

# General Terms of Purchase

## § 1 General Remarks

The following General Terms of Purchase are regarded as agreed upon with the supplier regarding all agreements, deliveries and services provided by us (Schöck Bauteile GmbH). They also govern all future business transactions with us and the supplier. They apply only when the supplier is a self-employed business person (§ 14 of the German Code of Civil Law, in German: „BGB“), a legal entity under public law or a special fund under public law. We do not recognize dispositions which deviate from these terms unless we have previously and explicitly agreed to their validity in writing. This applies in particular for terms of the supplier, even if we have not explicitly contradicted them or have carried out the delivery unconditionally. Should our terms change, they then apply in the changed version from the time at which they have first been delivered to the supplier with a reference to the changes and the contractual relationship has thereupon been continued without contradiction.

## § 2 Offer / Offer Documentation / Orders

a) Offers and cost estimates are binding and are not to be remunerated unless another agreement has been explicitly entered into. Provided that this has not been separately agreed on in individual cases, we assume no costs for visits, planning and other preliminary services which the supplier provides in connection with submitting offers, and we pay no compensation for this.

b) The supplier is obligated to accept our order placement within a period of 2 weeks. Calls for delivery when orders and delivery calls are being planned become binding if the supplier has not rejected them within three working days from the time they are received.

c) We reserve rights of ownership and copyright to technical drawings, illustrations, calculations and other documents. They are to be used only for the preparation of offers and for order placement implementation and are to be returned to us with no need of a reminder after processing of the order provided that no contractual or legal duties to store them exist on the supplier's part. The supplier promises not to reveal these documents or make them available to third parties unless we give the supplier explicit and written approval to do so. The documents are to be returned without delay if the supplier does not accept order placement within the deadline period given in § 2.

## § 3 Prices /Invoices / Terms of Payment

a) The price which is documented in the order is

binding. In the absence of any other written agreement, the price applies „DDP“ (ICC Incoterms © 2020). Return of the packaging material requires a separate agreement. Value-added tax is to be added to the price in the amount respectively prescribed by law.

b) Unless otherwise agreed upon in writing, we pay the purchase price within 14 days calculated from the time of delivery and provided that an invoice has been received in orderly fashion, with a 3% discount or within 30 days net after receipt of the invoice. Our obligation of prompt payments is fulfilled upon our bank's receipt of our money transfer instruction.

c) We can process invoices within the period in which they are due only when they — in accordance with the instructions in our order placement — include the order number which is documented there and contain all information which corresponds to legal requirements, in particular according to § 14 of the VAT law (German: „UStG“). Should one or more of these items of information be missing and the course of processing by us during our normal business transactions thus be delayed, the deadline periods for payments and discounts named in § 3 b) are extended by the length of the delay period.

d) The supplier has an offset right or right of retention only if legally valid or undeniable counterclaims are found to exist.

e) Payments do not indicate acknowledgement that delivery or services have been carried out as contractually stipulated. In case of delayed payment we are obligated to pay for the delay a penalty interest of five percentage points above the base interest rate.

## § 4 Delivery Time

a) The delivery date named in the order placement is binding. For deliveries to be on time, they must be received at the delivery address specified by us in the order placement.

b) The supplier has the obligation to notify us without delay in writing if circumstances arise or become noticeable to him which make it clear that the delivery date cannot be met. In doing so, the supplier must name the reason and the prospective duration of the delivery delay.

c) In case of delayed delivery, including partial delivery, we have the right to claim lump-sum damages due to delayed performance amounting to 0.3% of net delivery value for each new beginning workday, but in

total no more than 5%; we reserve the right to demonstrate that considerable damage has occurred; the supplier has the right to demonstrate to us that owing to the delay no damage whatever or a much smaller damage has occurred.

d) The right to legal claims above and beyond this remains reserved. In particular, we have the right after unavailing expiration of an appropriate deadline period to demand compensation for damages instead of performance of the service. If we demand compensation for damages, the supplier has the right to demonstrate to us that he is not the one responsible for the breach of obligation.

### **§ 5 Passage of Risk / Documents**

a) The danger of accidental destruction and accidental deterioration of the item passes to us only when the goods are transferred to us at the agreed-on destination (registered company location in Baden-Baden or the delivery address named in the order placed; this is also the place of fulfillment). If a final inspection has been agreed on, it is determinative for the passage of risk. If the goods arrive with damaged packaging material, we have the right to refuse acceptance of the shipment without an inspection of the contents. The return shipment will take place at the expense and risk of the supplier.

b) The supplier has the obligation to name our order number exactly on all shipping documents and bills of delivery; should he omit this, we are not to be held responsible for delays in processing.

### **§ 6 Inspection for Defects / Liability for Defects**

a) The supplier guarantees that the deliveries and services correspond to the agreed-on specifications and are free of material defects and legal defects. § 8 remains unaffected by this.

b) Our business obligation to carry out inspections is restricted to defects which become visibly apparent upon external evaluation during our incoming goods inspection (e.g. damages from transportation or regarding completeness and identity of the goods). If a contractual service inspection has been agreed on, there is no obligation to carry out an examination. We will immediately lodge a complaint regarding defects detected during the incoming goods inspection. We reserve the right to carry out a more extensive inspection of incoming goods. Moreover, we will immediately lodge a complaint as soon as defects are found under the conditions of orderly pursuance of the business process. In this regard, the supplier waives his right to an objection due to delayed notification of defects.

c) The defect claims named in the law remain our unrestricted right; in any case, we have the right to demand from the supplier at our choice the correction of faults or delivery of a new item.

d) Moreover, we have the right in case of a material or legally defined defect, subject to the provisions of the law, to a reduction of the purchase price or to withdrawal from the contractual agreement. In addition, we can claim reparation for damages and for the expenditure of time and money as defined by the provisions of the law.

e) Should the supplier, in case of an obligation on his part to produce a certain work (work contract), not begin without delay to eliminate a defect after being called upon by us to eliminate the defect, we are entitled in urgent cases, in particular for the purpose of warding off acute perils and/or for the purpose of avoiding disproportionately great damages, to undertake this ourselves at the expense of the supplier or have it carried out by third parties.

f) The term of limitation for any claims arising from defects shall be two years, calculated from the passage of risk; in case of goods which have been used in accordance with their intended purpose for a building and have caused its defectiveness, the term of limitation shall be five years, calculated from the passage of risk. The supplier is aware that after further processing the delivered item may be used for installation in building structures.

