

**1. General information, scope**

- 1.1. These General Terms and Conditions of Purchase (hereinafter "GTCP") shall apply to all business relations of Schletter GmbH, Alustr. 1, 83527 Kirchdorf, Germany, (hereinafter "Schletter") with business partners and suppliers (hereinafter "Seller"). The GTCP shall apply only if the seller is an entrepreneur (under Section 14 of the German Civil Code, *BGB*), a legal entity under public law, or a special fund under public law.
- 1.2. The GTCP shall apply, in particular, to agreements on the sale and/or delivery of movable goods (hereinafter also: "Goods"), regardless of whether the Seller manufactures the Goods himself or procures them from suppliers (Sections 433, 651 *BGB*). The GTCP shall apply in such version as is in effect from time to time as a framework agreement also for future agreements on the sale and/or delivery of movable goods with the same Seller, without Schletter being required in each case to reference them again.
- 1.3. Our GTCP shall apply exclusively. Any deviations, contradictions or supplements in the General Terms and Conditions of the Seller shall not become part of the agreement, unless and to the extent that Schletter has explicitly agreed thereto in writing. Such requirement of consent shall apply in any case, for example, also when Schletter accepts a delivery of the Seller without reservation in full knowledge of Seller's General Terms and Conditions.
- 1.4. Individual agreements with the Seller entered into on a case-to-case basis (including collateral agreements, supplements and amendments) shall take precedence over these GTCP in any case. The contents of such agreements shall be subject to written agreement and/or written confirmation of Schletter.
- 1.5. Legally relevant declarations and notices that the Seller shall submit to Schletter following the conclusion of the agreement (for example, setting of deadlines, notices of defects, declaration of withdrawal shall be made in writing to enter into effect (e-mail is not acceptable).

**2. Contract conclusion**

- 2.1. All orders made by Schletter shall not be deemed to have binding effect, unless having been placed or confirmed in writing. The Seller shall notify Schletter of any obvious errors (for example, typing and calculation errors) and omissions of the purchase order including the order documents before acceptance for the purpose of corrections and/or completions; the agreement shall otherwise be regarded as not concluded.
- 2.2. The Seller shall accept any purchase order of Schletter without undue delay, however within 5 days at the latest, by written confirmation.
- 2.3. Failure to submit aforementioned confirmation acc. to clause 2.2 above shall entitle Schletter to withdraw the purchase order.

**3. Delivery period and default**

- 3.1. The delivery period specified by Schletter in the purchase order shall be deemed binding. The Seller shall immediately notify Schletter in writing if he will probably be unable to meet the agreed deadlines, for whatsoever reason.
- 3.2. In case of failure or delay to perform delivery on the part of the Seller, or in case of default, the rights of Schletter, in particular the rights of withdrawal and claim for damage, shall be subject to the statutory provisions. The provisions of clause 3.3. shall remain unaffected.
- 3.3. If the Seller is in default, Schletter may claim contractual penalty in the amount of 1% of the net purchase price, however, not more than 5% of the net purchase price for the goods not delivered within the agreed delivery period. Schletter shall be entitled to claim the aforementioned contractual penalty in addition to performance and as minimum amount for any compensation payable by the Seller under the statutory provisions; any further damage claims shall remain unaffected. If Schletter accepts any delayed delivery, Schletter shall claim aforementioned contractual penalty at the latest at the time of final payment. The provisions under Section 341 (3) *BGB* shall not apply.

