

General terms and conditions of purchase of the Schempp-Hirth Group

I Scope

The following terms and conditions of purchase apply exclusively.

These terms and conditions of purchase also apply if SCHEMPP-HIRTH accepts deliveries without reservation in the knowledge of terms and conditions of the supplier that deviate from or conflict with these terms and conditions of purchase. They also apply to all future business relations with the supplier, even if they are not expressly agreed again. Differing terms and conditions of the supplier or contractor only apply if SCHEMPP-HIRTH has expressly acknowledged them in writing.

II Formation of the contract

1. SCHEMPP-HIRTH will send the supplier a written order. Transmission of the order by means of electronic data transfer also meets the requirement for the written form. Oral orders or ancillary agreements to the order are only binding if they are confirmed in writing by SCHEMPP-HIRTH's purchasing department. This also applies to subsequent changes and additions.
2. The order shall be deemed accepted if the supplier does not object to it within three days.
3. If the supplier amends the order, the purchaser, SCHEMPP-HIRTH, shall not be bound by this. The amended confirmation of the order by the supplier shall be deemed a new offer to which the supplier is bound until 14 days after receipt by SCHEMPP-HIRTH. Furthermore the supplier is obliged to draw SCHEMPP-HIRTH's attention in writing in the order to any changes compared with previous contractual conditions or catalogue details. A contract shall be formed only after SCHEMPP-HIRTH has accepted the amended terms and conditions in writing.

III Terms of delivery

1. Unless otherwise agreed, deliveries shall be made DDP (Incoterms 2020), to the place designated by SCHEMPP-HIRTH, including packaging.
2. The goods shall only be accepted by SCHEMPP-HIRTH subject to inspection for defects, contractually agreed characteristics, guaranteed properties, and completeness.
3. Materials and parts provided shall be returned to SCHEMPP-HIRTH free of charge if and to the extent that they are no longer required for the execution of the delivery.
4. Each delivery must be accompanied by a delivery note in duplicate. The delivery note must state the type and quantity of the goods delivered as well as the order number, article number and supplier number.
5. Before the goods are dispatched, SCHEMPP-HIRTH must be informed in writing of the value, weight, and date of dispatch.
6. If the supplier has to provide material samples, test protocols, quality documents or other documentation, the provision of such items shall also be a precondition for the completeness of the delivery and performance.
7. SCHEMPP-HIRTH is not obliged to accept partial or excess deliveries not agreed in the contract. The same applies if the goods are delivered before the agreed date. If necessary, SCHEMPP-HIRTH is entitled to return the goods or to place them in storage with third parties at the supplier's expense and risk.
8. If SCHEMPP-HIRTH incurs costs as a result of a faulty delivery of the subject matter of the contract, in particular transport, travel, labour, or material costs or costs for an incoming goods inspection exceeding the usual scope, the supplier shall bear these costs.

IV Performance time

1. The delivery dates stated in the order are binding.
2. The supplier is obliged to inform SCHEMPP-HIRTH promptly in writing if circumstances arise or become apparent indicating that the agreed deadline cannot be met. The obligation to comply with the originally agreed delivery dates remains unaffected.
3. The supplier may only invoke the absence of necessary documents to be supplied by SCHEMPP-HIRTH if it has not received these documents within a reasonable period of time despite an early written request.

V Delay

1. If the agreed delivery dates are delayed or if it is clear that they will be exceeded, SCHEMPP-HIRTH shall be entitled to rights and claims – including claims for damages – in accordance with the statutory provisions. Upon expiration of a deadline set by it to no effect, SCHEMPP-HIRTH shall in particular be entitled to demand damages instead of performance and may make covering purchases at the supplier's expense.
If the supplier is not responsible for its failure to perform, SCHEMPP-HIRTH shall not be entitled to claim damages in lieu of performance, but shall be entitled to withdraw from the contract.
2. SCHEMPP-HIRTH hereby advises that it may also suffer damage if agreed delivery dates are not met because it enters into delivery obligations and delivery dates vis-à-vis its customers which require punctual and proper delivery by the supplier.

3. Without prejudice to the right to claim further damages for delay, the contractual penalty shall be 0.1% of the net order value for each commenced week of delay, subject to a maximum of 0.5% of the net order value in total. The contractual penalty may also be claimed after receipt of performance up to the final payment without any reservation being required. The supplier has the right to prove that no damage or less damage has been incurred as a result of the delay.

VI Right of inspection

SCHEMPP-HIRTH reserves the right to inspect any goods at its own discretion, whether at the supplier's premises or at the premises of third parties used by the supplier to fulfil its obligations – including during the production process – or at the forwarding agent's or storage facility. The goods specification stipulated in the order, samples submitted by the supplier, guaranteed characteristics, and other stipulations agreed with the supplier shall be key factors for the inspection.

