

SCHIEBEL PURCHASE

SEG, SAG and SMG Purchase Conditions

1. General

- 1.1 For our orders and deals (orderer, ORD) the following purchase conditions shall be valid **exclusively**. The acceptance of deliveries or services or their payment shall not imply our consent to the sales terms of the supplier (SUP).
- 1.2 Sales terms of the SUP shall only be valid after our (ORD) written approval.
- 1.3 Deals or orders shall only be valid in written form with a valid signature. Oral agreements shall only be binding if we (ORD) confirm them in written form.
- 1.4 The elaboration of offers, projects, schemes, visits, etc. by the SUP shall not be compensated for. This also holds if no order is placed.
- 1.5 If QA agreements regarding goods included in the order exist with the SUP, these agreements shall be an integral part of the contract.
- 1.6 With each delivery or service, the contract partner shall accept the exclusive validity of these purchase conditions.

2. Order and Acceptance of Order (ACC)

- 2.1 An order shall only be binding for us (ORD) if placed in written form and signed by us with the company's authorized signature and given an order number.
- 2.2 The SUP shall confirm the order in written form at the latest one week after its receipt (acceptance of order, ACC). If the ACC is not confirmed within this period, the ORD is entitled to cancel the order at no charge. If the ORD does not receive an ACC, the order shall be considered as accepted by the terms and conditions listed on the order form.
- 2.3 A confirmation that deviates from the order shall be considered as a new offer and shall be explicitly accepted in written form by us (ORD).
- 2.4 Unless other agreements have been made in the order text, the SUP shall supply the complete goods, devices or machines that include all parts that are necessary for their correct operation in compliance with the qualities assured, even if the individual parts necessary to this end are not listed in the order.
- 2.5 The SUP shall assure that he has carefully inspected the goods offered. He shall be obliged to supply all documents necessary to comply with the relevant legislation and ÖNORM standards in the delivery. Where possible and necessary, he shall submit, at no cost, a binding maintenance offer for the period of one year and also supply the Instruction Manual and a Spare Parts List.
- 2.6 For all drawings, technical designs, data and other documents that we (ORD) make available to the SUP, we (ORD) shall reserve all rights, especially all property and copyrights. Such documents shall only be entrusted to the SUP and shall neither be made available to Third Parties nor copied for his own or other purposes without our (ORD) written approval. These documents shall be returned to us (ORD) immediately upon request. Failure to do so will oblige the SUP to pay the full compensation for the damage and shall entitle us (ORD) to immediate cancellation of the contract.

3. Lead Time

- 3.1 In default of objection by the SUP, the specified delivery dates shall be considered as agreed upon; in this case delivery times and dates shall be binding and shall start with the date of the order. The

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timeliness of deliveries shall depend on the date of receipt of deliveries at the reception point indicated by the ORD, of deliveries with placement or installation or of services on their acceptance. The ORD shall be entitled to charge the additional costs for the transfer of the ordered goods to the correct delivery address if the SUP did not deliver them correctly.