**4. Performance, delivery, transfer of risk, default of acceptance**

- 4.1. The Seller shall not be entitled to engage third parties (for example, suppliers) for the performance of his delivery obligation without the prior written consent of Schletter. Unless an order is made to specification, the Seller shall bear the risk of procurement with regard to his services.
- 4.2. Unless otherwise agreed on the case-to-case basis, delivery shall be "free domicile" within Germany to the destination indicated in the purchase order. If no destination is determined and nothing else is agreed, delivery shall be made to the registered company seat of Schletter (Alustraße 1, 83527 Kirchdorf, Germany). The specified destination shall also be deemed as place of performance (obligation to deliver).
- 4.3. Deliveries shall be accompanied by a delivery note indicating the date (issue and dispatch), content of the delivery (article number and quantity) and purchase order identification (date and number) of Schletter. If the delivery note is missing or incomplete, Schletter shall not be held responsible for any delays arising thereof with respect to processing and payment.
- 4.4. The risk of incidental loss and incidental deterioration of the goods shall be transferred to Schletter upon acceptance at the place of performance. Where acceptance is agreed, the transfer of risk shall be subject thereto. As well, such acceptance shall be subject to the statutory regulations under the law on contracts for works and services. Delivery and/or acceptance shall be deemed to have taken place also in the event that Schletter defaults in acceptance.
- 4.5. The statutory provisions shall apply in the event that Schletter is in default with acceptance. However, the Seller shall expressly offer his performance even if a specific or definable calendar date has been agreed for action or assistance of Schletter (for example, provision of materials). If Schletter is in default with acceptance, the Seller shall be entitled claim compensation for any additional expenses in accordance with statutory provisions (under Section 304 *BGB*). In case of contracts for the manufacture of specific items by the Seller (made to specification), the Seller shall be entitled to any further claims only if Schletter is obliged to provide assistance and responsible for any failure to do so.

**5. Prices and terms of payment**

- 5.1. The prices indicated in the purchase order shall have binding effect. All prices are subject to the applicable statutory value added tax.
- 5.2. Unless otherwise agreed on a case-to-case basis, the prices shall include all services and ancillary services of the Seller (for example, assembly, installation) and all additional expenses (for example, proper packaging, transport costs, including any applicable transport and liability insurance). The Seller shall accept any packaging material returned by Schletter, if requested so by the latter.
- 5.3. Unless otherwise agreed in the individual case, the agreed purchase price shall become payable within 30 calendar days upon complete delivery and performance (including the agreed acceptance, if applicable), and receipt of a proper invoice. Schletter shall be entitled to a discount of 2% of the invoiced net amount if payment is made within 14 calendar days.
- 5.4. Schletter shall not pay any interest after the due date. Any claims for payment of default interests raised by the Seller shall remain unaffected. The statutory provisions shall apply in the event that Schletter is in default. However, a default notice issued by the Seller shall be necessary in any case.
- 5.5. Schletter shall have rights of set-off and retention and the objection to non-performance of the agreement to the extent permitted by law. In particular, Schletter may withhold any due payments, until its claims for incomplete or defective deliveries against the Seller have been satisfied.
- 5.6. The Seller shall be entitled to set-off or retention only if the counterclaims have been legally established or recognised.

**6. Confidentiality and reservation of title**

- 6.1. Schletter shall reserve title, copyright and any other intellectual property rights in all illustrations, calculations, drawings, drafts, designs, tools and other documents and information disclosed to the Seller in respect of business transactions, projects, trade secrets and data which, under the circumstances of disclosure and their nature, must be kept confidential. The customer may use the abovementioned documents and information only for the purpose of the contract. All information disclosed shall be kept strictly confidential and used only for the performance of the contract after expiration of the contract, and, in particular, neither be used as subject-matter of applications for intellectual property rights, nor utilised in an illegal manner, and shall be returned to Schletter upon completion of the contract, if possible. The obligation to keep confidentiality shall not apply to confidential information which must be disclosed or stored by the Seller pursuant to applicable laws or regulatory or judicial order, and shall expire only if and after the knowledge contained in the delivered documents has become known to the public.
- 6.2. The foregoing provision shall accordingly apply to substances and materials (for example, software, finished and semi-finished products) and to tools, templates, samples and other items which Schletter makes available to the Seller for fabrication or processing. Such items shall be stored separately and insured to the usual extent against destruction and loss at the Seller's expense until being processed.
- 6.3. The Seller shall be responsible for processing, mixing or combining the items provided by Schletter. Insofar as the title to items of third parties is retained after processing, mixing or combination, Schletter shall acquire co-ownership to the new items in the proportion equal to the value of the items provided by Schletter to the value of the other items.
- 6.4. Unless otherwise agreed, the title to goods shall be transferred to Schletter without reservations and irrespective of whether the purchase price has been paid. All forms of extended or prolonged retention of title shall be excluded so that reservation of title declared effective on the part of the Seller shall only be valid until full payment for the goods delivered to Schletter and only for these goods.