VII Guarantee

1. The supplier guarantees that the deliveries correspond to the latest state of the art, whether the agreed characteristics, and comply with the regulations applicable in the Federal Republic of Germany for the production, distribution, and use of the delivery item and for the prevention of accidents. The supplier further guarantees that the delivery does not infringe the rights of third parties.
2. If the relevant laws, regulations or the state of the art change between formation of the contract and performance and if this impacts the contractual performance, the supplier shall promptly inform SCHEMPP-HIRTH in writing of the change/s and the associated consequences in terms of deadlines and costs. SCHEMPP-HIRTH shall make a decision on the change/s within a reasonable period of time. If SCHEMPP-HIRTH accepts the change/s, the parties will reach a mutually agreeable cost arrangement based on the order and adjust the contract in writing. Should SCHEMPP-HIRTH not accept the change/s, both parties are entitled to terminate the contract.
3. If the delivered goods are defective or if guaranteed characteristics are not adhered to, SCHEMPP-HIRTH shall be entitled, at its discretion, to demand the rectification of the defect or the delivery of a defect-free item. Furthermore, SCHEMPP-HIRTH shall be entitled to reduce the purchase price, to withdraw from the contract, and to claim damages or reimbursement of futile expenses in accordance with the statutory provisions.
4. SCHEMPP-HIRTH shall be entitled to remedy the defect itself at the supplier's expense if there is imminent danger or a particular urgency.
5. The limitation period for guarantee claims due to material defects shall expire 24 months after the delivery item has been put into operation, at the latest, however, 36 months after delivery to SCHEMPP-HIRTH. However, any longer statutory limitation period remains unaffected.

VIII Liability

1. The statutory liability provisions apply.
2. In the event that SCHEMPP-HIRTH is held liable by a customer or other third party on the basis of product liability, the supplier shall be obliged to indemnify SCHEMPP-HIRTH against such claims if and to the extent that the damage was caused by a defect in the product supplied by the supplier. In cases of fault-based liability, however, this shall only apply if the supplier is to blame. If the cause of the damage is within the supplier's sphere of responsibility, the supplier shall bear the burden of proof in this respect. In such cases, the supplier shall bear all costs and expenses, including the costs of any legal action or recall. In all other respects, the statutory provisions apply.

IX Invoices and payments

1. After fulfilment of the contract, invoices to be issued must be sent separately for each order to the invoice address stated in the order. Order numbers must be indicated, and all billing documents must be enclosed.
2. Invoices in respect of partial deliveries of goods or partial provision of works or services must be marked "partial performance invoice"; final invoices must be marked "residual performance invoice".
3. Unless otherwise agreed, payments shall be made within 10 days of delivery and receipt of invoice with a 2% discount or within 30 days net.
4. Payments shall only fall due after receipt of the goods and invoice and the agreed delivery date.

X Set-off/assignment

1. SCHEMPP-HIRTH is entitled to offset all claims that a SCHEMPP-HIRTH Group company has against the supplier against claims arising from the individual orders.
2. Should SCHEMPP-HIRTH have claims against other companies belonging to the same group as the supplier, SCHEMPP-HIRTH is entitled to withhold payments until the claims against this company have been settled.
3. Assignments and other transfers of the supplier's rights and obligations outside the scope of application of Section 354 a of the German Commercial Code (HGB) are excluded.

