

International terms and conditions of purchasing of the SSI SCHÄFER Group

I. Scope

1. These terms and conditions of purchasing apply to FRITZ SCHÄFER KG and FRITZ SCHÄFER GMBH as well as all companies which are fully owned by these companies either directly or indirectly (SSI SCHÄFER Group). They only apply to contract partners who are traders in the sense of art. 310 para. 1 BGB.
2. Any orders for supplies and/or services placed with suppliers with headquarters outside the Federal Republic of Germany shall be exclusively based on these terms and conditions of purchase (the place of the company, branch or subsidiary engaging in the contract shall be the determining factor). These terms and conditions of purchase also apply to all future business with suppliers without the need for an explicit reference in each individual case.
3. Any other terms and conditions of suppliers which contradict our terms and conditions of purchase or which deviate from these are only accepted with our explicit and written confirmation. Our terms and conditions of purchase also apply if we accept deliveries/services without reservation despite us being aware of contradictory or deviating terms and conditions of the supplier.
4. All the clauses of our terms and conditions of purchase are applicable unless alternative provisions have been agreed with the supplier.

II. Contract conclusion, amendment of contract

1. Our orders will be placed in writing and must be accepted in writing (letter, telefax, e-mail). We commit ourselves to our orders for a period of 2 weeks; if the supplier does not accept the order in writing within this period, we may cancel our order without any liability to the supplier.
2. The supplier shall promptly check our requests for a quotation and our orders for any obvious errors, unclear issues, incompleteness as well as inappropriateness of our specifications with respect to the intended use and shall notify us accordingly. Visits, the preparation of quotations and any other work performed prior to a contract being entered into shall not be subject to remuneration unless such remuneration has been agreed in writing or is required by virtue of law.
3. If the supplier changes any features of goods or services in the course of an existing business relationship, he shall explicitly notify us prior to contract conclusion.
4. Any subsequent contract amendments including waiving of the written form shall be made in writing. If changes to the scope of supply become necessary at the time of execution of our order, the supplier shall promptly notify us in writing. Any amendments to the scope of services require our written confirmation. Any amendments required by us shall also be subject to the provisions of this paragraph in relation to orders and contract conclusion.

III. Delivery, service

1. The place of performance for supplies and services provided by the supplier shall be the place of destination as indicated by us.
2. Each delivery must be accompanied by a delivery note in the contract language listing the delivered items as well as our PO number. If the supplier fails to provide such information, the delivery shall only be deemed to have been completed upon its identification by us.
3. Partial deliveries are not permissible unless we have agreed in writing beforehand.
4. Incorrect deliveries and excess quantities may be rejected by us at any time within the period for notification of defects even if delivery has been accepted without reservation.
5. If the supplier employs workers for carrying out the contract within the EU who are not from an EU member state, he shall present their work permits prior to beginning the work without having to be asked.

IV. Terms of delivery

1. Any agreed delivery and service dates shall be binding. Upon expiry of the period agreed for delivery/service, the supplier shall be in default with no need for us to submit a reminder.
2. Compliance with the delivery date is based on receipt at the agreed destination; in the event of deliveries including erection or assembly and services, the date of acceptance shall define completion. If documentation, test certificates or other documents including electronically stored data form part of the scope of supply, delivery/service shall not be deemed to be completed until these have been provided in full as specified in the order.
3. When the supplier reasonably anticipates that he will be unable to complete the delivery/service by the agreed date, he must notify us of the anticipated delay as soon as practicable stating the reasons for the delay and the anticipated duration of such delay.
4. If the supplier is in default, we are entitled to impose a penalty of 0.2% of the order value for each workday, however the total shall not exceed 5% of the total order value. We may reserve the application of such a penalty until payment of the invoice for the delivery/service. The penalty shall be set off against claims for damages due to delay.
5. The supplier may only invoke that documentation, which should have been provided by us, is missing, if he has reminded us of the need for such documentation in writing allowing a reasonable period of grace, and if he has not received it within the period of grace.
6. In the event of early delivery/service, we reserve the right to return the goods to the supplier at his cost. If we accept premature delivery/services, the goods will be stored until the agreed delivery date at the supplier's cost and risk. In this event, the supplier may request payment only on the contractual due date.

V. Despatch

1. Unless otherwise agreed, goods shall be delivered DDP according to Incoterms 2000 to the destination specified by us in the order.
2. To avoid doubts, any despatch conditions other than specified in para. 1 which are stated in our order refer to Incoterms 2000.
3. Direct despatch to our customers shall be made neutrally and on our behalf. The required shipping documents shall be requested from us in good time. Invoices and notifications shall be sent exclusively to us.

VI. Pricing, payment

1. All agreed prices are fixed lump sum prices excluding any additional claims for payment of supplier. If prices have not been finalized at the time of placing the order, they shall be submitted promptly after receipt of our order. In this event, the order shall only become effective on our subsequent confirmation of the price.
2. Payment shall be made following receipt of goods or acceptance of services and receipt of an invoice within 14 days less 3% cash discount or within 30 days less 2% cash discount or within 60 days net. Payments shall be made, at our discretion, in cash, by bank transfer or by collection only cheque. Payments shall be considered to be made in good time if bank transfer has occurred within the payment period.
3. We may set off against the supplier's outstanding payments or compensation any due counterclaims of the SSI SCHÄFER Group.
4. The supplier must not assign any receivables due from us unless we agree in writing.

