

General Terms and Conditions of Purchase of SSI SCHÄFER

I. Scope

1. These General Terms and Conditions of Purchase ("Purchase Terms") shall apply to all supplies and/or services purchased by FRITZ SCHÄFER GMBH & CO. KG or its affiliated companies (Sec. 15 AktG [German Stock Corporation Act]) ("SSI SCHÄFER" or "we" or "us"). These Purchase Terms form integral part of all contracts that we conclude with the supplier for the purchase of supplies and/or services.
2. These Purchase Terms shall also apply to all future transactions with the supplier without the need to expressly incorporate them by reference in each individual case.
3. The application of supplier's conflicting or supplementary terms and conditions shall be excluded unless we have expressly consented in writing. This shall also apply if we accept the supplies without reservation in spite of the knowledge that the supplier's general terms and conditions conflict with or deviate from these Purchase Terms.
4. These Purchase Terms shall apply exclusively, unless expressly agreed otherwise with the supplier.

II. Conclusion of Contract, Amendments to the Contract

1. A contract between us and the supplier is concluded when the supplier accepts our order without any changes.
2. In case of any deviations between the provision of an order placed by us and these Purchase Terms, the provisions of our order shall apply.
3. Our orders and their acceptance must be made in writing or in text form (letter, fax, e-mail) in order to be valid. We shall be bound by our orders for two weeks, whereas the receipt of the order confirmation by us shall be decisive for the timely acceptance of the order. A belated acceptance shall be deemed a new offer by the supplier and shall require acceptance by us.
4. The supplier shall immediately check our requests for quotation and our orders for obvious errors, ambiguities, incompleteness and unsuitability of the specifications selected by us for the intended use and inform us thereof without undue delay. We do not reimburse the supplier for any costs incurred for visits, the preparation of offers or other pre-contractual services, except expressly agreed otherwise with the supplier in writing or prescribed by law.
5. If the supplier changes the specifications of the goods and/or services during an ongoing business relationship with us, the supplier shall inform us thereof before concluding a contract with us.
6. Amendments or supplements to the contract, including the waiver of the written form or text form requirement, must be made in writing or in text form in order to be valid. If changes to the scope of performance turn out to be necessary during the execution of an order, the supplier shall inform us thereof in writing without undue delay. Changes to the scope of work always require our prior written consent. The provisions of this clause II shall apply mutatis mutandis to changes requested by us.
7. If we are no longer able to use the supplies ordered due to circumstances occurring after the conclusion of a contract, we shall be entitled to terminate the contract by issuing a written declaration stating the reasons for such termination or to rescind the contract with regard to the unfulfilled part.

III. Delivery, Import, Customs

1. The supplier shall provide us with a delivery note for each delivery, stating the delivery items and our order number. If the supplier fails to provide this information, the delivery shall only be deemed to have been made when it has been correctly allocated in our system.
2. Time and place of delivery as well as the type of packaging may be changed by us in writing at any time subject to a notice period of at least five working days before the agreed delivery date.
3. The supplier shall not be entitled to make partial deliveries unless we have given our written express consent in advance.
4. Incorrect deliveries and excess quantities may be rejected by us or returned to the supplier at its own expense even after our unconditional acceptance within the defect notification period.
5. If the supplier uses employees from non-EU countries to perform its contractual obligations towards us, the supplier shall provide us at its own initiative with the corresponding work permits for these employees prior to the start of the performance of the services.
6. Suppliers having their registered office within the EU but outside Germany shall state their EU VAT identification number on every invoice submitted to us.
7. If the supplier imports goods to Germany, the goods shall be delivered to us "DDP" (Incoterms 2020). The supplier shall provide all necessary declarations and information according to the statutory provisions, provide the customs authorities with all necessary information and procure and provide all necessary official confirmations at its own responsibility and expense.

8. The supplier shall inform us in writing of all licensing obligations under German, European and US export and customs laws as well as of the export and customs laws of the country of origin of the goods or services.

9. At our request, the supplier shall provide a declaration in accordance with Art. 61 of the Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 ("Regulation (EU) 2015/2447") on the preferential originating status of the goods sold and a certificate of origin on the non-preferential origin of the goods sold in accordance with Art. 57 Regulation (EU) 2015/2447. Upon our request, the supplier shall enable the customs administration to verify this certificate of origin and provide all necessary information and required confirmations. If the supplier is unable to provide a long-term supplier's declaration in accordance with Art. 62 Regulation (EU) 2015/2447, the supplier shall inform us thereof before handing over the goods sold to us. The supplier shall compensate us for any damage we suffer as a result of the supplier having declared the origin of the goods incorrectly or the competent authority being unable to verify the origin of the goods due to incorrect or missing certification. This shall not apply if the supplier proves that he is not at fault.

