

## **Terms and Conditions (Australia)**

### **Acceptance of Orders.**

SCHUNK Intec's acceptance of all Orders and all offers and sale by SCHUNK Intec are subject to and expressly conditioned upon Purchaser's assent to these Terms and Conditions, and any of Purchaser's Terms and Conditions which are different from or in addition to those contained herein are objected to and will be of no effect unless specifically agreed to in writing by SCHUNK Intec. If a contract is not earlier formed by actual agreement in writing, Purchaser's acceptance of any SCHUNK Intec's products will constitute acceptance of and assent to these Terms and Conditions.

### **Title and risk of loss.**

Title and risk of loss or damage will pass to Purchaser upon delivery to the carrier at the shipping point, regardless of whether notice of delivery has been given to Purchaser. All costs and expenses of shipping and Insurance will be paid by Purchaser.

### **Order cancellation.**

Order cancellations by purchaser are subject to a reasonable charge, to be determined by and at the sole discretion of SCHUNK Intec. Orders for special order products or MTO (Made to Order) may not be cancelled.

### **Acceptance.**

Products will be deemed accepted by Purchaser and Purchaser will have no right to revoke any acceptance, unless SCHUNK Intec receives written notice of rejection or revocation of acceptance, specifying the grounds therefor in reasonable detail, within fourteen (14) days after receipt of the products by Purchaser.

### **Taxes.**

If SCHUNK Intec is required to collect or otherwise pays any sales, use, excise, or other taxes, duties, fees, or assessments with respect to the manufacture, sale, use or shipment of any products hereunder (other than taxes measured by SCHUNK Intec's net income), regardless of when the same are imposed or paid, the amount thereof will be invoiced to and paid by Purchaser.

### **Limited liability.**

In no event shall SCHUNK Intec. Be liable for any indirect, incidental, special, punitive, or consequential damages of any kind, including but not limited to lost profits or revenue arising from or in any way connected to this agreement or order, whether for breach of warranty or other breach of contract, negligence, or other tort. SCHUNK Intec's maximum liability for any Claims arising from or in any way connected to this agreement or order, whether in contract or tort or otherwise, shall not exceed the invoiced purchase price of the product(s) giving rise to the Claim.

### **Limited warranty.**

All SCHUNK Intec Products are warranted to the original purchaser thereof to be free of actual defects in material and workmanship, so long as such defect is reported to SCHUNK Intec in writing within one (1) year of Purchaser's receipt of such product. SCHUNK Intec's obligation under this warranty is limited to replacing or repairing, at SCHUNK Intec's option, any part or parts which, upon inspection by SCHUNK Intec, are found to have a defect in material and/or workmanship. With respect to any Claim under this warranty, Purchaser shall return the parts at its own expense and risk to SCHUNK Intec Pty Ltd. If SCHUNK Intec finds no defect in material or workmanship, Purchaser shall

bear the expense and risk of return shipment. SCHUNK Intec shall have no liability for indirect, incidental, or consequential damages arising out of the use of SCHUNK Intec Products. The warranty set forth herein is in lieu of all other warranties and SCHUNK Intec makes no other warranties, express, implied, or statutory, including, with our limitation, warranties of merchantability or fitness for a particular purpose.

SCHUNK Intec expressly reserves the right to substitute materials in the products described in its catalogs and any supplements thereto.

**Indemnification for infringements.**

Purchaser agrees to indemnify and hold SCHUNK Intec harmless from all liabilities and costs resulting from any suit or proceedings based upon any claimed infringement of the rights of any third party, to the extent such claim arises out of SCHUNK Intec's compliance with Purchaser's designs or specifications.

With respect to products manufactured solely to SCHUNK Intec's designs and specifications, SCHUNK Intec will defend any suit or proceeding brought against Purchaser insofar as such suit or proceeding is based on a claim that such products infringe any Australian or New Zealand patent or any Copyright or trade secret, provided SCHUNK Intec is promptly notified in writing of such suit or proceeding and is given full authority, information and assistance by Purchaser for such defense, SCHUNK Intec will pay all damages and costs based on such Claim of Infringement which are finally awarded against Purchaser in any such suitor proceeding or paid by way of settlement, but SCHUNK Intec will have no liability with respect to any settlement made by Purchaser without SCHUNK Intec's prior written consent, which SCHUNK Intec may withhold in its sole discretion. If such products are held to be infringing and their use enjoined, or if in the opinion of SCHUNK Intec such products are likely to become the subject of a Claim of infringement, SCHUNK Intec may, in its sole discretion and its expense, either (a) procure for Purchaser the right to continue using such products, (b) modify such products so that they are non-infringing, (c) replace such products with non-infringing products, or (d) require return of such products and refund an equitable portion of the price paid by Purchaser therefor. The foregoing states SCHUNK Intec's sole liability to Purchaser for any claim of infringement based upon modification of the products by anyone other than SCHUNK Intec, use of the products in combination with products by anyone other than SCHUNK Intec, use of the products in combination with products or devices not made by SCHUNK Intec, or use of the products in applications not recommended by SCHUNK Intec.