**7. Intellectual property rights of third parties**

- 7.1. The Seller shall ensure that no intellectual property rights of third parties are infringed in connection with his delivery performance.
  - 7.2. The Seller shall, irrespective of which party is at fault, indemnify Schletter against any and all third party claims asserted against Schletter due to the aforementioned infringement of intellectual property rights, and reimburse Schletter for all reasonable expenses incurred in connection with the assertion of such claims.
- 8. Audits**
- 8.1. The supplier shall grant Schletter the right to perform audits. Such audit shall be a process or product audit, announced in due time in advance and subject to coordination with the Seller.
  - 8.2. Quality assurance measures, existing documents and quality audits by Schletter at the Seller's premises shall be subject to periodic review. Any further details may be stipulated between the Seller and Schletter under a quality assurance agreement.
- 9. Defects of delivery**
- 9.1. The rights of Schletter in case of defects as to quality and defects of title of the goods (including wrong delivery and short delivery, as well as incorrect assembly and inadequate assembly and operating instructions) and in case of other breaches of duty by the Seller, the statutory provisions shall apply, unless agreed otherwise hereinafter.
  - 9.2. Subject to the statutory provisions, the Seller shall especially be liable for the agreed quality of the goods upon transfer of risk to Schletter. In any case, those product descriptions representing the subject matter of the respective contract or incorporated in the contract in the same way as these GTCP - in particular, if they are specified or referred to in the purchase order of Schletter - shall be deemed as agreement as to the quality of the goods, while it is irrelevant whether the product description was prepared by Schletter, the Seller or the manufacturer.
  - 9.3. The commercial obligation to inspect the delivered goods and to notify defects shall be applicable subject to the statutory provisions (under Sections 377, 381 German Commercial Code, *HGB*) and under the following conditions: Schletter's obligation to inspect the delivered goods shall be restricted to defects which can be detected by Schletter within the scope of the incoming goods inspection, including the delivery documents, and within the scope of the quality control performed by Schletter by random samples (for example, transport damages, wrong or short delivery). Where acceptance is agreed, there shall be no obligation to check the delivered goods within the scope of the incoming goods inspection. It is also important to what extent such inspection is reasonable, in consideration of the relevant circumstances in each case, in the ordinary course of business. Acceptance or approval of submitted samples shall not be deemed as waiver of Schletter of its warranty claims.
  - 9.4. Schletter's obligation to notify any defects which are discovered later shall remain unaffected. In any case, Schletter shall be deemed to have made immediate and due notification of defects if received by the Seller within 7 working days from date of their detection.
  - 9.5. Schletter's liability for damage claims based on unjustified request for rectification shall remain unaffected; Schletter shall only be liable for any defects which have been detected or not detected by gross negligence by Schletter.
  - 9.6. If the Seller fails to provide subsequent performance - at the option of Schletter, either by remedial of the defect (rectification) or delivery of defect-free goods (replacement delivery) - within a reasonable extension period granted by Schletter, Schletter may remedy the defect itself and claim for reimbursement of the expenses incurred in this respect, or request an appropriate advance payment from the Seller. If subsequent performance by the Seller has failed or is unacceptable for Schletter (for example, due to particular urgency, danger to operational safety or imminent occurrence of disproportionate damages), the Seller shall be notified immediately and, if possible, in advance, without granting an extension period.
  - 9.7. In case of a defect as to quality or title, Schletter shall also be entitled to reduction of purchase price or withdrawal from the contract pursuant to the applicable statutory provisions, according to which Schletter shall also be entitled to claim for damage and compensation of expenses.

