

### § 1 Applicability

These Terms and Conditions of Contract (AAB) apply to all offers and Orders, in particular to all deliveries and services (hereinafter referred to as: "Orders") by Schnorr GmbH (hereinafter referred to as: "Schnorr") to its customers, unless the Customer is a consumer within the meaning of Sec. 13 German Civil Code (BGB). The AAB shall also apply to all future transactions between the contracting parties without any reference hereto again being required. Terms and conditions opposing or deviating from these AAB shall only apply insofar as Schnorr explicitly consents to such terms and conditions in writing; if only individual terms are agreed to in deviation herefrom, then these AAB shall apply subordinately and in addition. These AAB shall also apply if Schnorr executes the Order knowing of terms and conditions of the Customer opposing or deviating from these Terms and Conditions.

### § 2 Conclusion of the contract; Changes to and cancellations of an Order; Deviations in quantities; Continual Orders

1. Unless otherwise agreed, our offers and list prices are non-binding. A binding Order only comes into effect when we give an Order confirmation in writing. Written form is complied with by remote data transmission and telefax.
2. The minimum net Order value and minimum net item value respectively applying shall be specified in our offers and Order confirmations. The same shall apply to the minimum net value of the goods and to the minimum net item values of individual products.
3. The Customer may only amend binding Orders placed with us if we give our consent thereto; in this case the Customer must reimburse to us all costs additionally incurred by us due to the change in the Order. If an Order is cancelled by the Customer, we shall have a claim to payment of the compensation agreed less any expenses we have saved.
4. Deviations in quantity of up to 10 % above the quantity agreed shall be deemed approved; in this case the Customer shall owe payment for the quantities actually delivered. The same applies to deviations in quantity of up to 10 % less than the quantities agreed. We have the right to make and charge for part deliveries and part performance insofar as the Customer can be expected to accept them.
5. Continual Orders placed for an indefinite period of time may only be terminated by either party by giving notice of no less than six months to expire at the end of a calendar month.

### § 3 Rights to documentation; Third party rights

1. We retain all rights of ownership and copyrights in and to all documentation and other items (drawings, drafts, samples, diagrams, spring designs and calculations, manufacturer's instructions, offers etc.) which we provide to the Customer for use in the course of negotiating or executing the contract; such documentation may only be disclosed to third parties with our prior consent. If no contract is entered into, such documentation must be returned to us without delay and without requiring any specific request to do so.
2. The Customer shall be responsible for ensuring that no third party rights, in particular no ownership rights or copyrights, are infringed through the execution of the contract. If there should nonetheless be an infringement of third party rights, the Customer has to indemnify us from and against any claims for compensation, unless the Customer is not responsible for the breach of duty.

### § 4 Time limits and deadlines; Default

1. Time limits and deadlines are only binding on us if they have been confirmed by us in writing. Time limits start to run at the earliest at the time when we gain knowledge that a binding Order has been placed but not before we have received the documentation and other items, in particular drawings and samples, in full which are necessary to execute the Order and which have to be supplied by the Customer.
2. Time limits and/or deadlines are met if, within such time limit or deadline, the goods for delivery have been made available by us at the place of performance for collection by the Customer or if the Customer has been notified of readiness for shipping or if the goods for delivery have been shipped on the instructions of the Customer.
3. Events caused by force majeure entitle us to extend or postpone agreed time limits and deadlines for the duration of such impediment plus a reasonable start-up time thereafter at our equitable discretion. We'll notify the Customer in an appropriate manner on the existence and the cause of such impediment. If the impediment lasts longer than two months, the Customer is entitled to withdraw from the respective contract. As force majeure shall deem any unforeseeable event, which is externally influencing the business, and which could not duly be met with any appropriate and reasonable measures. Calamities, acts of war, riots, legitimate strikes and lock-outs in Schnorr's companies, strikes and lock-outs in dispatching facilities, with suppliers or in the area of transportation, irrespective of whether those are affecting areas inside or outside the Federal Republic of Germany, through which a delivery be performed, shall be equivalent to force majeure.
4. If the promised performance is not available because we have not been supplied by our upstream supplier, we have the right to render performance which is equivalent in both quality and price. If this is not possible, we have the right to rescind the contract. In this case we shall inform the Customer of the

non-availability and, if applicable, immediately refund any payment already effected by the Customer.

