

General Terms and Conditions of SCHUNK Intec AG

1. Validity

1.1 Our offers, sales and deliveries occur exclusively on the basis of these general terms and conditions; this also applies in the ongoing business relationship, even if this is not referred to in the ongoing correspondence. As the result of the creation of an order, these general terms and conditions become an integrated part of the contract. Amendments to these general terms or buyer's purchasing conditions or other deviating agreements only apply if we confirm them in writing.

1.2 References or counter-confirmations of the buyer with reference to its purchasing conditions are hereby expressly contradicted.

2. Offer - Formation of Contract

2.1 Our offers are non-binding.

2.2 The buyer's orders are not legally binding until we have confirmed the order in writing or delivered the Deliverables. If there is no rejection on our side or if the good is delivered, the contract is exceptionally concluded even without order confirmation.

2.3 The specifications in catalogues, prospectuses, circulars, advertisements, illustrations and price lists concerning the weight, dimensions, capacity, prices and performance are understood to be exemplary representations and are non-binding unless expressly incorporated into the contents of the contract.

3. Scope of Delivery

3.1 The scope of the deliveries shall be determined by our specifications in the order confirmation or, in the absence of an order confirmation, by the specifications in our offer.

3.2 The buyer shall assume complete responsibility for the accuracy of the documents, instructions, samples, and so on to be supplied by the customer. All specifications concerning dimensions, etc. require our written confirmation.

3.3 Samples are only provided against payment.

4. Prices

4.1 Unless otherwise stated, the prices are understood to be in Swiss francs without added value tax, charges, customs, transport, packaging, insurance, permits, certifications, installation, commissioning, training and application support. They are due for net payment in Swiss francs within thirty days of invoicing. The prices are valid ex works plus the respective valid added value tax in Switzerland. Additional costs for packaging, transport, insurance, customs, product certification for the sales area, etc. will be invoiced. The foregoing shall also apply to any agreed deliveries in installments or express deliveries.

4.2 The prices stated in our offer or the order confirmation are based on the calculation existing at the time of the submission of the offer or order confirmation. If a significant change of the prices of raw materials – at least 10% – occurs three months after conclusion of the contract, we are entitled to increase the agreed prices by the proportional additional expense. The buyer will be informed of this.

4.3 The minimum order value is 100 Swiss francs.

5. Delivery Time, Delay, Fixed Compensation

5.1 The valid delivery time is the date specified in writing in our order confirmation. If the buyer does not provide the documents to be procured from it in a timely manner and if it does not meet its individual contractual obligations (e.g. prepayment, observance of the time limit for the approval of the approval drawing, etc.), the delivery time shall be extended in accordance with this period of delay.

5.2 Delivery shall be considered on time if, within the time limit for delivery, the Deliverables have left our factory or we have made the Deliverables ready for transport and notified the buyer thereof.

5.3 If the buyer suffers a loss due to a delay for which we are responsible, the compensation shall be limited to 0.5% for every full week of delay, in total however at most 5% of the value of the portion of the total delivery that is delayed. We reserve the right to pay less compensation subject to proving a lesser amount of damage. Liability for any consequential damages is expressly excluded. The limitation of liability does not apply in case of malicious intent or gross negligence.

5.4 The place of performance for the delivery is our registered office in Aadorf.

6. Force Majeure/Reservation as to Oneself Obtaining Delivery

6.1 If we are prevented from performing our obligations after entering into the contract due to the occurrence of unforeseeable, unusual circumstances that we could not have prevented through reasonable precautions under the circumstances, especially interruptions of work, official sanctions and interventions, delays in receiving deliveries of essential raw materials, energy supply difficulties, strike and lockout, the delivery time – insofar as these circumstances resulted in delays – shall be extended to an appropriate extent. However, if these circumstances make the delivery impossible, we shall be released from the obligation to deliver.

6.2 If we prove that, despite careful selection of our subcontractors and despite conclusion of the required contacts at reasonable terms, our subcontractors do not deliver to us in time, the delivery deadline shall be extended by the period of the delay that was caused by the late delivery by the subcontractors. In the event that delivery by the subcontractors is impossible, we shall be entitled to rescind the contract.