**10. Supplier recourse**

- 10.1. In addition to claims for liability, Schletter shall also have the unrestricted right of recourse within the supplier chain as provided by law (under Sections 478, 479 *BGB*). In particular, Schletter shall be entitled to demand exactly the same type of subsequent performance (remedy or replacement) from the Seller which Schletter owes to his buyer in the individual case. The foregoing shall not restrict Schletter's option provided by law (under Section 439 (1) *BGB*).
- 10.2. Before Schletter recognises or satisfies any claim raised by a buyer (including compensation of expenses in accordance with Sections 478 (2), 439 (2) *BGB*), Schletter shall notify the Seller of such claim, providing a short statement of facts and requesting for written comment. If the comment is not made within a reasonable period of time and no amicable agreement is reached, the defect claim actually granted by Schletter shall be deemed owed towards his buyer, with the Seller having the burden of proof to the contrary.
- 10.3. The claims of Schletter arising under the supplier's right of recourse shall remain valid even if the goods have been processed by Schletter or any customer of Schletter, for example, by way of incorporation in another product, before being sold to a consumer.

**11. Manufacturer's liability**

- 11.1. If the Seller is responsible for damage to a product, he shall indemnify Schletter for any third party claims provided that the causes of damage fall within his scope of control and area of organisation and he himself is liable to third parties.
- 11.2. Within the scope of his obligation to indemnify, the Seller shall reimburse any expenses pursuant to Sections 683, 670 *BGB* that arise from or in connection with the engagement of third parties, including any recall measures taken by Schletter. Schletter shall inform the Seller of the content and scope of such recall measures - to the extent possible and reasonable - and give him the opportunity to respond. Any further statutory claims shall remain unaffected.
- 11.3. The Seller shall take out and maintain product liability insurance with a minimum sum insured of 5 million Euros per case of personal injury / damage to property.

**12. Limitation**

- 12.1. Unless otherwise agreed hereinafter, the mutual claims of the contracting parties shall be subject to the statutory limitation period.
- 12.2. Notwithstanding Section 438 (1) No. 3 *BGB*, the general limitation period for claims arising from defects shall be 2 years and 3 months from transfer of risk. Where acceptance is agreed, the limitation period shall commence on the date of acceptance. The limitation period for any claims arising from defects of title shall also be 2 years and 3 months, unless statutory provisions require a longer limitation period.
- 12.3. To the extent that Schletter is also entitled to non-contractual claims for damages because of a defect, the regular statutory period of limitation shall apply (Section 195, 199 *BGB*), except where the application of limitation periods under the law governing the sale of goods requires a longer limitation period.

**13. Applicable law and place of jurisdiction**

- 13.1. These GTCP and any legal relationships between Schletter and the seller shall be governed by the laws of the Federal Republic of Germany to the exclusion of all national and supranational (contract) laws, in particular the CISG (United Nations Convention on Contracts for the International Sale of Goods). Prerequisites and effects of retention of title, however, shall be subject to the laws at the respective location of the storage location of the items where German law as the applicable law is not permitted or ineffective.
- 13.2. If the Seller is a merchant under the German Commercial Code, a legal entity under public law or special fund under public law, the exclusive - and international - place of jurisdiction for all disputes arising from the agreement shall be the registered company seat of Schletter in 83527 Kirchdorf, Germany. However, Schletter shall be entitled to bring legal action before a court at the place of delivery performance.
- 13.3. In accordance with Section 33 under the German Data Protection Act, Schletter points out that the Seller's data are stored and used for commercial purposes.