

Purchasing Conditions



1. **General.**

The following Purchasing Conditions apply to our orders, unless stipulated otherwise in writing or specified in the orders. All modifications of and amendments to the Purchasing Terms stipulated below by deviating sales conditions of the Supplier shall be deemed to have been accepted only if they have been confirmed by us in writing in their entirety as an amendment to our purchasing conditions. The acceptance of deliveries or services or the payment thereof is not equivalent to an approval of the Supplier's sales conditions. Our Purchasing Conditions shall also be applicable if we accept the delivery without any reservations, although we are aware of the Supplier's conditions to the contrary or any conditions which deviate from our Purchasing Conditions.
 2. **Offers**

All offers shall be submitted in compliance with the details of our request. Discrepancies shall be expressly pointed out. Offers shall be submitted at no cost and shall not be binding upon us.
 3. **Purchase orders and confirmation of order**

All purchase orders and all modifications thereof shall be binding even if they have not been signed, provided that they are transmitted via facsimile or other electronic means. We may cancel a purchase order without being liable to cost if the Supplier has failed to confirm the order in writing within 14 days of the date of the purchase order (confirmation of order), unless the deliveries or services have been properly performed in the meantime.
 4. **Purchase orders for call orders**

If purchase orders are placed on call, the call needs to be confirmed in writing by us in order to be valid. If this confirmation is given via facsimile, it shall be binding even if it has not been signed.
 5. **Delivery date**

The agreed delivery date shall be binding. In order to be on schedule, a delivery has to arrive at the address of receipt specified by us. Any circumstances that jeopardize compliance with agreed delivery dates shall be communicated to us in writing without delay in order to coordinate further action. Our right to possibly rescind the contract or claim damages for non-performance shall not be affected. If the Supplier is in default, we shall be entitled, regardless of any other rights, to claim a lump-sum compensation for default at a rate of 1% of the total value of the order for each week of default or any part thereof, but no more than 5% of the total value of the order. The Supplier shall be entitled to prove that we did not incur any damages, or suffered considerably lower damages, because of the default.

In the event that we should be in default of acceptance or of the debtor, the Supplier's claim for reimbursement of expenses, which he has to evidence, shall be limited to 0.5% of the value of the delivery for each complete week of default, unless the default was caused intentionally or by gross negligence.

Acts of God, labor disputes, operational disturbances not attributable to us, riots, government acts and other inevitable incidents of Force Majeure shall entitle us to rescind the contract, in whole or in part, if these incidents result in a major delay of the delivery date or a considerable reduction in demand on our part. Delivery time from Monday to Friday 7.00 a.m. to 4 p.m.
 6. **Samples, drawings, templates**

All process descriptions, drawings, samples, patterns, models, stencils, templates, tools and other means of production which we have made available to the Supplier shall remain our property and shall not be used, copied or released by the Supplier to third parties; the same applies to all drawings prepared by the Supplier according to our special specifications, etc. These items shall be returned to us at no charge and without a special request as soon as they are no longer needed for the performance of the purchase order.

The Supplier shall handle all items made available to him carefully, maintain them in a useful condition and keep them insured against fire and theft. The Supplier shall have no right of retention concerning such items.

The Supplier shall consider the purchase order and all works performed in connection therewith as confidential and treat them accordingly as a business secret.

An infringement upon the obligations listed above shall entitle us to demand that these items should be released to us, regardless of the Supplier's liability for all damages arising therefrom.
 7. **Material provided by us**

All material provided by us shall remain our property and shall only be used in the performance of our purchase order. The Supplier shall reimburse us for all depreciation or loss.

The material provided shall be processed or converted on behalf of us, and we shall become the direct owners of the processed or converted items. If this is not possible for any legal reason whatsoever, the parties hereto agree that we shall become joint owners of the products manufactured using our material in the proportion between the value of the material provided by us and the value of the entire products. The jointly owned items shall be kept by the Supplier at no cost.
 8. **Terms of payment, freight, postage**

Unless agreed otherwise, the prices shall be quoted free delivery to our factory in Schramberg. All costs for packaging, freight, insurance, drayage, postage and other transport charges shall be borne by the Supplier.

If prices are quoted ex works or ex warehouse of the Supplier, shipment shall be made at the lowest cost possible, unless we have specified a particular means of transport.

Unless stipulated otherwise in the purchase order, we shall not assume the costs of insuring the goods, in particular, haulage insurance.
 9. **Environment and Energy**

The supplier must provide an environmentally friendly and energy-saving production. The products and their packaging are to be adapted to the latest environmental requirements. Ingredients that are known to be hazardous to health or the environment, should be excluded. The possibilities for recycling should be fully used and ensured. A certification according to ISO 14001 and ISO 50001 is desired.
 10. **Delivery note, shipping address**

Each consignment shall be accompanied by packing lists or delivery notes which shall contain the basic order data. Purchase order and item numbers should always be indicated. Deliveries shall be made to the shipping address indicated on the purchase order.
 11. **Invoices**