6.3 If the circumstances in accordance with subsections 6.1 to 6.3, which prevent us from fulfilling the contract, last longer than 2 months, both contractual parties are entitled to rescind such parts of the contract as have not yet been performed by that time.

7. Payment

7.1 The buyer is entitled to make its payment within 30 days, calculated from the respective invoice date.

7.2 In case of invoices to the buyer that are still outstanding, payments shall be applied respectively to covering the oldest claim due.

7.3 If the buyer defaults, we are entitled to demand interest in the amount of 5% from the date in question.

7.4 If the buyer is in default from earlier deliveries or the buyer experiences a significant worsening of its financial circumstances after conclusion of the contract, which endangers our claim for consideration, the payment shall be made concurrently with delivery of the delivery items. The buyer can prevent the concurrent payment with delivery by providing a security in the amount of the purchase price. With its order, the buyer assumes the guarantee for its solvency or creditworthiness. If there are respective doubts, particularly negative information from credit agencies or credit insurers, we are entitled to make the performance of the service dependent on the furnishing or appropriate securities or prepayments within an appropriate period. In the event that the agreed securities or the prepayment are not provided within the agreed period, we are entitled to rescind the contract. In the event of the lapsing of the contract, we reserve the right to claim compensation for damages, particularly the costs for the procurement of primary materials. In case of default, we may combine all quantities still to be delivered in one delivery and make the delivery dependent on the payment of all invoices due and a prepayment on invoices still to be paid. Furthermore we are entitled to make all claims that are outstanding at the time of the default due immediately, regardless of the legal basis or contractual relationship, and to terminate any installment payment agreements. As long as any outstanding claims remain unsettled, we are entitled to the right of retention with regard to all goods that have not been delivered or other services to be rendered.

8. Title Retention

8.1 The delivered goods shall remain our property until the purchase price has been paid in full. The buyer is required at our first request to submit all required declarations for the corresponding entry of the goods in the title retention register.

9. Warranty in Case of Defects

9.1 It is the obligation of the buyer to inspect our Deliverables for defects immediately upon delivery. Appropriate spot checks shall also be performed during such inspection.

9.2 Any complaints on the grounds of incomplete or incorrect deliveries or defects that are identifiable in accordance with subsection 9.1 above shall be promptly reported to us in writing and, if we so request, the relevant defective parts shall be sent back to us. Concealed defects that could not be identified through spot checks shall be reported to us as soon as they are discovered. If the complaints or defects are not communicated to us in a timely manner, the delivery shall be deemed to have been accepted and all claims on the grounds of incomplete, incorrect or improper delivery shall be forfeited.

9.3 If the Deliverables are defective or if they become defective within the limitation period for claims based on defects of 12 months from the date of delivery, we must – at our option – replace or repair the defective items.

9.4 If we allow a reasonable grace period granted to us to elapse without having delivered a replacement or having successfully corrected the defect, or the correction of the defect fails, the buyer shall, at its option, have a claim to withdrawal from the contract or a reduction.

9.5 We shall be required to pay expenses for the delivery of a defect-free object in full. Costs arising from the delivery of objects having been brought to a delivery site other than the one originally agreed shall be borne by the buyer.

9.6 No claims exist in the event of defects on the part of the buyer:

(i) In the case of damage caused by improper handling or overloading by the buyer or the buyer's purchasers;

(ii) If the buyer or the buyer's purchasers fail to comply with rules of installation and handling prescribed by law and by us, unless the defect is not attributable to such non-compliance;

(iii) If the Deliverable was produced according to the buyer's specifications, in particular according to drawings supplied by the buyer, and the defect of the Deliverable is attributable to said specifications/drawings.

(iv) If the buyer asks us to solve a design task that corresponded to the state of the art in science and technology at the time of its creation.

9.7 If the buyer asserts a claim against us on the basis of rights in case of defects and it turns out that either no defect exists or the defect is attributable to circumstances not covered by the warranty, then the buyer shall reimburse us for all resulting costs.