XI. Reservation of title – Provision of resources – Tools

1. If SCHEMPP-HIRTH provides parts to the supplier, SCHEMPP-HIRTH reserves title to these parts. Any processing or transformation by the contractor shall be carried out for SCHEMPP-HIRTH. If the reserved items are processed with other items not belonging to SCHEMPP-HIRTH, SCHEMPP-HIRTH shall acquire co-ownership of the new item in the ratio of the value of the item (purchase price plus VAT) to the other processed items at the time of processing.
2. If the item provided by SCHEMPP-HIRTH is inseparably mixed with other items not belonging to SCHEMPP-HIRTH, SCHEMPP-HIRTH shall acquire co-ownership of the new item in the ratio of the value of the reserved item (purchase price plus VAT) to the other mixed items at the time of mixing. If the mixing is carried out in such a way that the contractor's item must be regarded as the main item, it is hereby agreed that the contractor shall transfer co-ownership to SCHEMPP-HIRTH on a pro rata basis; the contractor shall safeguard the sole ownership or co-ownership for SCHEMPP-HIRTH.
3. If the supplier is contractually obliged to manufacture tools, the tools shall become the property of SCHEMPP-HIRTH after their completion and payment of the manufacturing costs. If the tools for the manufacture of parts remain with the supplier, the handover of the tool shall be replaced by the supplier owning the tools for SCHEMPP-HIRTH and SCHEMPP-HIRTH acquiring indirect possession. The tools shall be provided to the supplier by SCHEMPP-HIRTH for production purposes only. SCHEMPP-HIRTH is entitled to demand the tools from the supplier at any time. The regulations mentioned in paragraph 4 additionally apply.
4. SCHEMPP-HIRTH reserves title to any tools made available to the supplier. The supplier is obliged to use the tools exclusively for the manufacture of the goods ordered by SCHEMPP-HIRTH. The supplier is also obliged to insure the tools belonging to SCHEMPP-HIRTH at replacement value against fire damage, water damage, and theft at its own expense. At the same time, the supplier hereby assigns to SCHEMPP-HIRTH all claims for damages arising from this insurance; SCHEMPP-HIRTH accepts this assignment. The supplier is obliged to carry out, in good time and at its own expense, any necessary maintenance and inspection work on SCHEMPP-HIRTH's tools as well as all servicing and repair work. The supplier must notify SCHEMPP-HIRTH immediately of any malfunctions if the supplier culpably fails to do so, claims for damages shall remain unaffected.
5. If the collateral rights to which SCHEMPP-HIRTH is entitled pursuant to paragraph (1) and/or paragraph (2) exceed the purchase price of all reserved goods not yet paid for by SCHEMPP-HIRTH by more than 10%, SCHEMPP-HIRTH shall be obliged, at the supplier's request, to release the collateral rights at SCHEMPP-HIRTH's discretion.
6. All documents handed over by SCHEMPP-HIRTH shall remain the property of SCHEMPP-HIRTH. They must not be made accessible to third parties and must be returned to SCHEMPP-HIRTH in full, without prompting, after execution of the contract. Special experts and subcontractors engaged by the supplier shall not be considered third parties if they have undertaken to the supplier to maintain secrecy in the same manner. The supplier shall be liable for any loss or damage suffered by SCHEMPP-HIRTH as a result of a breach of this undertaking.

XII Export controls

As early as possible, but no later than two weeks before the delivery date, the supplier must provide SCHEMPP-HIRTH in writing with all the information and data that SCHEMPP-HIRTH requires in order to comply with the applicable foreign trade laws in the case of export, transfer and import and, where goods and services are resold, in the case of re-export. This includes the following, in particular, for each good and service:

- The appropriate export list category (if the item does not fall under an export list category, state "AL:N")
- The statistical commodity code according to the current commodity classification of foreign trade statistics and the HS code
- The country of origin (non-preferential origin) and
- if requested by SCHEMPP-HIRTH, supplier declarations on preferential origin or certificates on preferences (export control and foreign trade data).

XIII Secrecy and data privacy

1. The supplier is obliged to treat all information received during the execution of the contract as fully confidential. This does not apply to information of which the supplier was already aware at the time of receipt, or of which it had otherwise gained knowledge (e.g. from third parties without reservation of confidentiality or through its own independent efforts).
2. The supplier is obliged to observe the statutory provisions on data privacy including the imposition of a written obligation on employees in accordance with Section 5 of the German Federal Data Protection Act (BDSG). The supplier must also impose this obligation on all persons entrusted by it with the execution of the contract.

XIV Rights of use and property rights

1. SCHEMPP-HIRTH is permitted to use the object of the contract, including the underlying patent and other industrial property rights, without restriction within its group of companies. This right of use also gives entitlement to alter the object of the contract and also covers illustrations, drawings, calculations, methods of analysis, recipes and other works made or developed by the supplier in the course of the formation and execution of the contract. SCHEMPP-HIRTH is permitted to make documents available to third parties for the purpose of rebuilding spare and reserve parts and for modification.
2. The supplier guarantees that the rights of third parties, in particular its subcontractors, do not conflict with the granting of this right of use and indemnifies SCHEMPP-HIRTH against all claims in this respect.
3. The limitation period for the obligation to provide indemnification against conflicting property rights is 10 years, calculated from the formation of the contract.

XV Publication/advertising

Any exploitation or disclosure of the business relations existing with SCHEMPP-HIRTH in publications or for advertising purposes is only permissible with the express prior written consent of SCHEMPP-HIRTH.

XVI Miscellaneous

1. The place of performance for services is the destination specified by SCHEMPP-HIRTH. The place of performance for payments is Kirchheim, Germany.
2. The contractual relationship shall be governed by German law, to the exclusion of all conflict of law provisions and the United Nations Convention on Contracts for the International Sale of Goods (CISG).
3. Amendments/supplements to these terms and conditions of purchase, including amendments to the requirement for the written form, must be made in writing.
4. If the supplier is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law, or a special fund under public law, the registered office of SCHEMPP-HIRTH shall be the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. SCHEMPP-HIRTH shall also be entitled to take legal action before the court having jurisdiction at the supplier's registered office.
5. Should individual provisions of these terms and conditions be or become invalid/unenforceable, the remaining provisions shall remain effective. From the beginning of the invalidity/impracticability, the contracting parties are obliged to replace the valid/unenforceable provision with a provision that is as economically similar as possible.
6. These terms and conditions exist in German and English. In the event of differing interpretations, the German version takes precedence.

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