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## Schunk Sintermetalltechnik GmbH

Valid from 1st November 2006

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The following conditions apply only to persons who at time of the conclusion of contract are acting in their commercial or self-employed capacity (contractor), and to legal entities under public law or a separate fund under public law.

### 1. General

These conditions of purchase apply to all orders placed by us. All other conditions of sale or delivery are herewith declared invalid. Alterations or additions to these conditions of purchase require our express written acceptance.

### 2. Orders and Order Confirmations

All orders must be placed in writing. Any orders or agreements received verbally or by telephone require our written confirmation before coming into effect.

The supplier shall immediately confirm every order received, at the same time supplying a price and a period of delivery. If the supplier fails to accept the order within 2 weeks of receipt, we are entitled to cancel.

### 3. Period of Delivery and Deadlines

Agreed deadlines and time limits shall be complied with. No reminder will be sent for overdue deliveries. The meeting of deadlines is dependent upon the time of receipt of goods by us, unless an alternative forwarding address has been requested. If delivery "free factory" has not been agreed, the supplier shall make the goods available to us in good time, taking into consideration the normal period of time for loading.

In the event that the supplier fails to keep the agreed deadline due to circumstances within his control, we shall be entitled, after a reasonable period of grace and regardless of any ongoing legal settlements which we may choose, to withdraw from the contract, to obtain replacements elsewhere and/or to demand compensation for non-compliance. We are entitled to reimbursement of all additional costs which we may incur through delayed deliveries or services for which the supplier is responsible. Acceptance of the delayed delivery or service does not constitute a waiver of compensation entitlements.

If the supplier envisages difficulties in production or in supply of half-finished products, and circumstances arise over which he has no control, which he anticipates will prevent his supplying the order in the agreed quality on schedule, the supplier shall inform the department of our company which placed the order, without delay.

Quantities, weights and measures are those determined by us at our Incoming Goods inspection, unless certified otherwise.

Our prior agreement is required for excess-deliveries or shortfalls, part-deliveries or advance-deliveries.

Despatch is at supplier's risk.

Delivery shall be freight prepaid or postpaid. Packaging costs are for supplier's account.

## 4. Transition of Risk

The supplier shall bear the risk of damage or loss of merchandise until acceptance of goods by us or our agent at the place stipulated in the order.

If a delivery entails the supplier installing items on our premises or on the premises of a third party and/or a final inspection is contractually or legally required, then the risk shall pass to us only at said final inspection.

## 5. Prices

Unless otherwise agreed in writing, the agreed prices shall apply until delivery.

## 6. Insolvency of the Supplier

Should the supplier become insolvent, we are entitled to withhold a reasonable retention of at least 10% of the agreed price until expiry of the statute of limitations, to cover any warranty claims.

The supplier will assign to us any warranty claims against his pre-suppliers. We are entitled to disclose this assignment if supplier insolvency occurs.

We are further entitled to cancel any part of the orders which has not yet been supplied at this point in time.

## 7. Invoicing and Payment

Invoices are to be submitted by the supplier in duplicate.

Payment will be made after goods or services have been supplied in full and after receipt of an invoice.

A discount of 3% is agreed, when payment is made within 14 days after due date.

Besides this, payment will be nett within 60 days of receipt of invoice and supply of goods in full.

Payment does not indicate our unconditional acceptance that the goods or services have been supplied in accordance with the contract.

## 8. Warranty, Complaints, Requirement to inspect and notify defects

When guaranteed characteristics are lacking or defective, including guaranteed operating values, operating points, our specification and identification of the catalogue which is based on interpretation, we shall have the right to choose between cancellation of the contract, reduction in price, replacement, rectification of defects on site and compensation due to non-performance. Other claims for compensation remain unaffected.

If there is a defect, the supplier will also bear the costs of testing and detecting the defect, regardless of our other and continuing claims.

We are entitled to correct defects at supplier's cost without advising him in advance, when immediate correction is justified because of special interests on our part, or there are fears that correction by the supplier would result in higher costs than correction by ourselves, or correction of defects by the supplier would mean delays which would make it difficult for us to meet our obligations to our contract partner.