5. If dispatch or delivery should be delayed at the Customer's request for longer than one month after notification of readiness for shipment, the Customer can be charged a storage fee amounting to 0.2% of the price of the delivery items for each month commenced but not exceeding a maximum of 2%. The contracting parties have the right to evidence higher or lower storage costs.
6. At our request the Customer is obliged to declare within a reasonable period of time whether the Customer is rescinding the contract due to a delay in delivery or whether the Customer insists upon delivery.

### § 5 Acceptance and passing of risk; Packaging and shipping

1. If reasonable advance notice is given, the Customer has the right to inspect the goods or to have them inspected at the place of performance at the Customer's own expense prior to collection or shipment thereof. If, despite notifying us that the Customer wishes to exercise this right, the Customer fails to do so or fails to do so punctually, we have the right to ship the goods without acceptance or to store them at the expense of our Customer.
2. The risk of accidental loss or accidental deterioration of the consignment passes to the Customer when it is collected by the Customer or the Customer's agent, or when the consignment is shipped in accordance with instructions from the Customer or, if the preconditions of sentence 2 in subsec. 1 above have been met, when the goods are shipped or stored. At the Customer's request and expense our consignments shall be insured against customary transport risks.
3. The Customer may not refuse to accept delivery of consignments on account of inconsiderable defects.
4. We shall package and ship the goods at our dutiful discretion at the Customer's expense, unless the Customer has given any specific instructions in terms of the kind of package or the shipping.

### § 6 Terms of Payment

1. The prices agreed are fixed prices, "ex works", "excluding packaging" and exclusive of the Value Added Tax respectively applicable. The prices apply from the place of performance and are payable, counting from the invoice date, either within fourteen calendar days thereof less 2 % discount or within thirty calendar days without any deduction. We shall charge for any additional services becoming necessary during the execution of the Order on the basis of the time expended unless otherwise agreed. The Customer shall additionally bear the costs of packaging, freight, postage and transport insurance, furthermore any costs of preparing drawings, drafts, samples and similar additional work required by the Customer, and finally the statutory Value Added Tax.
2. We are not obliged to accept bills of exchange. If bills of exchange are taken, this is only on account of performance and the Customer is not entitled to deduct any discount. The Customer must reimburse any discount charges or expenses to us without delay.
3. In the event of default of payment, the Customer owes default interest in an amount of 9 percentage points per annum above the basic interest rate of the German Central Bank (Deutsche Bundesbank); the right to evidence higher default damage remains reserved. The Customer shall be in default of payment at the latest if it fails to effect payment within 30 days after the due date and receipt of an invoice or equivalent payment statement.
4. The Customer is only entitled to offset those counterclaims which have become *res judicata*, have been acknowledged by us or are undisputed. Furthermore, the Customer is only authorized to exercise a right of retention if its counterclaim is also based on the same contractual relationship.
5. If circumstances become known after conclusion of the contract which undermine the confidence in the Customer's creditworthiness, we have the right to make further execution of the Order conditional on advance payment of the consideration and payment of all liabilities of the Customer that are due under the same legal relationship, irrespective of any payment term agreed upon, or, after expiry of a reasonable extended period, to rescind the contract without prejudice to further rights. The confidence in the Customer's creditworthiness is undermined, in particular, if the Customer suspends payments, if insolvency proceedings are instituted with respect to the Customer's assets or if an application to institute insolvency proceedings has been filed but the insolvency proceedings have not been opened due to lack of funds.

### § 7 Retention of Title

1. We reserve title in and to the goods delivered until all claims under the business relationship have been satisfied. Insofar as the value of all security rights to which Schnorr is entitled, exceeds the amount of all secured claims by over 10%, Schnorr shall, at the Customer's request, release a respective part of the security rights. Beforehand the Customer is prohibited from seizing the goods or transferring them by way of security.
2. The Customer must notify us in writing without undue delay in the event of seizures or of any other interventions by third parties in our ownership right. Insofar as the third party is not in a position to refund to us the court and

extrajudicial costs incurred by us in protecting our rights, the Customer shall be liable for the loss.

3. The Customer has the right to resell the goods in the normal course of business; however, the Customer assigns to us now already all of its claims in the amount of the final invoice amount (inclusive of Value Added Tax) to which the Customer is entitled from the resale of the goods from its buyer or third parties. We accept this assignment. The Customer is authorized to collect the claims assigned as long as the Customer meets its payment obligations under this Agreement, is not otherwise in default with respect to us and provided that no application for the institution of insolvency proceedings has been filed with respect to the assets of the Customer. If one or more of the aforesaid preconditions has been met, the Customer's collection authority shall lapse even without our explicit revocation thereof; in this case we can demand that the Customer notify us of the assigned claims and the debtors of such claims, provide all the information required for collection, hand over the respective documentation and notify the debtors of the assignment.
4. If the goods are inseparably intermingled with other items which do not belong to us, we then acquire joint ownership of the new thing in accordance with the ratio of the value of the goods delivered by us to that of the other intermingled items at the time of such intermingling. If the intermingling is effected in such a way that the items not belonging to us are to be regarded as the principle item, the Customer shall transfer to us proportionate joint ownership of the new item. The Customer shall hold safely on our behalf the sole property or joint property thus arising free of charge.