- 3.2. If a delay of a delivery or a service is evident, the ORD shall be notified immediately and a new delivery date shall be agreed upon. Moreover, a new ACC with the updated delivery date shall be sent to the ORD.
- 3.3. If the dates agreed upon are not complied with because of a condition by fault of the SUP, the ORD, despite extensive legal claims, shall be entitled, after a reasonable period, either to cancel the contract or to get compensation by a Third Party, whichever he prefers. All additional costs incurred by delayed deliveries or services shall be compensated for by the SUP. The acceptance of the delayed delivery or service shall not include a waiver of claim for damages. The Schiebel company reserves the right to contractual penalties to the amount of 1,5% per week.
- 3.4. In the event of repeated delivery date violations, the ORD shall be entitled to cancel the contract even if the delay was not by fault of the SUP. The same shall apply for conditions of labor dispute and breakdowns as well as for cessation of payment, insolvency and bankruptcy proceedings against the SUP.
- 3.5. The ORD shall be entitled to send back deliveries made before the delivery date agreed upon, incomplete deliveries or not approved partial deliveries, or to charge the additional costs (including the costs for shipment) thus incurred. For a delivery before the agreed delivery date, the explicit approval of the ORD shall be necessary. A premature delivery without our (ORD) approval shall not affect the terms of payment related to the agreed delivery dates.
- 3.6. A delivery/service shall only be completed if the SUP has submitted to the ORD all documents agreed upon (invoices, shipment documents, Certificates of Origin, Certificate of Conformity and other documents agreed upon). The delivery of these documents shall be the precondition for the payment date.
- 3.7. The SUP shall be ready to immediately forward to the ORD, upon request, all information related to the order. If delays occur, the ORD shall be entitled to a contractual penalty of 1,5% of the order amount per week.
- 3.8. Costs for expertise on the condition of the goods delivered or services rendered shall be paid by the SUP unless explicitly otherwise agreed upon.
- 3.9. The SUP shall be obliged to notify us (ORD) of product observations and related callbacks immediately at his costs.

4. Contractual Penalties

The conditions for a possible contractual penalty shall be included in each agreement.

5. Embargo Lists/Intrastat/Origin and Customs Tariffs

The SUP shall indicate in the invoice and in the ACC if the goods to be delivered are listed in the current export list of national authorities (licensing obligations); the SUP shall also indicate the number for Intrastat on the invoice. The ACC and the invoices must obligatorily include the country of origin and the customs tariff number(s). If there is a change of the origin of goods, the SUP shall expressly be obliged to inform the ORD of this circumstance. A note of the change in the ACC, delivery papers and/or invoice does not suffice. If these indications are missing, the SUP reserves the right to deny the acceptance of the goods or to block the invoice.

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6. CE Symbol/Safety Regulations

The SUP shall comply with the current legal regulations, especially for accident prevention, environmental protection, machine safety, etc. at the location of use of the delivery. The SUP shall indicate if a Certificate of Manufacturer or of Conformity according to the EG machinery directive is necessary for the goods to be delivered by him and, if applicable, shall supply such documents with the delivery. Moreover, the SUP shall be obliged to include in the delivery, at no cost, all storage, installation, maintenance and instruction manuals as reproducible documents that can also be supplied to the end user for use. Other requirements, if any, shall be included in the order.

7. Passing of the Risk and Shipment

- 7.1 Passing of the Risk for deliveries shall be with the receipt at the reception point indicated by the ORD. For deliveries that require placement or installation and for services it shall be with the acceptance. Deviating agreements shall be confirmed by us (ORD) in written form.
- 7.2 On principle, the SUP shall bear the cost of shipment. With price setting ex works or ex stock of the SUP, shipment shall be effected at the lowest possible cost, unless a special shipment type was stipulated by the ORD. Additional costs incurred due to non-compliance to a shipment regulation shall be borne by the SUP. With price setting carriage paid, the SUP can also determine the type of shipment. Additional costs, such as for expedited delivery necessary to comply with the delivery date shall be borne by the SUP. If, without approval of the ORD, the delivery is effected to a delivery location other than the one stated in the order, the ORD shall be entitled to charge the additional costs for the forwarded delivery to the SUP.
- 7.3 Packing slips or delivery notes stating the contents as well as the complete purchase order indicators (order number and order position) shall be included in each delivery. Different articles shall be packed separately and shall be labeled. The shipment shall be notified immediately with the identical information. During the delivery, the SUP shall hand over to the ORD all required Declarations of Conformity and Certificates of Origin.
- 7.4 Deliveries from cross-border trade shall be delivered to the ORD (as the approved recipient in joint shipment procedures) duty unpaid. The ORD shall be notified of these deliveries in due time for a correct customs procedure. All relevant transport data, especially quantities, dimensions and weights shall be notified in due time before the arrival of the goods and the documents required for the customs clearance shall be made available in due time. This also holds for special instructions, if any, for the handling of the goods during unloading, transport and storage in our (ORD) company area.
- 7.5 Direct deliveries to our (ORD) customers shall only be permitted with our explicit approval in written form and shall be made in our name. At the latest on the day of dispatch, all relevant transport data, such as type of transport, type of packaging, labels, gross and net weights, packing lists, etc. shall be communicated to us (ORD) in written form.
- 7.6 The ORD shall reserve the right to send, at not shipment costs, bulky packaging, especially containers, casks, crates, etc., after emptying and save transport or other wear, if any, back to the SUP and shall get the equivalent credit. The Packaging Directive shall be valid; deviations shall require the written form, otherwise they shall not be binding.
- 7.7 The ORD expressly states that he is listed as an RVS/SVS prohibition customer.
- 7.8 In the case of deliveries of dangerous goods, the SUP shall be responsible for the compliance with the relevant legislation (especially ADR, GGBG) until unloading is completed.
- 7.9 The opening hours of our incoming goods departments at both the Vienna and Wiener Neustadt facilities are as follows:
Mon – Thu from 08:00 until 12:00 and 12:30 to 16:00
Fri from 08:00 to 12:00. In urgent cases after prior consultation.