10. Other Liability

10.1 We are liable within the scope of our liability insurance for personal injury and property damage that the customer demonstrably suffers as a result of our fault. Further claims, namely for the behavior of auxiliary persons, are excluded.

10.2 Compensation for indirect damages, such as loss of profit and other financial losses is fully excluded to the extent permitted by law.

11. Intellectual Property/Violation of Copyrights and Industrial Property Rights of Third Parties

11.1 SCHUNK Intec AG retains the intellectual property rights to delivered goods such as copyrights, design rights, trademark rights and related property rights. If the delivery includes software, subject to other licensing conditions the customer has the right to use the provided software together with the corresponding product, but not for independent sale, distribution, duplication, expansion or modification of this software. The intellectual property and the right to software for further use remain with us or our licensors.

11.2 The customer shall take the required actions to protect software, work results and documentation against unauthorized access or misuse by unauthorized parties. The customer may create the necessary backup copies. The customer must label these accordingly and store them separately and securely.

11.3 We guarantee that our deliveries and services do not violate the industrial property rights of third parties.

11.4 An audit of whether the documents provided by the buyer do not violate the rights of third parties, in particular copyrights, industrial property rights (design patents, patents, utility models, trademarks) is the responsibility of the buyer. If third parties assert claims against us for using, exploiting or duplicating documents and templates provided by the buyer on the grounds of infringement of copyrights and/or industrial property rights, or on the grounds of violating the law against unfair competition, then the buyer must support us in the defense against these legal violations and compensate us for all damage (including lawyers' fees and court costs) that we incur thereby.

12. Export Control

12.1 Our deliveries and services are subject to the condition that their fulfillment is not opposed by obstacles based on national or international export control regulations (particularly embargoes or other sanctions). The provider undertakes to provide us with all information and documents required for export or transfer. If delays occur due to export checks or approval procedures, these time limits and delivery times shall be extended accordingly. If required approvals are not granted or if the delivery or service cannot be approved, the contract is considered not concluded with regard to the parts in question. We are entitled to terminate the contract without notice if its termination is required for us to comply with national and international regulations. In the event of a termination in accordance with this section, the buyer may exclude the assertion of a claim or the assertion of other rights on the basis of the termination. In the event of the transfer of goods we have delivered to third parties domestically and abroad, the buyer must comply with the respectively applicable regulations of national and international export law.

13. Confidentiality

13.1 Insofar as the buyer gains knowledge of information that is confidential for us (information that is marked as confidential or must obviously be considered confidential, such as information about internal processes or the design of our products), the buyer must treat this as strictly confidential. Any disclosure to third parties is forbidden. The information may be used exclusively for the purposes we have specified. At our request, the information including all copies of it must be returned immediately (unless there are legal retention obligations); the complete return must be affirmed to us in writing. The above regulations do not apply to publicly accessible information or information that has lawfully come into the buyer's possession.

14. Transfer of Risk

14.1 If the goods are returned to the buyer at the customer's request, the risks of any damage or deterioration of the Deliverable shall pass to the buyer at the time of handover of the Deliverable to the forwarding agent, carrier or person entrusted with shipment. The foregoing provision shall apply even if the shipment is not made from the place of performance and/or we assume the associated freight charges.

14.2 If the goods are ready for shipment and the shipment is delayed for reasons for which the buyer is responsible, the risk shall pass to the customer upon receipt of the notification that the goods are ready for shipment.

15. Final Provisions

15.1 No additional agreements, reservations, amendments and addendums shall be effective without our written confirmation.

15.2 If any provision in these conditions of sale and delivery or any provision in other agreements referring to this delivery contract is or becomes invalid, the validity of all the other provisions or agreements shall not be affected thereby.

Valid from 1/1/2020

16. Governing Law and Place of Jurisdiction

16.1 These conditions of sale and delivery and the legal relationships between us and the buyer shall be governed by Swiss law, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

16.2 The place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship are the courts where we have our registered office. If we act as the plaintiff, we are entitled – but not required – to appeal to the competent court where the buyer has its registered office.

01/01/2020