

## **General conditions of purchase**

### **Schwan-STABILO Schwanhäußer GmbH & Co. KG**

#### **1. Sphere of validity**

Only our terms and conditions of purchase shall apply. We shall not recognise supplementary terms and conditions or terms and conditions of a supplier which differ from our own, unless we have expressly agreed to them in writing. Our terms and conditions of purchase shall also apply in those cases in which we accept a supplier's deliveries without any reservations, aware that his terms and conditions of sale are contrary to, or differ from, our terms and conditions of purchase. Our terms and conditions of purchase shall also apply for all future transactions with a supplier. All orders, as well as agreements made between us and the supplier in execution of the supply or performance contract, shall be made in writing. Amendment, side agreements and supplements must likewise be made in writing. Should a provision in these terms and conditions be or become invalid, this shall not affect the validity of the remaining terms and conditions.

#### **2. Delivery**

2.1 Provided that nothing has been agreed to the contrary in writing, consignments are to be delivered franco domicile. The supplier shall be obliged to quote our order number on all shipping papers and delivery notes; should he fail to do so, and if, as a result, we are unable to allocate a consignment, we shall be entitled to refuse to accept the consignment. All costs incurred as a result shall be borne by the supplier.

2.2 The delivery period stated in our order shall be binding upon the supplier. It is to be confirmed in writing straight away stating the order number as well as a binding price and delivery period within five working days.

2.3 The supplier shall be obliged to inform us in writing straight away if circumstances occur, or of which he becomes aware, showing that the stipulated delivery period cannot be met. In the event of default in delivery, we shall be entitled to seek recourse before the law. In particular we shall be entitled to demand compensation for damages on account of delay or, if a reasonable period of time expires without success, to demand compensation for damages instead of performance.

#### **3. Prices and terms of payment**

3.1 The price shown in the order does not include value added tax and is binding. Provided that nothing is agreed to the contrary in writing, the price shall include packing and delivery franco domicile. The return of the packing shall be subject to a separate agreement.

3.2 We can only process invoices and credit notes if they have the obligatory information required by law as well as our order number and the correct invoice address. The supplier shall be responsible for all the consequences arising as a result of non-compliance with these obligations, unless he can prove that he is not responsible for this.

3.3 Claims based on scheduled work, repairs, maintenance etc. shall only be recognised if written proof signed by us (schedule note, repair note and maintenance note) is attached to the invoice.

3.4 Unless a written agreement has been made to the contrary, payment of the purchase price by us within 14 days, calculated from the receipt of a verifiable invoice which must include the obligatory information required by law, shall qualify for a 3% prompt payment discount, otherwise payment by us shall be within 60 days net. If a consignment is delivered or a performance is rendered earlier than the stated delivery date, the agreed delivery date shall be the reference date for payment. We shall only be in arrears with payment if the supplier has expressly warned us in writing beforehand once the date on which payment is due has passed.

3.5 We shall be entitled to offsetting rights and rights of retention as provided for by law.

3.6 The supplier can only assign his existing accounts owed by us with our written consent. Such accounts can not be collected by a third party.

#### **4. Quality and documentation**

4.1 The supplier must comply with the accepted guiding principles of technology, the safety regulations, the agreed technical data and our specifications for his consignments. Modifications to the delivered goods and / or performance shall require our prior written consent.

4.2 The supplier shall undertake to co-ordinate the type and scope of inspections as well as test materials and methods with us when the order is placed but before production commences at the very latest. As far as our knowledge, experience and capacity allows, we are prepared to discuss the test with the supplier in order to show the standard of testing technology required from case to case.

4.3 In addition to this, the supplier shall have to fulfil our quality control regulations and "quality features", in particular in specific records indicating when, how and by whom the goods to be delivered were tested and the results of the quality test required. The test documents are to be kept in safekeeping for ten years and submitted to us as required. The supplier is to subject his sub-suppliers to the same obligations in as far as this is possible by law. The obligation to maintain records shall apply for all goods to be delivered, unless an exception has been made by agreement.

