

Ambit of Application

Below mentioned conditions of Schieffer Group plant in Lippstadt, and plants in Romania (in following referred to as „supplier“) are valid for companies, legal entities under public law or special funds under public law.

I. Application

1. Orders become binding only after confirmation of supplier. Modifications and additions to tender shall be made in written form. Offers and tenders are subject to alterations, unless they are explicitly marked as fixed. Indications of quantities and sizes are non-binding approximate values, unless they are explicitly identified as binding.
2. In case of already existing business relation, these terms and conditions will apply to future business, even if not expressly referred to, but previously have been approved by customer when passing an order to supplier.
3. Any terms of business on part of customer are not applicable, even if supplier does not explicitly exclude them, unless expressly accepted by supplier in writing.
4. Should a particular term be or become null and void, the remaining terms remain unaffected.

II. Prices

1. Prices are considered to be ex works, excluding freight, customs, import or export duties and packing, plus VAT, applied at the legally stated rate.
2. If, prior to delivery and after submission of offer or order confirmation, relevant cost factors change significantly, supplier and customer will agree on price adaption as well as proportional costs of moulds.
3. If it has been agreed that price is depending on part weight, amount to be invoiced is resulting from weight of released type sample.
4. Supplier is not bound to previous prices in case of new orders (follow-up-orders).

III. Delivery and Purchase Obligation

1. Delivery schedules start with receipt of all necessary documentation, down payment or punctual provision of materials, if such were agreed to. Supply deadline is considered fulfilled upon receipt of delivery advice note, even if actual delivery is delayed or has become impossible, as long as supplier is not responsible of delay.
2. If an agreed delivery date can't be maintained due to the supplier's fault, customer is in any case obliged to set a new adequate deadline.
3. Adequate part delivery, as well as reasonable variation of order quantities up to plus/minus 10% shall be deemed acceptable.
4. Supplier may demand a firm commitment to on-call contract periods, manufacturing quantities and delivery schedules three months after receipt of an order at the latest. Should customer not comply to make such commitments within 3 weeks, supplier is entitled, after a further extension of two weeks, to

withdraw from the contract after expiration of the latest deadline, and/or demand compensation.

5. Supplier is not bound by any regulation regarding self-help sale and may freely dispose of any items after prior notification of customer, regardless of any other rights or regulations, if customer fails duly receipt of purchased quantities.
6. Supplier may delay delivery because of Force Majeure for duration of named difficulties including an appropriate time to return to normality, or - in case of non-completion of a delivery - totally or in part withdraw from contract. Cases of Force Majeure are considered to be: lockouts or unforeseeable and unavoidable situations, such as breakdowns or delay and interruptions in transports, lack of raw material or energy without fault of supplier, which may, notwithstanding all reasonable efforts, render impossible on-time delivery by supplier. This may also apply if mentioned impediments occur after previous delays or if delays are due to a sub-contractor. Customer may request declaration within two weeks whether cancellation of the contract or late delivery have been appropriate. If supplier does not respond to the request, customer may withdraw from remaining, not yet completed part of contract. Supplier shall inform customer immediately if a case of Force Majeure as defined in clause 1, has occurred. Supplier is obliged to minimize inconvenience caused to customer; if necessary, he may have to hand over the moulding and tooling for the duration of impediment.

IV. Payment

1. Payment is to be made in € (Euro) and exclusively to supplier.
2. If no different arrangement has been made, purchase price for supplies or other services has to be paid applying a discount of 2% within 14 days, net within 30 days from date of invoice. Discounts may only be applied if all former invoices were settled without reservation. Payment made by bill of exchange are not object to any discounts.
3. Overdue payments will be charged with interests of 8 percentage points above applicable base rate, according to § 247 of Federal Common Law (BGB), unless supplier proves higher damages.
4. Payment by cheque or bill of exchange is only accepted in case of prior explicit written agreement. Customer is to be charged with all corresponding fees.
5. Customer may offset an account or use his right of retention only if his claims are indisputable, or established in law.
6. Sustained non-compliance with conditions of payment or circumstances, which may lead to serious doubts as to credit worthiness of customer, will result in claims for all payments becoming due immediately. In this case the supplier is also entitled to ask for immediate payment for all outstanding deliveries and even to withdraw from contract if an appropriate deadline has not been kept.

V. Packing, Dispatch, Risk Transfer and Acceptance Delays

1. If not agreed differently, supplier chooses packing, mode of transport and transport route.

2. Transport risk transfers to customer when goods are leaving plants, even if delivery is paid by supplier. If customer delays a delivery, risk switches to customer after issue of note of consignment.
3. On customer's written demand, goods will be insured for determined risks and coverage.
4. If customer delays acceptance of goods, supplier is authorized to store consignment at customer's expense. If supplier storage is done in supplier's warehouse, storage costs amounting to 0, 5% of the invoiced amount will be charged for each commenced week. Supplier may charge higher storage costs upon provision of evidence.

