

General Terms and Conditions of Purchase of Maschinenbau Scholz GmbH & Co. KG

§ 1

General – Scope of Application

- (1) Our Terms and Conditions of Purchase apply exclusively; we do not recognise any terms and conditions of the supplier that conflict with or deviate from our Terms and Conditions of Purchase, unless we have expressly agreed to their validity in writing. Our Terms and Conditions of Purchase shall also apply if we accept the supplier's delivery without reservation in the knowledge that the supplier's terms and conditions conflict with or deviate from our Terms and Conditions of Purchase.
- (2) All agreements made between us and the supplier for the purpose of executing this contract must be set out in writing in this contract.
- (3) Our Terms and Conditions of Purchase shall only apply to entrepreneurs within the meaning of Section 310 (1) of the German Civil Code (BGB).

§ 2

Offer – Offer Documents

- (1) The supplier is obliged to accept our order in writing within a period of one week.
- (2) We reserve ownership rights and copyrights to illustrations, drawings, calculations and other documents; they may not be made accessible to third parties without our express written consent. They are to be used exclusively for production on the basis of our order; after completion of the order, they are to be returned to us unsolicited. They are to be kept secret from third parties; in this respect, the provision of § 9 (5) applies in addition.

§ 3

Prices – Terms of payment

- (1) The price stated in the order is binding. Unless otherwise agreed in writing, the price includes delivery 'free domicile', including packaging. The return of packaging requires a special agreement.
- (2) Statutory value added tax is included in the price.
- (3) We can only process invoices if they state the order number specified in our order in accordance with the specifications in our order; the supplier is responsible for all consequences arising from non-compliance with this obligation, unless he can prove that he is not responsible for this.
- (4) Unless otherwise agreed in writing, we shall pay the purchase price within 14 days of delivery and receipt of the invoice, with a 3% discount, or within 30 days of receipt of the invoice.
- (5) We are entitled to set-off and retention rights to the extent permitted by law.

§ 4

Delivery time

- (1) The delivery time specified in the order is binding.
- (2) The supplier is obliged to inform us immediately in writing if circumstances arise or become apparent to him which indicate that the agreed delivery time cannot be met.
- (3) In the event of a delay in delivery, we shall be entitled to demand a contractual penalty of 0.25% of the delivery value per completed week, but not more than 5. We shall be entitled to claim a contractual penalty in addition to performance; we undertake to expressly declare the reservation of the contractual penalty to the supplier of consumer goods within 10 working days of receipt of the delayed delivery, but no later than upon payment of the invoice. Further claims and rights remain reserved.
- (4) The provisions of the fixed commercial purchase pursuant to Section 376 of the German Commercial Code (HGB) remain unaffected.
- (5) The goods must be clearly marked with the item number and item description so that their contents are clearly visible, and the goods documents must be enclosed with the delivery.
- (6) Tool test certificates - if agreed - must arrive with the respective delivery or be sent immediately.
- (7) Goods can only be accepted on working days (Monday to Friday) from 6 a.m. to 1 p.m.

§ 5

Transfer of risk - documents

- (1) Unless otherwise agreed in writing, delivery shall be made free of charge to the place of receipt specified by us.
- (2) The supplier is obliged to state our order number exactly on all shipping documents and delivery notes; if it fails to do so, we shall not be responsible for any delays in processing that may result.

§ 6

Retention of title

- (1) We do not recognise any extended or expanded retention of title by the supplier with regard to the goods delivered to us.

§ 7

Inspection for defects - liability for defects

- (1) We are obliged to inspect the goods within a reasonable period of time for any deviations in quality or quantity; the complaint shall be deemed timely if it is received by the supplier within a period of three working days from receipt of the goods or, in the case of hidden defects, from discovery.
- (2) We are entitled to the full statutory claims for defects; in any case, we are entitled to demand that the supplier remedy the defect or deliver a new item at our discretion. We expressly reserve the right to claim damages, in particular damages in lieu of performance.
- (3) If we are entitled to withdraw from the contract, we may limit the withdrawal to the defective or not yet delivered part of a delivery or declare the withdrawal with regard to the entire delivery.

(4) We are entitled to remedy the defect ourselves at the supplier's expense if the supplier is in default with the subsequent performance.

(5) The limitation period is 36 months, calculated from the transfer of risk.

(6) The supplier assigns its warranty claims against its upstream suppliers to us. We are entitled to disclose this assignment in the event of the supplier's insolvency.

(7) The remaining mandatory provisions of the supplier recourse remain unaffected.

§ 8

Limitation period for claims against the supplier - limitation of liability

(1) The standard limitation period for claims for performance and damages brought against us by the contractor is 24 months. The provisions of Sections 196 and 197 of the German Civil Code (BGB) remain unaffected by this.