**5. Duty to inspect and warranty**

- 5.1 We shall have to notify the supplier of defects in delivered goods as soon as they have been identified in accordance with proper business procedures. Given this, the supplier shall waive the objection that a defect has been notified late.
- 5.2 We shall be entitled to the statutory warranty rights in full; irrespective of this, we shall be entitled, as we see fit, to demand subsequent fulfilment, a reduction in the purchase price or to withdraw from the contract after a reasonable period of time. In the event of subsequent fulfilment, the supplier shall be obliged to bear all the expenditure necessary for the purposes of rectifying the defect or for supplying a replacement. The right to receive compensation for damages, in particular the right to claim compensation for damages on account of non-fulfilment shall remain expressly reserved by us. Provided that a physical defect has been rectified in full by means of subsequent fulfilment, the period of limitation for the repaired or newly delivered part shall begin new with hand-over or with acceptance. If we demand compensation for damages instead of performance, we shall still be entitled to performance for as long as, and until, the supplier has rendered compensation for damages instead of performance.
- 5.3 The warranty period shall be 24 months calculated from the delivery of all the delivered goods and / or acceptance of the performance.
- 5.4 When supplying machines, mechanical plant and other installations, as well as spare parts for them, the manufacturer and / or supplier shall guarantee compliance with the German accident prevention and safety at work regulations in force at the point in time of delivery, as well as the technical safety and industrial /medical regulations and impositions recognised by law.

**6. Product liability**

- 6.1 In so far as the supplier is responsible for a product defect, he shall be obliged to exempt us at first call from third party claims for compensation for damage asserted against us.
- 6.2 The supplier's obligation to exempt us shall refer to all expenses accruing to us from, or in connection with, a claim being asserted against us by a third party.

**7. Proprietary rights**

- 7.1 The supplier shall furnish an assurance in connection with the consignment delivered and /or performance rendered that no third party rights, in particular industrial property rights and copyrights have been breached within the Federal Republic of Germany and in other countries when such goods / performance have / has been used in compliance with the contract.
- 7.2 The supplier shall undertake to exempt us and our buyers from third party claims straight away upon written request.
- 7.3 The above shall not apply, provided that the goods delivered have been manufactured by the supplier in compliance with, and identical to the drawings, models or other information amounting to the same which we handed over to him.

**8. Reservation of title and non-disclosure**

- 8.1 We shall acquire at least an expectant right or sole or co-ownership to models, dies, stencils, samples, tools and other production aids which we have paid for in full or in part, in accordance with our contribution to financing them. Hand-over shall be replaced by a safekeeping arrangement entitling the supplier to possession. The supplier shall bear the costs of maintenance and replacement as well as the risk of loss, destruction and deterioration. Our production aids must not be destroyed or sold, pledged, assigned as a security or passed on, nor may they be otherwise used, without our prior written consent.
- 8.2 Production aids and likewise confidential information which we have provided to the supplier or which have been paid for by us, may only be shown and / or used for goods to be delivered to third parties with our prior written consent.
- 8.3 We shall retain all rights of ownership and copyright to materials and tools provided by us; third parties must not be allowed access to them without our express prior consent. They are only to be used for the production of our orders; after our order has been handled they are to be returned to us without us having to ask for them. They are to be kept secret from third parties.

**9. Place of fulfilment and place of jurisdiction**

The place of fulfilment for all performances shall be the delivery address stated by us. The place of fulfilment for payments shall be Heroldsberg as a matter of principle.  
The place of jurisdiction for all claims based on the business relationship shall be Nuremberg. We shall however be entitled to take legal action against the supplier at the courts having jurisdiction where his main business premises or place of residence are located.

**10. Applicable Law**

The contractual relationship shall be governed by German law. The application of the United Nations Convention on the International Sale of Goods (UN law on sales) shall be expressly excluded.