### **§ 7 Product Liability / Liability Insurance Protection**

a) To the extent that the supplier is responsible for an incident of product damage, he has the obligation to release us from damage claims of third parties when first called upon to do so to the extent that the cause is to be found in his area of control and organization and he himself is liable with respect to third parties.

b) Within the bounds of his liability for cases of damage in the sense of a) above, the supplier also has the obligation, as described in §§ 683 and 670 of the German Code of Civil Law or in accordance with §§ 830, 840 and 426 of the German Code of Civil Law, to refund any expenditures which arise from or in connection with a recall action carried out by us. We will inform the supplier — as far as is possible and reasonable — about the contents and extent of the recall activities which are to be carried out and will give him the opportunity to state his position. Other legal claims remain unaffected by this.

c) The supplier promises to maintain a product liability insurance with a - lump sum - coverage of 5 million Euros per incident of personal or material damage;

any further damage claims to which we are entitled remain unaffected by this.

### **§ 8 Legally Protected Rights**

a) The supplier guarantees, subject to the provisions of b) above, that no rights of third parties within the EU, the EEC, the USA and Canada will be violated in connection with his delivery service.

b) For this reason, if we are the target of claims from a third party, the supplier has the obligation to release us from these claims if he is to be held responsible for them; we do not have the right - without the approval of the supplier - to enter into any agreements whatever with the third party, or in particular to agree on a settlement.

c) The supplier's obligation to release us extends to all expenditures necessarily ensuing for us from or in connection with the invocation of claims by a third party.

d) The term of limitation is five years, calculated from the time of entry into the Agreement.

e) If our utilization of the delivery and/or service is adversely affected due to existing legally protected rights of third parties, the supplier must either acquire - at his own cost - the corresponding approval or must change or replace the affected items involved in the delivery and/or service in such a way that no legally protected rights of third parties continue to stand in the way of realization and this realization at the same time corresponds to the contractual agreements.

### **§ 9 Items to be Provided / Tools / Secrecy**

a) If we provide parts to the supplier, we reserve the ownership of them to ourselves. Any processing or conversion of them by the supplier will be undertaken for us. If the goods to which we reserve the right of ownership are processed or mingled with other objects which do not belong to us, we acquire the right of co-ownership of the new item in proportion to the value of our item (purchase price plus VAT) to the other items processed at the time of the processing or mingling. If the mingling takes place in such a way that the item of the supplier is to be regarded as the primary item, it is regarded as agreed that the supplier transfers co-ownership to us on a proportional basis; the supplier acts as custodian of the sole or shared ownership for us.

b) We retain ownership of tools; the supplier has the obligation to employ the tools exclusively for production of the goods ordered by us. The supplier has the obligation to make it recognizable that the tools

be-longing to us are our property, to carefully keep them safe, and to insure them at his own cost and at their value when new against damage from fire, water, and theft. At the same time, the supplier already assigns to us now all compensation claims which may arise from this insurance; we hereby accept this assignment. The supplier has the obligation to promptly carry out on our tools at his own cost any service and maintenance work which may be necessary. He is to notify us immediately of any problem situations; should he omit this culpably, our right to damage claims remains unaffected.

c) The supplier has the obligation to maintain strict secrecy regarding all technical drawings, illustrations, calculations and other documents and information which he has received (with the exception of publicly available information). They may not be made available to third parties without our explicit written approval. The obligation to maintain secrecy also applies after the processing of this Agreement - it ceases to exist when and to the extent that the production knowledge contained in the technical drawings, illustrations, calculations and other documents which were provided has become generally known; but at the latest 5 years after the processing of this Agreement, unless the parties have agreed otherwise in a separate agreement.

d) Should the warranty rights to which we are entitled according to a) above exceed the purchase price of all of our still unpaid conditional commodities by more than 10%, we have the obligation to release the warranty rights at our discretion if so demanded by the suppliers.

### **§ 10 Place of Fulfillment/Court of Jurisdiction/Saving Clause/Choice of System of Law**

a) Unless otherwise specified in the order placement, our company's place of registry is the place of fulfillment.

b) Provided that the supplier is a self-employed business person, a legal entity under public law or a special fund under public law, the court of jurisdiction for all disputes arising from contractual relationships between the supplier and us is Baden-Baden, whereby we also have the right in this case to bring suit at the general court of jurisdiction of the supplier.

c) Should any provision of these General Terms of Purchase be or become null and void, the remaining provisions remain unaffected by this. In place of the provisions which have become null and void, the parties will exert themselves to arrive at a disposition which comes as close as possible under the law to the success they are seeking.

d) The German text of these Terms and our order confirmation are final. The law of the Federal Republic of Germany applies to the exclusion of applicability of the uniform international convention on „Contracts for the International Sale of Goods“] (CISG).

Schöck Bauteile GmbH  
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