We may return, at supplier's cost and risk, any goods delivered which are not supplied as stipulated in the contract.

The supplier assures careful inspection of outgoing goods. He therefore waives the commercial requirement to inspect and notify defects according to §377 of the HGB (Handelsgesetzbuch – German Commercial Code).

The statute of limitations is 3 years for claims cited in paragraph 1, unless longer periods are provided for by law.

## **9. Liability of the Supplier**

The supplier will indemnify us for all damages which we may incur in connection with the delivery. This applies in particular to wasted materials and wages due to undetected faults, increased costs to enable us to keep our delivery deadlines, and other consequential damages. This obligation to pay compensation does not apply when the supplier can prove that this is through no fault of his own, as long as he is not liable even without being at fault, due to legal stipulations.

If, due to a serial defect, it becomes necessary to replace a whole series of contracted items or products of ours into which contracted items have been incorporated, for instance because a fault analysis in each individual case is uncommercial, impossible or unreasonable, the supplier will reimburse the full costs, including the part of the affected series which does not display any technical defect.

Should a defect in the product range of the supplier trigger our manufacturer's liability, the supplier shall exempt us from this manufacturer's liability. He shall undertake to pay all costs which arise from the manufacturer's liability, including possible recall costs.

The supplier is also responsible for damages which can be traced back to a lack of, or to defect safety measures.

If the supplier is granted the right to use, process or handle facilities, or parts thereof, his liability for damage to facilities or parts thereof remain unaffected.

## **10. Provision of materials, tooling, drawings, etc.**

Materials and tooling provided, as well as drawings, models, samples, tools, gauges, etc. remain our property. The supplier is liable for their destruction, loss, deterioration or damage, insofar as he is responsible for same.

Materials and tooling which have been made available are not to be passed on to third persons, sold, pawned or otherwise used without our approval. The goods produced with these materials or tooling may only be supplied to us.

The same applies to tooling and tools, for which the costs were wholly or partly assumed by us, as agreed.

If the production costs for tooling and tools were assumed entirely by us, then these will become our property. Until the objects have been transferred to us, they will be stored for us by the supplier with all due care.

If we have paid part of the costs, ownership will correspondingly be only partially transferred to us, unless we pay the balance between the partial and total costs.

## **11. Trade References**

Our express consent is required before the supplier may make reference in his advertising to any business relations with us.

## **12. Partial Nullity Clause**

Should a provision of these Conditions of Purchase or of other agreements within its framework be invalid or become invalid, the validity of all other provisions or agreements will be unaffected.

## **13. Environment – Safety – Ethics**

We regard it as our responsibility to include in our company strategy the protection of people and natural basics of life in the manufacture of our products. In our view, active protection of the environment is of great importance to the long-term security of our business.

It is the supplier's duty to adhere to the relevant laws and regulations regarding protection of the environment, protection at work, accident prevention in addition to transport and plant security. Should such conditions be breached, the supplier is responsible for all claims / costs from third parties, including any authorities.

In addition, it is the supplier's duty to use environmentally friendly products and processes as regards his supplies / work as well as those of a third party as far as is economically and technically possible.

The supplier ensures that the goods supplied are not manufactured using exploitative, health-endangering or slave-like child labour, nor are they manufactured via any forced labour, exploitative methods or those that otherwise harm human dignity, or prison work.

## **14. Applicable law, place of performance and place of jurisdiction**

The law of the Bundesrepublik Deutschland (Federal Republic of Germany) will prevail, with the exception of all international contracts covering the purchase of goods.

Place of performance for all goods and services shall be the forwarding address stipulated by us. Should this be lacking and not clear from the prevailing circumstances, the place of performance shall be our Incoming Goods Department.

Place of performance for all payments shall be our head office and every place in which we maintain an account with a financial institution.

Place of Jurisdiction is Gießen. We are however entitled to take legal action at the head office of the supplier.