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8. Invoices

- 8.1 In invoices, the above mentioned purchase order indicators as well as the country of origin and the customs tariff number, if required, shall be indicated. The invoices shall comply with the VAT regulations and shall include all data required to this effect (exact name of the company, product and service designations, VAT number, VAT exemption, if applicable, etc.). Correct invoices that comply with the VAT regulations shall also be issued for partial payments or down payments. Invoices shall not be paid as long as these data are missing or no correct invoices have been issued. Invoices shall be sent in duplicate. Duplicates invoices shall be marked as duplicates.
- 8.2 Invoices that do not comply with our (ORD) requirements, especially if order numbers or other data are missing, shall be sent back to the SUP immediately. In such case, the discount or payment term shall not start before the receipt of the modified invoice.
- 8.3 In the case of delayed payment by the ORD, interest shall start to accrue not before 30 days after the due date; the amount of the default interest shall be defined by the legal standards.
- 8.4 Limitations specified in the company Terms and Conditions of the SUP to our (ORD) right to refuse, to withhold and to offset services with claims shall have no effect.
- 8.5 Also unreserved payments of the ORD shall not limit claims for guarantee, warranty and damages against the SUP.

9. Prices, Payments

- 9.1. All prices shall be fixed prices. This also holds for contracts with delivery times of more than four months. All prices shall be stated and paid in EURO. If payment in another currency is demanded, currency fluctuations shall only be recognized in our (ORD) favor.
- 9.2. All prices shall be considered as free destination specified in the order, thus at the cost and risk of the SUP, including all extra charges, such as suitable packaging, insurance, taxes and dues. The VAT shall always be stated separately. If the sales tax certificate is missing, the price stated shall be including VAT.
- 9.3 Price changes after the order shall have no effect for us (ORD), unless explicitly agreed upon after the order. Changes of the gross prices, if any, shall not result in a decrease of discounts, if any.
- 9.4 Payments shall be made, subject to an invoice check and positive goods inspection, within 14 days less a 3% discount or after 30 days net, if not agreed upon otherwise.
- 9.5 As soon as the delivery has been made or the service rendered in due time, completely and free of defects and the correctly issued invoice has been received, the discount or payment term shall start. A discount shall also be permitted if the ORD offsets with claims or withholds payments in reasonable amounts due to defects; the payment term shall start after all defects have been completely rectified.
- 9.6 Offset with claims (even if not due and also future claims) of the ORD and of group partners shall be permitted against claims of the SUP at any time. Group partners are companies that have a minimum share of 50% in the ORD or in a company that is at least by 50% connected with it. The group partners shall be communicated upon request.