IV. Time of Delivery and Performance, Delay, Contractual Penalty

1. Agreed delivery dates are binding. Upon expiry of the agreed delivery date, the supplier shall automatically be in default.
2. The timeliness of supplies shall be determined by the time of receipt of the goods at the place of destination (see clause V.1.). The timeliness of supplies with installation or assembly and the timeliness of the performance of works shall be determined by the time of acceptance thereof. If documentation, test certificates or other documents including electronically stored data are part of the scope of performance, the supply/service shall only be deemed to have been provided in accordance with the contract if they have been handed over in full.
3. If agreed delivery dates or the agreed time of performance cannot be met by supplier, the supplier shall notify us thereof in writing without undue delay, stating the reasons for and the expected duration of the delay.
4. If the supplier is in default, we shall have all statutory rights, including the right to rescind the contract after expiry of a reasonable grace period and to claim damages in lieu of performance.
5. If the supplier is in default, we are entitled, after having give a prior written warning, to claim a contractual penalty of 0.5 % for each commenced week of delay, up to a maximum of 5 % of the order value. We reserve the right to prove that higher damages have been incurred. The supplier shall be entitled to prove that no damage or lower damages have been incurred. The contractual penalty shall be applied against the damages for delay which are to be compensated by the supplier.
6. The supplier shall invoke the argument that the delay has been caused by our failure to provide necessary documents only if the supplier has not received all necessary documents from us within a reasonable grace period for the provision of the documents.
7. The supplier shall not be entitled to deliver/perform the services prematurely unless we have expressly agreed otherwise in writing in advance. If supplier does not comply with this obligation, we reserve the right to return the goods to the supplier at the supplier's expense. If we accept early deliveries, the goods shall be stored by us until the agreed delivery date at the supplier's expense and risk. The supplier may only demand payment on the contractually agreed due date.

V. Shipping, Transfer of Risk, Place of Performance

1. Unless expressly agreed otherwise with the supplier, all goods shall be delivered "DAP" (Incoterms 2020) to the place of destination specified in our order. If the place of destination is neither specified in our order nor otherwise agreed with the supplier, the supplier shall request further instructions from us before processing the delivery. If the place of destination is not in Germany, the goods shall be delivered "FCA" (Incoterms 2020), except expressly agreed otherwise with the supplier.
2. Shipping terms in our orders that deviate from clause V.1. shall always refer to Incoterms 2020.
3. Direct shipments to our customers shall be carried out in our name. Supplier shall request all necessary shipping documents from us in due time. Invoices and advice notes shall only be sent to us.
4. Unless expressly agreed otherwise with the supplier, the supplier shall pack the goods properly and securely for transport at its own expense.
5. The place of performance for the supplies/services is the place of destination (Bestimmungsort) as set out in clause V.1.
6. The risk of damage and accidental loss of the goods shall not pass to us until the goods are handed over at the place of destination (see clause V.1.), even if shipment of the goods has been agreed. In case of acceptance provided by law or agreed by contract, the risk shall only pass to us upon acceptance of the performance by us.