VI. Reserved Ownership

1. Goods remain property of supplier until all dues of supplier have been settled, even in case agreed price for specially marked invoices has been met. Reserved property rights for delivered goods (reserved ownership goods) remain untouched as supplier's security, until balance has been paid completely. If payment is done by bill of exchange, reserved ownership remains until bill of exchange has been cleared.
2. Processing or treatment of supplied goods by customer are made on supplier's behalf when excluding customer's ownership rights according to § 950 BGB (Federal Common Law of Germany). Supplier becomes co-owner of thus produced goods in proportional value of net manufacturing cost to net processed value of produced goods, which serve as reserved ownership goods to secure supplier's property claims per clause 1.
3. In case of further processing (in combination or addition) by customer with other goods not owned by supplier, §§ 947, 948 BGB (Federal Common Law of Germany) is applicable, resulting in proportional co-ownership of supplier in resulting goods, which are now considered reserved ownership goods.
4. Re-sale of reserved ownership goods by customer is only permissible as part of normal commercial practice and provided customer has got an agreement with his customers regarding reserved ownership goods, as determined in clauses 1 to 3. Customer is not entitled to take any other action with respect to reserved ownership goods, in particular pawning, mortgaging or using the goods as security.
5. Customer cedes all rights and other justifiable claims, which may result from sale of goods, including associated rights on his customers, to supplier until all claims of supplier are fulfilled. Customer is obliged to inform supplier immediately and supply all necessary documentation to safeguard supplier's rights towards customer's clients.
6. When customer sells goods from reserved property after further processing in combination or addition with other goods not owned by the supplier, as outlined in clause 2 and 3 above, customer cedes claims according to clause 5 to invoice value of supplier's reserved ownership goods.
7. Should value of securities held by supplier exceed totally invoiced value of goods by more than 10 % supplier has to release them upon customer's demand. Value of release of securities may be nominated by supplier.

8. Supplier must be notified without delay of any confiscation or seizure by third parties of goods in reserved ownership. All associated costs due to such intervention are to be charged to customer if not born by third parties.
9. Should supplier, take action according to above clauses and make use of his right to take back goods in reserved ownership, supplier is entitled to sell said goods or put them to auction. Withdrawal of goods in restricted ownership is done at received value; maximum amount is based on settled and agreed purchasing prices. Further claims, in particular compensation for loss of earnings, are reserved.

VII. Liability for Defects

1. Relevant for quality and performance of goods is either product specification or initial samples, which are presented by supplier to customer if corresponding agreement has been made. Initial samples will be presented to customer for evaluation and reference upon request. In addition, No. XII of paragraph 1 has to be observed. Any reference to technical standards is a guideline for determination of product and is not to be interpreted as quality guarantee. Tolerances within industries limits are valid. If no other written specification is agreed, production will be effected with typical material of industry and to agreed manufacturing methods - in case of no other agreements.
2. If supplier has advised customer even beyond his contractual obligations, supplier takes liability for functionality and suitability of supplied products only in case of liability agreement prior to consignment.
3. Defects are to be notified immediately. Hidden defects are to be notified immediately after discovery. In either case, liability extends to maximum one year after risk transfer unless agreed to differently.
4. In case of justified warranty claims, supplier is obliged to supplementary performance (rectification or replacement). Production samples released by customer are basis to determine quality to be expected and performance as well. If supplier does not fulfill his obligations for supplementary performance within a reasonable period, customer may reduce price on payment or withdraw from contract. For further claims, in particular for losses or damages due to defective supplies and subsequent resulting damages, see directives in section VIII. Upon request, replaced parts have to be returned to supplier at his expense.
5. Unauthorized rework and improper handling of defective parts lead to loss of any right to claims for compensation. In order to avoid major damage, if supplier delays with rework of claimed goods, customer may, after prior consultation with supplier start repairing defective parts, and ask for compensation of corresponding costs.
6. In case of wear and tear caused by appropriate usage there won't be any rights for warranty
7. Right of recourse according to §§478, 479 of Federal Common Law (BGB) is only given to extend of law and only in case consumer was authorized to raise a claim towards the owner of right of recourse (customer). In case of voluntary payments towards consumer done by customer, which were not agreed with supplier, recourse is not admitted. In such case, duties of consumer to give notice of claim have to be considered.

