

PURCHASING AND ORDER TERMS AND CONDITIONS OF Schill GmbH & Co.KG, Bruckstraße 44, 70734 Fellbach

1. Validity

All orders for supplies and services placed by us with contractors (hereinafter referred to as Suppliers) will be subject to the latest version of these terms and conditions in force at the time of concluding the contract. In the case of long-term contractual relationships, the Supplier will be given notice of any changes to these terms and conditions and these will be deemed to have been agreed upon if the contracting partner continues with the ongoing contractual relationship without raising an objection within a reasonable period of time.

The content of the contract will be based on written agreements. No other agreements have been entered into. Contractual amendments or supplements will only be valid if confirmed by us in writing. Any additional terms and conditions, or the Supplier's terms and conditions of business, contrary to these terms and conditions or unfavourable to us will also not form part of the contract even if not objected to separately by us.

2. Offers

Offers will be deemed to have been accepted once they have been confirmed by us by means of a written purchase order or by email. Where we issue a purchase order, we will no longer be bound by the same once 2 weeks have passed from its issue without us receiving acceptance of the same. Our purchase order number and the item number must be quoted on all correspondence.

The Supplier shall check requirements specifications and purchase orders and notify us immediately if any of the requirements are unsuitable or impractical or if requirements are lacking, incomplete or incorrect. The Supplier must also inform us if the supply or service is not suitable to fulfil Schill's intended purpose.

3. Prices

Unless otherwise specified by us, prices are quoted in EUR including transport and packaging costs. In exceptional cases where we have expressly agreed to bear the transport costs, the Supplier shall use the most cost-effective transport method. Where there is an obligation to take out insurance, the Supplier shall take out the most cost-effective policy.

4. Delivery, termination

The delivery time and delivery date will be as stated in the purchase order and will be binding. The delivery time and delivery date will be deemed adhered to if the goods arrive at the place of fulfilment on time. We must be notified of any delays in delivery immediately and in writing. A standard delivery note must be included with every delivery.

In the event of a delay in delivery, we will be entitled to demand a fixed-rate penalty for the delay equivalent to 1% of the delivery value per part week but not exceeding 5%. The contractual penalty may not exceed a maximum sum of 5% of the net order value. Any further legal claims remain reserved. The contractual penalty must be offset against any compensation. The Supplier is entitled to prove to us that no damage, or damage to a lesser extent, occurred as a result of the delay. The foregoing provisions will not affect the Supplier's liability on the grounds of statutory requirements or other contractual terms and conditions.

The Supplier may only use individuals other than their own employees to provide the service once we have expressly granted our consent to the use of a particular subcontractor for a specific service in writing.

We may terminate the contract at any time before the delivery. In the case of termination on our part, the Supplier will be entitled to claim the agreed remuneration. They may not, however, charge for any expenses they saved as a result of the contract being cancelled, or made as a result of using their workforce elsewhere, or by wilfully refraining from doing the same. It is suspected that afterwards the contractor will be entitled to 5% of the agreed remuneration owed for the portion of the work not yet provided.

5. Payments

We are entitled to transfer payments to any of the Supplier's bank accounts. The time of the transfer instruction will be authoritative in deciding upon the timeliness of payments. Invoice amounts will become payable 30 days following receipt of the invoice at the earliest. If the service is only provided in full at a later date, the invoice amount will be payable 30 days following provision of the service in full at the earliest. In the case of payment within 2 weeks following the due date, we will be entitled to deduct a 3% early payment discount. Any interest on arrears owed to the supplier will be a maximum of 5 percent above the base interest rate. Greater claims for interest on another legal basis and claims for further damage or loss are not excluded.

6. Endangerment of claims

Where our claims are at risk, we are entitled to extend our statutory right to withhold performance to all services under the same legal relationship as defined by Section 273 of the German Civil Code.

7. Transfer of risk

The risk will pass to us upon delivery of the goods to the destination.

8. Models, production equipment

Where we have provided drawings, models, computer programs, files or production equipment, such as tools, (hereinafter referred to as Equipment) under the contract, these will be collected for us free of charge by the Supplier at a reasonable place specified by us. The Supplier will also be bound by our requirement to return this Equipment for us, free of charge, to a reasonable destination specified by us. The Supplier will bear the costs of maintenance, repairs and modifications. Upon receipt, the Supplier will check the design, compliance with any drawings or prototypes, and suitability for the contractual purpose. The Supplier will notify us immediately about any defects, discrepancies or lack of suitability. If Equipment is made or procured by the Supplier on our behalf, remuneration will only be owed where expressly agreed upon. Where the Supplier charges for the costs of any Equipment made or procured by them on our behalf, ownership of said Equipment will pass to us upon payment in full.

The Supplier shall store such Equipment carefully and at no cost to us. The Supplier shall, at their own expense, take out adequate liability insurance and insurance against theft and fire with an appropriate cover amount to be agreed upon at our request. The Supplier shall provide us with information about the conclusion and content of the insurance policy and will send us a copy of the same. In the case of liability, the Supplier shall, at our request, transfer their entitlements under the insurance policy to us in lieu of performance.