General Terms and Conditions of Purchase of SSI SCHÄFER

VI. Prices, Payment Terms, Set-off, Right of Retention, Assignment, Retention of Title

1. All prices agreed with the supplier are fixed prices. If the prices are not fixed at the time of our order, the supplier shall notify us of the prices immediately after receipt of our order. In this case, our order shall only become effective with our subsequent price confirmation.
2. Unless expressly agreed otherwise with the supplier, the prices shall apply "DAP" (Incoterms 2020), including packaging and shipping costs and excluding VAT.
3. Invoices shall be sent electronically by the supplier to the e-mail address specified in our order. If the e-mail address is not specified in the order and nothing else has been agreed with the supplier, the supplier shall request the relevant e-mail address from us.
4. All order confirmations, delivery documents and invoices of the supplier shall include our order number, article number, delivery quantity and delivery address. If the supplier fails to comply with this obligation and this leads to delays in our processing of such documents in the ordinary course of business, the payment periods specified in clause VI.5. shall be extended by the period of the delay.
5. Payment shall be made after receipt of the goods or acceptance of the services and within 14 days after receipt of a proper invoice with a 3 % discount, within 30 days after receipt of a proper invoice with a 2 % discount and within 60 days after receipt of a proper invoice without discount. Payment shall be made at our discretion in cash, by remittance or by crossed cheque. Payment shall be deemed to have been made in due time if we have initiated remittance within the payment period.
6. Payment does not imply acceptance of the supplies/services as being in accordance with the contract.
7. We are entitled to exercise set-off and retention rights to the extent provided by the statutory provisions. The supplier shall only be entitled to exercise a set off right against our claims if and to the extent the counterclaims have been finally determined by a court, are undisputed or have been accepted by us. The supplier shall only be entitled to exercise a right of retention to the extent its counterclaim is based on the same contractual relationship.
8. The supplier shall not be entitled to assign claims against us to, or have them collected by, third parties unless we have expressly agreed to the assignment or collection in writing in advance.
9. Retention of title by the supplier shall only apply to the extent it relates to our payment obligation for the respective goods delivered by the supplier, to which the supplier retains title. Any extended retention of title (erweiterter oder verlängerter Eigentumsvorbehalt) shall be excluded.

VII. Notice of Defects, Liability for Defects, Limitation Period

1. The supplier warrants that the goods delivered are state of the art and free of material defects or defects of title. The supplier warrants that the goods delivered are marketable at the place of destination. In this respect, the supplier shall inform itself independently about the legal provisions applicable at the place of performance.
2. Confirmation of receipt of the goods by us does not exclude our rights in case of deviations in quality or quantity discovered after receipt of the goods.
3. After receipt of the goods, we shall inspect the goods within the ordinary course of business for deviations in quality and quantity only. The incoming goods inspection shall be limited to obvious damages to the goods that can be detected by visual inspection of the transport packaging or random samples (e.g., damage to the transport packaging, incorrect or incomplete delivery). Recognisable defects (apparent defects) shall be reported to the supplier without undue delay after discovery. Apparent defects shall be deemed to have been notified in due time if they are notified to the supplier within five working days after discovery. Defects which are not recognisable during the incoming goods inspection (hidden defects) shall be notified to the supplier immediately after their discovery. Hidden defects shall be deemed to have been notified in due time if they are notified to the supplier within ten working days after discovery.
4. If a more detailed inspection of the delivered goods is necessary due to the delivery of defective goods, the supplier shall bear all associated costs.
5. If the delivered goods are defective, the supplier shall remedy the defect free of charge by repair or replacement ("Subsequent Performance"). We shall have the statutory warranty rights according to the German Civil Code [Bürgerliches Gesetzbuch - BGB]. If a reasonable grace period for Subsequent Performance has expired unsuccessfully or if setting a grace period is unnecessary due to imminent danger or urgency, we shall be entitled to repair the defective goods ourselves or have it repaired by a third party and claim all costs associated from the supplier.
6. Irrespective of section 442(1) sentence 2 of the German Civil Code, we shall also be entitled to the statutory warranty rights if the defect remained unknown to us at the time of conclusion of the contract due to gross negligence.
7. In case of an unjustified request to remedy a defect, we shall only be liable to the supplier if we recognised, or were grossly negligent in not recognising, that a defect did not actually exist.

8. The limitation period for warranty claims/claims for defects shall be 36 months from the transfer of risk unless longer limitation periods are prescribed by law.

9. In case of Subsequent Performance, the limitation period for replaced or repaired parts shall start anew, unless we had to assume on the basis of the supplier's behaviour that the supplier did not consider itself obliged to remedy the defect but rather performed Subsequent Performance as a gesture of goodwill or for similar reasons.

10. Upon receipt of a written notice of defects by the supplier, the limitation period for warranty claims/claims for defects shall be suspended.

VIII. Indemnification, Product Recall, Insurance

1. The supplier warrants that the supplies/services and their contractual use by us do not infringe any third parties' intellectual property rights. If the use of the supplies/services infringes intellectual property rights of third parties, the supplier shall either procure a corresponding licence or authorisation of use from the owner at its own expense or modify or replace the supplies/services in such a way that the use of the supplies/services by us no longer infringes intellectual property rights of third parties.
2. The supplier shall indemnify and hold us harmless against any claims made against us by third parties arising from the infringement of intellectual property rights. The supplier shall defend us against claims for the infringement of intellectual property rights at its own expense. In this respect, we authorise the supplier to conduct any dispute with a third party in and out of court and will not acknowledge any claims of third parties. This shall not apply if the supplier proves that he is not responsible for the infringement of the intellectual property rights.
3. The supplier shall indemnify and hold us harmless against all personal injury or property damage caused by defective goods supplied to us.
4. If we are obliged to conduct a recall campaign due to the delivery of defective goods by the supplier, all cost, expenses, and liabilities associated with such recall campaign shall be borne by the supplier.
5. The supplier shall maintain product liability insurance at its own expense with a minimum coverage of EUR 2 million and prove the existence of such insurance upon request.