10. Warranty, Guarantee

- 10.1. The SUP shall guarantee that all objects delivered by him as well as all services rendered by him comply with the state of the art demanded as well as the relevant legal provisions and the rules and regulations of the authorities, trade associations and industrial unions. The SUP shall inform the ORD of all latest amendments in this respect.

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- 10.2 If, in particular cases, deviations from these provisions shall be necessary, the SUP shall be obliged to get our (ORD) approval in written form. His warranty deed and guarantee obligation shall not be affected by this approval. The specifications and company-specific standards laid down in the agreement shall hold as guaranteed data or as assured qualities of the object of delivery or service.
- 10.3 The warranty deed and any term of guarantee shall be two (2) years. This term shall start with our (ORD) acceptance of the objects delivered or service rendered or the acceptance by a Third Party named by us (ORD) at the specified reception point or application site.
- 10.4 If the SUP, despite assessed defects, claims the absence of defects on an item manufactured or purchased by him or one of his subcontractors or a service rendered by him or one of his subcontractors, he shall bear the burden of proof.
- 10.5 The SUP shall, at his cost, either have to immediately rectify each reported defect or replace the defective item with an item free of the defects or a new one, at the option of the ORD. This shall also hold for deliveries for which the inspection was limited to control samples.
- 10.6 If the improvement according to 10.5 is delayed by the SUP, we (ORD) shall also be entitled to rectify defects ourselves at the expense of the SUP or to get a replacement or to withdraw from the contract without compensation.
- 10.7 The acceptance by us as ORD shall be made subject to the inspection for correctness and suitability. A technical acceptance, if any, shall only serve as mere functional test without prejudice to guarantee and warranty claims. For faulty goods or insufficient services, regardless if the defect was recognizable immediately or only later, the SUP shall be liable during the guarantee or warranty period. If faulty goods are delivered or insufficient services are rendered, the ORD shall be entitled to cancel the contract as well as to cancel successive delivery contracts immediately. If the faulty delivery requires an overall inspection that exceeds the expense of usual incoming inspections, the SUP shall bear these costs. The immediate duty of inspection, notification and rejection shall explicitly be excluded.
- 10.8 Any further legal claims, especially pertaining to the reimbursement of futile handling or processing charges as well as claims for damages shall remain unaffected.
- 10.9 The SUP shall bear the costs and risks of the reshipment of defective delivery items ex works Vienna or Wiener Neustadt.
- 10.10 For claims of the end user out of the (Austrian) Product Liability Law due to a defective product of the SUP, the SUP shall indemnify and keep indemnified the ORD against all liability. To this purpose, the SUP shall contract product liability insurance. Restrictions to legal product liability of the SUP for his products and services shall be invalid for us as ORD.
- 10.11 The SUP shall be liable without restrictions to us as ORD for all direct and indirect damage or consequential damage, caused by the delivery or service of defective or insufficient goods to us as ORD to our property or to the property of a Third Party. The SUP shall indemnify and hold us as ORD harmless in respect of all warranty claims, claims for consequential damage or product liability claims of Third Parties.
- 10.12 A reservation of proprietary rights of the SUP to goods delivered to us (ORD) shall remain invalid.

11. Subcontraction of Orders to Third Parties

Subcontraction of orders or individual services to Third Parties without approval in written form of the ORD shall be permitted unless the ORD explicitly states that subcontraction in an individual case is not permitted. If such approval was given, the ORD shall reserve the right to recall it at any time.

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12. Provision of Material

- 12.1 Provisions of material shall remain the property of the ORD and shall, at not cost, be stored, be labeled and administrated separately. Their use shall only be permitted for orders of the ORD. In the case of decrease in value or loss, the SUP shall have to pay damages and inform the ORD in written form. This also holds for the charged provision of material destined for an order.
- 12.2 Processing or alteration of the material shall be done for the ORD. The ORD shall become the direct owner of the new or altered item. If this is not possible for legal reasons, the ORD and the SUP shall agree on the fact that the ORD shall become the owner of the new item at any point of time in the processing or alteration phase. In such case, the SUP shall store, at no cost, the new item for the ORD with the care of a prudent businessman.
- 12.3 The SUP shall, without request, forward to the ORD until the end of October of each year the stock list valid at that time.