(2) The provisions in paragraph 1 shall not apply if our liability is based on intent, malice or gross negligence, nor shall they apply to claims against us under the Product Liability Act or claims for damages based on injury to life, limb or health of the supplier. In these cases, liability and the limitation period shall be governed by the statutory provisions.

§ 9

Product liability - Indemnification - Liability insurance cover

(1) Insofar as the supplier is responsible for product damage, it shall be obliged to indemnify us against claims for damages by third parties upon first request, insofar as the cause lies within its sphere of control and organisation and it is itself liable in external relations.

(2) Within the scope of its own liability for damage within the meaning of paragraph (1), the supplier shall also be obliged to reimburse us for any expenses incurred in accordance with Sections 683, 670 BGB or Sections 830, 840, 426 BGB arising from or in connection with a recall campaign lawfully carried out by us. We shall inform the supplier of the content and scope of such a recall measure in good time in advance, as far as possible and reasonable, and give him the opportunity to comment.

(3) We shall notify the relevant competent authority in accordance with the provisions of the ProdSG in consultation with the supplier.

(4) The supplier undertakes to maintain product liability insurance with a sum insured of €10 million per personal injury/property damage - as a lump sum - for the duration of this contract, i.e. until the respective expiry of the limitation period for defects; if we are entitled to further claims for damages, these shall remain unaffected.

§ 10

Property rights

(1) The supplier warrants that no third-party rights within the Federal Republic of Germany are infringed in connection with or as a result of the delivery.

(2) If we are held liable by a third party for such a claim, the supplier shall be obliged to indemnify us against such claims upon first written request.

(3) In the event of claims for damages by the third party, the supplier reserves the right to prove that it is not responsible for the infringement of the third party's rights. We are not entitled to enter into any agreements with the third party without the supplier's consent, in particular to conclude a settlement.

(4) The supplier's obligation to indemnify shall cover all expenses necessarily incurred by us as a result of or in connection with the claim by a third party, unless the supplier proves that it is not responsible for the breach of duty underlying the infringement of property rights.

(5) The limitation period for these claims is three years, beginning with the transfer of risk.

§ 11

Retention of title - provision - tools - confidentiality

(1) If we provide parts to the supplier, we retain title to them. Processing or transformation by the supplier shall be carried out on our behalf. If our reserved goods are processed with other items not belonging to us, we shall acquire co-ownership of the new item in proportion to the value of our item (purchase price plus VAT) to the other processed items at the time of processing.

(2) (2) If the item provided by us is inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in proportion to the value of the reserved item (purchase price plus VAT) to the other mixed items at the time of mixing. If the mixing is carried out in such a way that the supplier's item is to be regarded as the main item, it shall be deemed agreed that the supplier shall transfer co-ownership to us on a pro rata basis in the amount of the value of the item provided; the supplier shall hold the sole ownership or co-ownership in safekeeping for us.

(3) We reserve title to tools; the supplier is obliged to use the tools exclusively for the manufacture of the goods ordered by us. The supplier is further obliged to insure the tools belonging to us at replacement value at its own expense against fire, water and theft damage. At the same time, the supplier hereby assigns to us all compensation claims arising from this insurance; we hereby accept the assignment. The supplier is obliged to carry out any necessary maintenance and inspection work on our tools, as well as all maintenance and repair work, in good time and at its own expense. It must notify us immediately of any malfunctions; if it fails to do so through its own fault, claims for damages remain unaffected.

(4) If the security interests to which we are entitled under paragraph (1) and/or paragraph (2) exceed the purchase price of all our goods subject to retention of title that have not yet been paid for by more than 10%, we shall be obliged, at the supplier's request, to release the security interests at our discretion.

(5) The supplier is obliged to keep all illustrations, drawings, calculations and other documents and information received strictly confidential. They may only be disclosed to third parties with our express consent. The confidentiality obligation shall also apply after the execution of this contract. However, it shall expire if and to the extent that the manufacturing knowledge contained in the illustrations, drawings, calculations and other documents provided has become generally known or was demonstrably already known to the supplier at the time of notification within the meaning of sentence 1.

§ 12

Transfer of orders

(1) The supplier is not entitled to transfer its obligations under the contract or essential parts of the order to third parties without our written consent.

§ 13

Withdrawal

(1) We shall be entitled to withdraw from the contract if an application has been made to open insolvency proceedings against the supplier's assets, if insolvency proceedings have been opened against its assets or if the opening of proceedings has been rejected for lack of assets.

§ 14

Place of jurisdiction - place of performance

(1) If the supplier is a merchant, German law shall apply to the contractual relationship; the applicability of the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded; our place of business shall be the place of jurisdiction; however, we shall also be entitled to sue the supplier at the court of his place of residence.

(2) Unless otherwise specified in the order, our place of business shall be the place of performance.