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VII. Quality, warranty, liability

1. All supplies and services shall comply with the state of the art and shall be provided in line with all applicable laws, decrees and official obligations as well as all applicable technical rules, standards, and guidelines. The supplier guarantees the technical correctness and completeness of documentation and calculations to be provided by him.
2. The supplier undertakes to use ecologically desirable products and methods for his supplies/services, including work subcontracted to third parties, as far as this is feasible from an economic and technical perspective. Upon request, the supplier shall issue a certificate of inspection for delivered items. The supplier shall be liable for any damage, direct or consequential, resulting from a lack of environmental compatibility of delivered products and packaging material as well as by any violation of legal disposal obligations.
3. In relation of any purchases or contracts for work and services, we will check the delivered items for their specification and quantity as well as for obvious damage and faults upon receipt. Any obvious defects shall be deemed to be reported in good time if these are notified to the supplier within one month. Defects which are not identifiable at the incoming goods inspection will be notified to the supplier within one month of their discovery.
4. Any deviation from contractual specifications, which cannot be described as immaterial, shall be deemed a substantial breach of contract.
5. In the event of a defect, we shall be fully entitled to legal warranty claims. In particular, we are entitled to request, at our discretion, repair or replacement by the supplier. Repair work may be performed at the supplier's cost by ourselves or by third parties if the supplier has not completed the repair work within a reasonable period set by us or if a period of grace is not required by law.
6. The supplies/services and their contractual or intended use by us must not infringe any copyrights or other rights of third parties. If the use of the supplies/services is affected by third party rights, the supplier shall at his costs either obtain a licence or concession from the copyright holder or adjust or replace the supplies/service so that they are not subject to third party rights when they are used in line with the provisions of the contract.
7. In the event of any kind of defects of title which are due to the supplier, the supplier shall hold us harmless against any third party claims. In this case, the supplier shall resist such third party claims at his own cost. We authorize the supplier to settle any such judicial and extrajudicial disputes with third parties, and we will not accept any such third party claims.
8. The supplier shall hold us harmless against any claims for damages and warranty claims from our purchasers as far as these are based on defects of supplies/services or culpable violation of the contract by the supplier or his agents; the same applies to consequential damage and financial loss.
9. The preclusion period provided for by Art. 39 para. 2 CISG as well as the limitation period to Art. 438 et seq. para. 1 no. 3, 634a para. 1 no. 1 BGB is 3 years. Where purchaser's rights due to contract violation by the supplier must be asserted within an adequate period of time, this period shall be at least one month. Covering purchases may be made within a period of at least 6 months.

VIII. Documents, provided items, resources

1. We reserve all property rights and copyrights without reservation of any documents, drawings, calculations and other documents ("documents") which are provided to the supplier. The documents shall exclusively be used for execution of our order. They must not be disclosed to third parties without our prior written consent. The documents shall be returned to us at any point in time at our request or without being asked after completion of the order, premature termination or failure to enter into a contract.

2. Any items provided by us to the supplier shall remain our property. Items provided shall be processed for us in our function as manufacturer. If our property ceases to exist due to assembly, mixture, processing or alteration, the supplier hereby assigns to us co-ownership of the new item in proportion to the invoice value of the provided items concerned. The provided items may only be used for execution of our order. They shall be stored free of charge by the supplier and shall be insured against accidental loss at his cost and shall be marked as being our property. The provided items shall be returned to us at any point in time at our request or without being asked after completion of the order, premature termination or failure to enter into a contract.
3. Any resources which are purchased or produced by the supplier and which are paid for by us or are subject to amortization through the price of the part concerned, shall become our property at the time of commissioning by the supplier. The provisions relating to provided items shall apply to such resources accordingly.

IX. Confidentiality

1. All commercial and technical information which the supplier receives from us for execution of the contract shall be treated confidentially without limitation also beyond the term of the contract. This does not apply to information which was already known to the supplier or which he has otherwise legally obtained.
2. Products which are produced based on documents prepared by us including drawings, models, etc. or using our tools must not be used by the supplier outside the scope of the contract and must not be offered or supplied to third parties.
3. The supplier shall treat this contract confidentially and must not refer to our business relationship in advertising material without our prior written consent.

X. Subcontractor

The supplier must not engage subcontractors unless we have given our written consent. In the event of the employment of a subcontractor, the supplier shall place the subcontractor under all applicable contractual obligations which he has undertaken with us. The supplier is liable for compliance with these obligations by the subcontractor.

XI. Applicable law, place of venue, language

1. Our contracts are governed by the law of the Federal Republic of Germany including the United Nations Convention on Contracts for the International Sale of Goods.
2. If the supplier is a registered trader or has no place of venue in Germany, our headquarters in Neunkirchen/Siegerland shall be the place of venue for all disputes resulting from and in connection with the contractual relationship. We are also entitled to sue the supplier, at our discretion, at his place of business.
3. The contract language is German unless the parties exclusively negotiate in another language. For the avoidance of any doubt, if the contractual parties use another language besides German, the German wording shall have priority.

XII. Privacy

Supplier data is stored electronically and is used for the purpose of contract execution.

Date: August 2007