Upon request, the Equipment for us shall be delivered to us at a reasonable place to be specified by us and free of charge. We shall be entitled to purchase all other Equipment used solely for supplies and services to us in return for adequate consideration. The foregoing provisions will apply after this right has been exercised. Equipment manufactured or procured for us or by us, or acquired by us, may only be used with our consent and for the sole purpose of fulfilling contracts concluded with us. Equipment that does not need to be returned to us must be stored free of charge for us for a period of 5 years following termination of the business relationship or, upon our request, must be destroyed at the Supplier's expense.

9. Limitation period

The limitation period for claims of the Supplier will only be suspended in the event of negotiations (Section 203 of the German Civil Code) where we have entered into negotiations in writing. The limitation period for our claims will commence 3 months following our last written statement at the earliest.

10. Liability

a) Liability will be limited on the following grounds: Claims for damages or compensation or claims for the reimbursement of futile expenditure incurred as a result of breaches of obligation, or where the performance owed by us was not provided in a satisfactory manner, due to delay or in the case of defects. In such cases, the Supplier will only be entitled to claim for:

aa) damages caused by injury to life, limb or health due to negligent breach of obligation or worse,

bb) other damage caused by grossly negligent breach of obligations or worse, or by the negligent breach of material contractual obligations or worse (the fulfilment of such obligations is essential for the proper performance of the contract and the contracting partner can ordinarily rely on such obligations being fulfilled), and

cc) damages that fall within the scope of an undertaking (guarantee, Section 276 (1) of the German Civil Code) granted by us.

b) Limitation of liability in terms of amount: For damages resulting from the breach of cardinal obligations and for damage caused by gross negligence, where this does not fall under a) aa) or cc), we will only be liable for the damage typically expected at the time of the contract conclusion, and for the reimbursement of futile expenditure up to the amount that would have been received with normal performance of the contract.

c) Liability under pre-contractual obligations: The foregoing paragraphs also apply to the Supplier's claims for compensation or damages under contractual obligations arising on the basis of contract negotiations, the initiation of a contract or similar business relationships. In the event of a contract being concluded between us and the Supplier, any claims for compensation or damages by the contracting partner which would not be justified under the foregoing terms and conditions had the contract been in existence will be deemed void.

d) Claims arising from transferred rights: The foregoing provisions will also apply to claims asserted by the Supplier arising from transferred rights. The Supplier may only invoke foreign law where the claim would also be justified upon application of the foregoing provisions and these General Purchasing and Order Terms and Conditions.

11. Defects in the supply or service

Our claims on the grounds of defects of title will expire within the standard limitation period at the earliest. Where the law provides for a longer limitation period, this alone will apply.

The Supplier shall indemnify us against all third-party claims arising as a result of defects of title or material defects in the supply or service. This will apply in particular to producer's liability and any breach of industrial property rights. The Supplier is aware that we export our goods worldwide, in particular to member states of the European Union and the European Economic Area, Canada and the USA. Supplies or services, or basic materials or components relating to the end products, must therefore comply with national and foreign law and must not breach any national or foreign industrial property rights.

Following the fruitless expiry of a reasonable period granted to the Supplier for supplementary performance on the grounds of a material defect, we will be entitled to rectify the defect ourselves and claim the reimbursement of any expenditure incurred except where the Supplier has a legitimate reason for refusing supplementary performance. Section 323 (2) of the German Civil Code will apply accordingly. We are also under no obligation to grant a grace period where the supplementary performance has failed or is unacceptable to us. The Supplier may demand advance payment from the contractor for the expenditure necessary to rectify the defect.

12. Right to offset and right of retention

The Supplier may only offset undisputed or legally established claims. The Supplier may only exercise rights of retention, including the rights under Section 369 of the German Commercial Code, with undisputed or legally established claims under the same legal relationship.

13. Transfer

Claims asserted against us may not be transferred. Where the legal transaction under which the Supplier's payment obligations arose, is a commercial transaction for both parties, Section 354 a of the German Commercial Code will apply.

14. Place of fulfilment

In relationships with businesses, the place of fulfilment for both parties will be our registered office or the place specified by us in the purchase order.

15. Confidentiality

Both parties shall maintain secrecy regarding all of the other party's trade and company secrets they may have gained knowledge of during the course of fulfilment of the contract, even after termination of the contract. We are entitled to demand that the Supplier concludes similar confidentiality agreements with all of their employees and vicarious agents and allows us to view such agreements upon request.

16. Applicable law, contract language, place of jurisdiction and partial invalidity

The entire legal relationship between the parties will be subject to German law. Application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is hereby excluded. The contract language is German. If the Supplier is a businessperson, the exclusive place of jurisdiction for all disputes arising under the contractual relationship will be our company's registered office. We will, however, be entitled to bring legal action against the contracting partner at a different statutory place of jurisdiction. For all other contracting partners, Esslingen is hereby agreed upon as the place of jurisdiction for all disputes arising under the contractual relationship where the party against whom legal action is being taken moves its domicile or habitual place of residence outside Germany after conclusion of the contract, or where its domicile or habitual place of residence is unknown at the time of taking said legal action. The invalidity of provisions within these contractual terms and conditions, or of any other provision agreed upon between the parties, will not affect the validity of the remaining provisions of these General Purchasing and Order Terms and Conditions or other agreements. In the case of other provisions agreed between the parties, they shall conclude effective provisions in place of the invalid ones which most closely reflect the invalid provisions.