13. Own Industrial Property Rights

The SUP shall recognize our (ORD) claims for the brands, designations and packaging designs used for the contract products and shall be obliged not to derive therefrom any rights to the future use of these brands, designations and packaging designs and to use these or similar ones again or let use, except for the contract products to be delivered to us (ORD). This obligation of the SUP shall remain valid also beyond the termination of the contract.

14. Documentation and Non-Disclosure

- 14.1 Models, samples, drawings and data sheets as well as tools, molds, profiles, drawings, standard sheets, manuscripts, calibers and software, devices, etc. that we (ORD) make available to the SUP, shall remain our property. The ORD shall be entitled to recall them at any time. They shall be stored and administrated separately. Their use shall only be permitted for orders of the ORD. In the case of decrease in value or loss, the SUP shall have to pay damages and inform the ORD in written form. The SUP shall be obliged to keep the correct identification marks attached by the Schiebel company to e.g. devices or shall report the loss or illegibility of an identification mark. The SUP shall also be obliged to forward to the ORD until the end of October of each year a stock list with assessed item conditions.
- 14.2 All models, samples, drawings, tools, material supplied and devices shall be treated as strictly confidential and shall only be used for the completion of our (ORD) orders. The SUP shall expressly be obliged not to duplicate our (ORD) models, samples and drawings, except for our (ORD) purposes. Only we (ORD) and on no account Third Parties shall have the right to dispose of all parts produced by our data, drawings or models either finally or for inspection.
- 14.3 The SUP shall also treat all other information on quantities, prices, etc. disclosed to the SUP in connection with the placement and execution of the order and further knowledge of our (ORD) operational activities as confidential and shall maintain secrecy even beyond the termination of the business relations.

15. Other Industrial Property Rights

- 15.1 The SUP shall be responsible for the protection of domestic or foreign industrial property rights or copyrights of Third Parties in the production, processing, use or resale of the goods offered and delivered or other services.
- 15.2 The SUP shall be obliged to exempt us (ORD) or our customers from damage claims of Third Parties arising from such legal relationships and shall, at his own cost, join us or our customer in legal proceedings on these grounds.

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15.3 We (ORD) shall be entitled to acquire the right to use (license) from the holder of rights at the expense of the SUP.

16. Assignment of Claim

The SUP shall not be entitled to assign claims against us or to have claims collected by Third Parties without prior approval of the ORD in written form.

If, in the proper course of business, the SUP has granted his supplier a prolonged reservation of proprietary rights, this shall not be recognized by us (ORD).

17. Supplementary Provisions

Should any provision of these conditions be or become invalid, this shall not affect the validity of the remaining provisions. In such case, the parties shall be obliged to replace the invalid provision with a valid condition that is equivalent to its economic success to the extent legally possible.

17. Acceptance

Labor disputes, breakdowns and cases of force majeure shall exempt the ORD from the purchase commitment insofar as they result in a decreased demand of the ORD.

18. Data Protection

The SUP shall give his explicit approval of the storage of personal data, which accumulate in connection with the contractual relationship, for data processing.

19. Place of Performance, Legal Venue, Applicable Law

19.1 Austrian Law shall apply with the exception of the provisions of the United Nations Convention on the International Sale of Goods (CISG).

19.2. Place of performance for the delivery or other services of the SUP shall be the address of destination indicated by us (ORD). Place of performance for our payment obligation shall be the headquarters of our (ORD) company.

19.3. Legal venue for all disputes arising from this contract shall be 1010 Vienna.