Two copies of all invoices shall be sent to us on the shipping date. Duplicates shall be marked as such.
 12. **Claims based on defects, recourse**
 - 11.1. Acceptance shall be subject to an inspection for defects and, in particular, for the correctness, completeness and suitability of the delivery. We shall be entitled to inspect the subject matter hereof as far as this is feasible in the ordinary course of business; notice of defects shall be given immediately upon their discovery. The Supplier waives any objections of delayed notice of defect in this context.
 - 11.2. The legal provisions concerning material defects and defects in title shall be applicable unless stipulated otherwise below.
 - 11.3. We reserve the right, in principle, to choose the method of subsequent performance. The Supplier shall be entitled to refuse the method of subsequent performance chosen by us if the conditions stipulated in Section 439 (2) of the Civil Code are met.
 - 11.4. If the Supplier fails to start correcting a defect immediately after having received our request to correct any defects, we shall be entitled in urgent cases, in particular, to avoid acute dangers or major damages, to correct the defects ourselves at the Supplier's expense or to have them corrected by third parties. Claims for material defects shall be statute-barred after two years, unless the items have been used for a building in compliance with their intended purpose, and have thereby caused a defect of the building. The limitation period concerning claims for material defects shall begin upon delivery of the items sold (passing of risk).
 - 11.5. In the event of defects in title, the Supplier shall furthermore hold us harmless against all third-party claims, if any. Defects in title shall be time-limited after 10 years.
 - 11.6. For any parts of the delivery that have been repaired or restored to working order within the time limitation of our claims for defects, the time limitation shall be renewed on the day the Supplier has completely satisfied our claims for subsequent performance.
 - 11.7. The Supplier shall bear all costs incurred by us as a result of the defective delivery of the items purchased, in particular, transport, travel, labor, material expenses or costs for an inspection of incoming goods beyond the normal scope.
 - 11.8. If we take back any products manufactured and/or sold by us because of defects of the items purchased from the Supplier, or if the purchase price was reduced or if any claims were asserted against any other way for this reason, we reserve the right to take recourse against the Supplier, without the need to specify a time limit which would otherwise have to be granted with respect to our rights concerning defects.
 - 11.9. We shall be entitled to demand reimbursement of our expenses from the Supplier which we incurred in dealing with our customer because the latter is entitled to reimbursement by us of all expenses incurred in connection with subsequent performance, in particular, all transport, travel, labor and material cost.
 - 11.10. Notwithstanding the provisions of subsections 11.4 and 11.5 hereof, incidents under subsections 11.8 and 11.9 shall not be time-limited before 2 months have elapsed since the date on which we satisfied all claims raised by our customers against us, but in any case not later than 5 years after delivery by the Supplier.
 - 11.11. If a material defect is detected within 6 months of passing of risk, it will be assumed that the defect was already present upon passing of risk unless this assumption is incompatible with the nature of the item or the defect.
12. **Product liability and recall**

In the event that claims are raised against us because of product liability, the Supplier shall hold us harmless against such claims, if and to the extent that the damage was caused by a defect in the item purchased from and delivered by the Supplier hereunder. In the event of liability based on default, however, this provision shall only be applicable if the Supplier is in default. The Supplier shall bear the burden of proof if the cause of the damage is within the Supplier's scope of responsibility. In such a case, the Supplier shall bear all costs and expenses, including the costs of legal pursuit or a recall. Furthermore, the provisions of the law shall be applicable. The Supplier hereby agrees to take out a product liability insurance providing reasonable coverage for damage to persons and to property and to provide evidence of such an insurance on request.
 13. **Infringement of industrial property rights**

The Supplier warrants that no third-party rights were infringed upon in connection with his delivery. The Supplier expressly agrees that the products delivered by him may be distributed by us all over the world, even if they have been incorporated in or processed together with other products.

If claims are raised against us by third parties because of an infringement of industrial property rights, the Supplier shall hold us harmless against such claims upon our first written request. Without the Supplier's consent, we shall not be entitled to enter into any type of agreement with such third parties, in particular, to agree to any type of settlement.

The Supplier's obligation to hold us harmless refers to all expenses necessarily incurred by us or in connection with any claims raised by third parties. Our right to withdraw from the contract as well as the recourse to any other statutory claims, however, shall not be affected by the foregoing provision.
 14. **Liability/Further Claims for Damages**

The Supplier shall be liable without limitation towards us regardless of the type of violation of duties, especially under warranty, impossibility and tort, for each negligence and criminal intent.

Limitations and exclusions of liability of any kind are herewith expressly contradicted.
 15. **Passing of risk, place of performance**

The Supplier shall bear the material risk until receipt of the goods by us or by our agent in the place to which the goods are to be delivered pursuant to the order. The same applies to the possible acceptance of the goods. The place of performance is the place in which the goods are to be received or accepted pursuant to the order.
 16. **Payment**

The price indicated on the purchase order shall be binding. For lack of deviating written agreements, the prices of deliveries and services shall be quoted free place of receipt, including packaging, but not including value-added tax. Payments shall be made within 30 days with a 3% discount or within 90 days without any deductions. The discount shall be deducted from the final amount invoiced and shall also be admissible if we offset any claims or retain a reasonable amount of payments because of defects; in the event of retention for defects, the payment term shall commence upon the complete correction of the defects. Besides that, we shall have the right to offset claims or retain payments to the extent provided by law. The assignment of claims resulting from deliveries and services shall be subject to our written approval which may only be denied with cause, however.
 17. **Miscellaneous provisions**
 - 17.1. In the event that any provision hereof or of the additional agreements made should be or become invalid, the validity of the Purchasing Conditions as a whole shall not be affected. The parties agree to replace an invalid provision with a valid one whose economic result is equivalent to that of the invalid provision.
 - 17.1. All disputes arising directly or indirectly from contractual relationships which are based on the present Purchasing Conditions shall be settled by the courts of our registered office. We shall furthermore be entitled to bring an action against the Supplier, in our discretion, in the courts that have jurisdiction for his place of business or his branch establishment, or for the place of performance.
 - 17.2. The contractual relationship shall be exclusively subject to German law to the exclusion of the conflict of law provisions and the United Nations Convention on contracts for the international sale of goods (CISG)

SCHWEIZER ELECTRONIC AG
dated: 15.04.2013