IX. Environment, Energy

1. The supplier shall maintain a state-of-the-art quality and environmental management system at its own expense. The supplier shall keep accurate books and records thereof which shall be made available to us upon request. The supplier shall participate in quality and environmental audits by us and/or a third party commissioned by us to review and evaluate its quality and environmental management system. This shall include, in particular, the participation of third parties according to any statutory requirements.
2. The supplier shall, within the scope of its economic and technical possibilities, use environmentally-friendly goods and processes for its supplies/services, including the supplies of subcontractors. Upon request, the supplier shall issue a quality certificate for the goods delivered to us. The supplier shall be liable for all damages and consequential damages caused by the lack of environmental compatibility of the delivered goods or the packaging materials used as well as by the violation of its statutory disposal obligations. The supplier is aware of our environmental and energy policy and shall support and promote it during the term of our contractual relationship. The energy performance/energy efficiency class is a criterion for the selection of goods/services by us.

X. Documents, Supplies, Production Materials

1. We reserve all property rights and copyrights to illustrations, drawings, calculations and other documents ("Documents") provided by us to the supplier. The Documents shall be used exclusively to fulfil our orders. The Documents shall not be made available to third parties without our prior written consent. The Documents shall be returned to us upon request or at the supplier's own initiative after completion of the order, premature termination or non-occurrence of the respective contract. In this case, the supplier is obliged to destroy all copies of the Documents. This obligation does not apply insofar as the storage of the data is required by law or is carried out within the scope of the usual data backup process.
2. Any supplies provided by us to the supplier (materials, tools, devices, models, etc.) shall remain our property. The processing of the supplies by the supplier shall be carried out for us as manufacturer. If we lose title to the supplies due to combination, mixing, processing or transformation, the supplier hereby assigns to us in advance a co-ownership share in the new item corresponding to the invoice value of the respective supplies. The supplier shall only use the supplies for the fulfilment of our orders; the supplier shall compensate us for any damage caused to the supplies by the supplier. The supplier shall notify us immediately of any damage to the supplies which is not merely insignificant. The Supplier shall at its own expense handle the supplies with care, store them free of charge, provide for sufficient insurance coverage against accidental destruction or loss of the supplies and mark them as our property. The supplier shall return the supplies to us in proper condition at any time upon request or at its own initiative after execution of the order, premature termination or non-occurrence of the contract.

General Terms and Conditions of Purchase of SSI SCHÄFER

3. Production materials purchased or manufactured by the supplier and paid for by us directly or amortised via the purchase price of the parts shall become our property when the supplier starts using them for production. In case of non-amortisation of the production materials upon end of production of the respective goods for us, we are entitled to collect the production materials against payment of the non-amortised part. The terms for supplies set out in these Purchase Terms shall apply mutatis mutandis.

XI. Secrecy, Confidentiality

1. The supplier shall treat all business and trade secrets as well as all proprietary commercial and technical information disclosed by us to the supplier strictly confidential - also for a period of five years from the expiry of the contract - and shall only use the Confidential Information to fulfill our orders. This shall not apply to information, which is or becomes publicly knowledge, which was already known to the supplier without a confidentiality obligation prior to its disclosure by us, which the supplier has demonstrably developed without using Confidential Information, or of which it has otherwise obtained knowledge in a lawful manner without a confidentiality obligation.

2. Products manufactured according to documents developed by us, such as drawings, models etc., or according to our tools, may neither be used by the supplier himself outside the performance of the contract nor be offered or delivered to third parties.

3. The supplier shall return to us the documents made available by us immediately upon request after completion of our requests for quotation or after fulfilment of our orders.

4. The supplier shall treat the conclusion of the contract with us strictly confidential and shall not refer to the business relationship with us in promotional materials without our prior written consent.

5. The supplier shall impose confidentiality obligations on its subcontractors which are similar to the obligations set out in this clause XI.

XII. Work Results, Rights, Software

1. All work results of the supplier shall factually and legally become our exclusive property immediately upon creation. We shall have the exclusive rights of use. The supplier shall immediately inform us of any work results achieved and make such results available to us.

