosed to third parties, including after termination of the Contract. The obligation to maintain secrecy shall only expire if and to the extent to which the information contained in the documents provided has become common knowledge.

2. The above provision shall apply mutatis mutandis to substances, materials and software programs, as well as to tools, models, samples and other items that we make available to the Contracting Party. As long as they are not processed, such items shall be stored separately from his goods at the Contracting Party's expense, and shall be insured adequately against destruction and loss.

3. Any processing, mixing or combination of items provided by us carried out by the Contracting Party is undertaken on our behalf, meaning that we acquire ownership of the items.

### **§ 8 Defective Delivery**

1. Unless otherwise agreed below, the statutory provisions shall apply to our rights in the event of material defects or defects of title in the purchase item, also in the case of incorrect and short deliveries, incorrect assembly, defective assembly, operating or user instructions, and in the event of any other breaches of duty on the part of our Contracting Party. In addition, we shall be entitled to compensation for damages and reimbursement of expenses, including any consequential damages, in accordance with the statutory provisions.

2. According to the statutory provisions, the Contracting Party shall be liable in particular for the goods having the agreed condition upon the passing of risk to us. The agreed condition is clear in particular from product descriptions that, by way of designation or reference in our order, are the subject matter of the Contract in each case or that have been included in the Contract in the same way as these Terms of Purchase, whereby it shall be immaterial whether the product description originates from us, the Contracting Party or the manufacturer.

3. By way of derogation from the second sentence of Section 442(1) BGB, we are entitled to claims for defects without restriction even if the defect remained unknown to us at the time of concluding the Contract as a result of gross negligence.

4. Obvious defects have then, in any case, been notified by us in good time when they have been reported to the Contracting Party within ten working days of our receipt of the goods or, in the case of the contractually agreed direct delivery to our customer, within 15 working days of our customer's receipt of the goods. All other defects have been notified by us in good time at least

when they have been reported by us within ten working days of their discovery. Defects are only obvious where they come to light upon external examination during our inspection of incoming goods, including the delivery documents (e.g. transport damage, incorrect deliveries and short deliveries) or where they are discernible in sample checks during our quality control procedures. Payments we have made shall under no circumstances be considered to be a renouncement of the notice of defects.

5. Subsequent performance also includes the removal of the defective goods and reinstallation, in the case that the goods, on account of their nature and intended use, have been incorporated into another item or attached to another item; our legal entitlement to compensation for corresponding expenses shall remain unaffected.

6. If the Contracting Party does not comply with his obligation to provide supplementary performance at our discretion within a reasonable deadline set by us, we may remedy the defect ourselves and request compensation for the necessary expenses from the Contracting Party, also by way of advance payment. A deadline shall not be necessary in the event that supplementary performance failed or cannot be reasonably expected of us, e.g. due to particular urgency, where operational safety is compromised or there is an imminent risk of excessive damages; we shall notify the Contracting Party of such circumstances without delay, where possible in advance.

7. The Contracting Party is responsible for ensuring that no rights of third parties, and especially copyrights, trademarks, patents or other property rights, are infringed in connection with the services he provides. In the event of any such claim, he therefore undertakes to indemnify us from such a claim on first demand and also to bear any costs of appropriate and necessary legal defence, and any other expenses.

### **§ 9 Recourse Against the Supplier**

1. In addition to claims for defects, we are fully entitled to our statutory rights of recourse within a supply chain (recourse against the supplier under Sections 445a, 445b, 478 BGB). The above shall also apply if the deficient goods have been further processed by us or by another entrepreneur. In particular, we are entitled to request from the Contracting Party the exact type of subsequent performance (rework or replacement delivery) that we owe our customer in each individual case. Our right to choose the subsequent performance shall not be limited by this.

2. Before we recognise or meet a claim for defects asserted by our customer, we shall notify the Contracting Party and request a written statement, after briefly explaining the situation. If a substantiated statement is not made within a reasonable period and if no mutually agreed solution is reached, then our customer shall be deemed to be liable for the claim for defects actually conceded by us. In that case, it shall be incumbent on the Contracting Party to provide proof to the contrary.

### **§ 10 Producers' Liability**

1. If our Contracting Party is responsible for any damage to the product, he shall indemnify us from all claims of third parties, insofar as the cause is within his sphere of control or organisation and he himself is liable vis-à-vis third parties.

2. Within his obligation to indemnify us, the Contracting Party shall reimburse all expenses incurred by us arising out of or in connection with a claim by third parties, including product recalls undertaken by us. As far as practicable and reasonable, we shall inform the seller of the content and scope of recall measures, and shall give him the opportunity to comment on them. The right to additional statutory claims remains unaffected.

3. Our Contracting Party shall take out and maintain product liability insurance with a minimum lump-sum coverage of EUR 2.5 million for each case of physical injury or material damage; he shall provide proof of such coverage at our request.

### **§ 11 Industrial Property Rights**

1. The supplier guarantees that the rights of third parties within the Federal Republic of Germany are not violated in the context of his supplies.
2. If recourse is taken on us for this reason by a third party, the supplier is obliged to exempt us from these claims upon our first written request to do so. We are not entitled to come to any agreements with the third party without the supplier's agreement; we are particularly not entitled to reach a settlement.
3. The supplier's duty of exemption relates to all necessary expenses we incur due to or in connection with recourse of third parties.
4. The limitation period is 10 years from the date of the conclusion of the contract.

### **§ 12 Data Protection**

Our "Privacy Notice for Suppliers" can be viewed in the downloads section of our homepage at [19a Data Protection Information for Business Partners.pdf \(schomaecker.de\)](#). However, we will also be happy to send you this Privacy Notice.

### **§ 13 Statute of Limitations**

The mutual claims of the Contracting Parties shall become statute-barred in accordance with the statutory provisions; however, our claims arising from defective title shall not become statute-barred under any circumstances, as long as the third party may still assert its right against us – in particular in the absence of limitation.

### **§ 14 Energy and Environment**

1. We not only attach great importance to fair prices, but also to environmental and energy aspects in our business practices. Our efforts are focused on promoting environmentally friendly solutions and ensuring the sustainable use of energy. Please note that the environmental friendliness of our products and services is just as important as their economic attractiveness. We encourage our customers and suppliers to share these values and actively contribute to environmentally conscious decision-making. By considering environmental and energy aspects in our range of products and services, we strive for a shared responsibility for a more sustainable future.

### **§ 15 Choice of Law and Place of Jurisdiction**

1. These Terms of Purchase and all legal relationships between us and the Contracting Party are governed exclusively by the laws of the Federal Republic of Germany, excluding international contract law. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 shall not apply.
2. If our Contracting Party is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law, a special fund under public law or an entrepreneur within the meaning of Section 14 of the German Civil Code (BGB), then the exclusive – also international – place of jurisdiction for all disputes arising from this contractual relationship is Osnabrück. However, we are also entitled to bring proceedings at our Contracting Party's general place of jurisdiction. This shall be without prejudice to any mandatory statutory provisions of higher priority, in particular concerning exclusive jurisdiction rules.