VIII. General Limitations of Liability

1. Supplier's liability for damages or payment of compensation for expenses is limited to such cases in which supplier, his staff or people in charge to perform his obligations, are responsible for culpable intent and negligence, or injuries to life, limb and health.
2. With regard to Product Liability Act both liability without fault and fulfillment of any guarantee of quality remain unaffected.
3. Liability for culpable negligence of major contractual obligations remains unaffected; liability is limited to typical and predictable damages, with exception of section 1. Major contractual duties are basic and fundamental obligations that are of particular importance for proper fulfillment of contract. They mainly influence existing mutual trust, especially when regarding fulfillment of obligation to supply and forward important information.
4. Not associated with above rules is a modification of burden of proof to detriment of customer.

IX. Forms (Tooling)

1. Complete expenses for tools devices and moulds are to be borne by customer.
2. Unless agreed differently, supplier is and remains owner of moulds manufactured for customer, either by himself or by third parties on behalf of supplier. As per agreement, moulds will be used only for customer, as long as customer meets with payment and purchase obligations. In case of necessity to guarantee fulfillment of production or agreed volumes to customer, supplier has to replace moulds free of charge. Obligation of supplier to store moulds expires two years after last delivery out of this mould. Customer has to be informed about planned disposal.
3. If on termination of contract moulds are not yet amortized, supplier may invoice immediately remaining amortization amount.
4. If agreed, transfer of ownership to customer is done after complete payment of purchase price for moulds. Handing over of moulds to customer may be replaced by storage on his favour. Regardless lifetime of moulds and right of customer to claim for handing them over, supplier is entitled to exclusive possession of said moulds until termination of contract. Supplier however has to label said moulds as 'third-party-property' and at customer's request, make an insurance at customer's expense.
5. If moulds are property of customer, see point 4, and / or in case of moulds provided by customer, supplier's liability for storage and maintenance is limited to as if it was property of supplier. Expenses for maintenance and insurance are at customer's charge. All obligations of supplier become obsolete, if customer on termination of contract does not collect the moulds within a reasonable period. If customer does not meet with agreements made in full extent, supplier is not obliged to handing over the moulds.

X. Provision of Materials

1. Material provided by customer has to be supplied with a quantity surcharge of at least 5 %, in due time and perfect condition, at his expense and risk.

2. If above mentioned conditions cannot be met, delivery time will be extended accordingly. Additional costs and costs for interruption of production are at customer's expense, except in cases of Force Majeure.

XI. Industrial Property Right and Defect of Title

1. Customer is responsible to ensure industrial property rights of third parties are not violated in country of destination, if goods are provided as per drawing, models and samples or provided parts of customer. If supplier has knowledge of specific rights he will communicate this to customer, but supplier is not obliged to do own research. Customer has to indemnify supplier from claims of third parties upon first request and has to compensate for damages occurred. If a third party prohibits supplier production or supply of goods because of his property rights, supplier is entitled to stop production until situation has been clarified by customer and third party as well. Previous evaluation of legal situation is not obligatory to supplier. Shouldn't supplier be able to proceed production due to said situation, he is entitled to withdraw from delivery contract
2. If after provision of drawings and samples supplier did not get customer's order, he may return them immediately upon request. Supplier is entitled to dispose these items 3 months after submission of offer. Procedure applies accordingly to customer. Party, which is entitled to destroy parts, has to inform counterparty of its intention within appropriate time.
3. Supplier has ownership, copyrights and, if applicable, industrial property rights. In particular, all rights of use and exploitation of models, moulds and devices, as well devices, projects and drawings made by him or by third parties on his behalf. Upon request, customer has to return to supplier immediately all its documentation, moulds, samples or models, including also reproductions made.
4. In case of any other defects in title, No. VII shall apply accordingly.

XII. Food Resistance and Recycling Material

1. Customer is responsible to evaluate previously, if products used are appropriate for contact with food. Suitability of used material for specific food has to be evaluated and proofed by customer in advance Recycling raw materials will be chosen by the supplier with care. Regenerated plastic however could be subject to major variations from batch to batch with regard to the surface quality, colour, purity, smell and physical or chemical characteristics, which does not entitle the customer to claim towards the supplier. Upon request supplier will transfer any demands towards sub-suppliers to the customer; the supplier will not take any responsibility that these claims endure.
2. Recycled material has to be chosen carefully by supplier. In different batches, regenerated plastics however may demonstrate deviation in structure of surface, colour, degree of purity, odor and physical and chemical property as well. Described deviations however, are not subject to claims by customer against supplier. Upon request supplier will assign claims against pre-suppliers to customer. Supplier does not assume any warranty for acceptance of these claims.

XIII. Place of Fulfillment and Jurisdiction

1. Place of fulfillment is supplier's site.
2. Up to supplier's choice, place of jurisdiction is either company headquarter of supplier, or company headquarter of customer.
3. Only German law applies with exclusion of UN sales law.

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