2. With respect to the copyrights that arise in connection with the performance of the services the supplier grants us the exclusive, unlimited, worldwide, sub-licensable and fully paid-up right of use to such copyrights.

3. In case of purchased software, we shall have the exclusive right to use the software (this does not apply to standard software). We are entitled to make changes to and/or amend the purchased software ourselves or through third parties and to edit the software.

4. In case of an infringement of intellectual property rights or other rights, clause VIII.1. and clause VIII.2. shall apply mutatis mutandis.

XIII. Subcontractors

The supplier is not entitled to engage subcontractors unless we have given our prior written consent. If the supplier engages subcontractors, it shall oblige all subcontractors to comply with all relevant contractual obligations assumed by the supplier towards us. The supplier shall be liable for the subcontractors' compliance with these obligations.

XIV. Sustainability in the Supply Chain

1. The supplier undertakes, both with respect to its own business operations as well as with respect to its directly commissioned sub-suppliers, to take appropriate preventive measures to avoid violations of national or international human rights, labour, health and environmental protection provisions or conventions and to identify violations at an early stage. The supplier shall inform us upon request in writing about the preventive measures taken. We or a third party commissioned by us are entitled to inspect the preventive measures taken by the supplier once a year during normal business hours after having given prior notice to the supplier.

2. In case of any violations of national or international human rights, or the labour, health and environmental protection provisions or conventions mentioned in paragraph 1 above by the supplier or its directly or indirectly commissioned sub-suppliers, the supplier shall immediately take appropriate remedial measures, monitor the effectiveness of such remedial measures, and inform us of such violation and the remedial measures taken. Our right to immediately terminate the contract for cause shall remain unaffected.

3. The Supplier shall ensure that its employees regularly participate in trainings on human rights, occupational health and safety and environmental related topics.

XV. Compliance

1. The supplier warrants that it will not engage in any acts or omissions that may result in administrative or criminal prosecution by the competent authorities (e.g. corruption or antitrust/competition violations). The supplier shall take appropriate preventive measures.

2. Upon written request, the supplier shall provide us with information on the preventive measures taken.

3. The supplier shall inform us immediately if official investigations by the competent authorities are initiated against him due to possible corruption or antitrust/competition law infringements.

4. The supplier acknowledges and accepts the Code of Conduct for Business Partners of SSI SCHÄFER, available at <https://www.ssi-schaefer.com/en-de/about-us/compliance> and which we will provide to the supplier upon request. The supplier shall comply with the principles of corporate social responsibility laid down therein.

XVI. Data Protection

1. We store the supplier's data on our servers and process the data if and to the extent that this is necessary in connection with the performance by the supplier.

2. We also process personal data if and to the extent that this is necessary for the performance of the supplier. We will not disclose personal data to third parties unless that this is necessary to enable the supplier to provide its services.

3. If the supplier obtains access to personal data during the performance of its services, the supplier shall comply with the statutory data protection regulations and inform us upon request of its compliance with these regulations. The supplier shall oblige its employees in writing to comply with data secrecy and data protection requirements in accordance with the applicable statutory provisions. If the supplier processes personal data on our behalf or under joint responsibility with us as part of the performance of its services, the supplier shall conclude a separate data processing agreement with us, that complies with the statutory requirements.

4. The supplier is aware of our data protection information, available at <https://www.ssi-schaefer.com/en-de/privacy>.

XVII. Final Provisions

1. If single or several terms of these Purchase Terms turn out to be or become invalid or void, whether in whole or in part, the validity of the remaining terms of these Purchase Terms shall not be affected hereby. The invalid or void terms shall automatically be replaced by such valid terms which, as closely as possible, reflect the economic purpose of the invalid or void term originally intended by the parties. The same shall apply in case of a gap or omission.

2. These Purchase Terms as well as the contractual relationship between us and the supplier shall be governed exclusively by the laws at the registered seat of the Purchaser ("Purchaser" means the respective company of SSI SCHÄFER placing the order for supplies and/or services with the supplier). The German rules on conflicts of laws and the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

3. The place of fulfilment and exclusive place of jurisdiction for all legal disputes arising from and in connection with the contractual relationship between us and the supplier shall be the registered seat of the Purchaser. We are also entitled to sue the supplier at the supplier's registered office at our discretion.

4. The language of the contract shall be German. If we or the supplier use another language, the German version shall always prevail.