**Default.**

If Purchaser fails to pay any amount when due hereunder or otherwise fails to perform its obligations hereunder, or if any proceeding is filed by or against Purchaser under any bankruptcy, insolvency or receivership law or if Purchaser makes an assignment for the benefit of creditors, SCHUNK Intec may, at its election upon written notice to Purchaser (a) suspend SCHUNK's performance; (b) terminate SCHUNK Intec's obligations hereunder; or (c) declare immediately due and payable all amounts owed to SCHUNK Intec hereunder or otherwise owed to SCHUNK Intec by Purchaser. Exercise of any of the foregoing remedies will not preclude exercise of any of the others, and neither the existence nor exercise of such remedies shall be construed as limiting any of the rights or remedies available to SCHUNK Intec under the laws applicable to the State and Territories of Australia and New Zealand.

### **Excusable delays.**

SCHUNK Intec will not be liable for or be in default hereunder as a result of any delay in delivery or failure to perform due to fire, flood, act of God, labor dispute, war, riot, delays in transportation or lack of transportation facilities, accidents to machinery, delays caused by any subcontractor or supplier or by Purchaser, compliance with any law, regulation, order or direction, whether valid or Invalid, or any governmental authority or instrumentality thereof, priorities granted at the request or for the benefit, directly or Indirectly, of any governmental authority or instrumentality thereof, or any cause beyond SCHUNK Intec's reasonable control, whether similar or dissimilar to the foregoing

### **General.**

Unless SCHUNK Intec and Purchaser have executed a separate specific agreement with respect to particular terms contained herein, these Terms and Conditions constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior negotiations, proposals, agreements and understandings, whether oral or written, relating to such subject matter. No representation, warranty, course of dealing or trade usage not expressly contained or referenced herein will be binding on SCHUNK Intec. No modification, amendment or waiver of any Provision hereof will be binding on SCHUNK Intec unless agreed to in writing by an authorized representative of SCHUNK Intec. Failure or delay on the part of either party to exercise any right or remedy herein shall not constitute a waiver thereof, The Invalidity or unenforceability, in whole or in part of any Provision herein will not affect the validity or enforceability of any other Provision. The captions contained herein are for convenience or reference only and are not to be used In the construction or Interpretation hereof.

Purchaser shall not assign or transfer any rights or duties hereunder without the prior written consent of SCHUNK Intec, and any purported assignment made without such consent shall be void. The provisions hereof shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties. The agreement of the parties for the purchase of products hereunder shall be governed by the laws of New South Wales as if made and to be performed entirely within such state. No order will be considered accepted by SCHUNK Intec until accepted at Its Offices in Smeaton Grange NSW Australia.

Any controversy or Claim (including, without limitation, any Claim based on negligence, misrepresentation, strict liability, or other basis) arising out of or relating to this agreement or its performance or breach, shall be settled by arbitration in accordance with the laws of New South Wales. The decision in such arbitration shall be final and binding and the award rendered thereon may be entered in any court having jurisdiction.

### **Return policy.**

Returned merchandise for credit must have prior authorization from SCHUNK INTEC and is subject to a 15% handling and restocking fee. Returned items must be shipped to **SCHUNK INTEC Pty Ltd Unit 4 / 62 Turner Road, Smeaton Grange, 2567, NSW, Australia**. Freight cost associated with returns are the responsibility of the purchaser. The returned goods are subject to inspection upon receipt and are required to be in original packaging, saleable, undamaged, unused and of nonperishable materials., including rubber or like materials. Special, MTO (Made to Order) altered products, or grease are deemed non-returnable. Returned goods much not be any older than 12 months from date of manufacture. Prices subject to change without notice.

**Freight Policy.**

Shipment discrepancies should be reported within 24 hours of receipt of shipment. If you prefer your order collected via a specific small package and/or LTL freight provider, the name of the providers and customer account numbers must be indicated on the PO. Some freight providers do not require an account number - please indicate that the shipment should be processed via collect if no account number is needed. All Orders without preferred options will ship via our (SCHUNK Intec Pty Ltd) preferred freight provider at that time. Freight cost incurred will be charged to the purchaser account and will be indicated within the quotation process or prior to dispatch where weights and volume have not been determined prior to receipt of purchase order.

**Payment.**

All Orders will be invoiced upon shipment. Payment terms are strictly net 30 days from end of month unless otherwise agreed upon in writing between SCHUNK Intec Pty Ltd and the purchaser.

SCHUNK Intec reserves the right to submit invoices for partial shipments.

**Late payment fees.**

SCHUNK Intec may charge Interest from the due date at the rate of 1.5% per month, or at the maximum lesser rate allowed by law. Purchaser agrees to pay all fees and expenses of overdue debt collection, including reasonable legal fees incurred by SCHUNK Intec Pty Ltd to effect recovery of monies owed.