#### **§ 8 Warranty for Defects; Liability**

1. The Customer may not refuse to take delivery of supplies on account of inconsiderable defects. In all other respects Sec. 377 German Commercial Code (HGB) shall apply with the provision that defects which are obvious or which do not appear until subjected to due inspection have to be notified in writing no later than five calendar days after delivery of the goods to the Customer. Concealed defects are to be notified no later than eight days after discovery thereof.
2. Claims on account of defects as to quality become time-barred 12 months after the date of passing of risk. This shall not apply in cases of fatal or physical injury or damage to health or in the event of an intentional or grossly negligent breach of duty by us or in the event of a defect that is fraudulently concealed.
3. All those parts or services showing a defect as to quality within the limitation period are, at our election, initially to be rectified free of charge, re-supplied or re-performed insofar as the cause thereof already existed on the date of passing of risk pursuant to sec. 5.
4. If subsequent performance should be unsuccessful, the Customer may – without prejudice to any claims for damages pursuant to sec. 9 – rescind the contract or appropriately reduce the compensation.
5. We are entitled to deliveries with customary deviations from the quality agreed. Wear and tear or damages arising after the date of passing of risk due to deficient or negligent handling, the use of unsuitable operating equipment, defective construction work, excess voltage, lightning and similar external influences or due to modifications or repair work unprofessionally carried out or to maintenance work not properly conducted, do not constitute a defect.
6. In the event of complaints due to defects, the Customer may only retain payments to the extent that this is in reasonable proportion to the defects arising. This limitation of the Customer's right of retention does not apply as to receivables which have become *res judicata* or are undisputed. If the complaint as to defects is unjustified, we can claim from the Customer reimbursement of the expenses incurred by us.
7. Claims by the Customer on account of expenses required for the purpose of subsequent performance, in particular costs of transport, transportation, labour and materials are excluded insofar as the expenses are increased because the goods delivered have been subsequently moved to a location different from the branch of the Customer, unless such removal is consistent with the contractual use of the goods.
8. The Customer only has rights of recourse pursuant to Sec. 478 BGB (Recourse of the Entrepreneur) insofar as the Customer has not reached any agreements with its customer exceeding those of the statutory claims for defects.
9. In all other respects sec. 9 (Other Claims for Damages) applies to claims for damages. Any claims on account of a defect as to quality by the Customer or its vicarious agents exceeding or differing from the claims governed by this sec. 8 are excluded.

10. In case of deviations in quality of the material we procured from a third party (Supplier), we have the right to perform warranty claims of the Customer by assigning the claims to which we are entitled from the Supplier. If this right is exercised, the Customer only has further warranty claims against us if the Supplier does not comply with a conclusively justified demand for warranty by the Customer.

11. Unless otherwise agreed, we are obliged to perform delivery free of third party industrial property rights and copyrights (hereinafter referred to as: *Protective Rights*) only in the country of the place of delivery. Insofar as a third party asserts claims against the Customer on account of an infringement of Protective Rights by deliveries performed by us and used in accordance with the contract, we shall only be liable with respect to the Customer insofar as the Customer is not itself responsible for the infringement of the Protective Right and provided that the Customer has notified us in writing without undue delay of the claims asserted by the third party. Prior to any acknowledgment by the Customer, we must be given the right to comment and to be heard. Upon request, we must be given the right to conduct settlement negotiations on our own account and at our own responsibility. In case of an infringement, we shall, at our election and expense, either obtain a right of use for the respective deliveries, amend them so that the Protective Right is not infringed, or exchange them, as long as the new delivery is still suitable for the contractual or customary use. If these remedies are unreasonable for Schnorr, the Customer shall be entitled to the statutory rights to rescind the contract or reduce the amount of payment.

#### **§ 9 Other Claims for Damages**

1. Claims for damages and for reimbursement of expenses by the Customer for whatsoever legal ground are excluded, in particular on account of a breach of duties under the contractual obligation and tort. This also applies to *culpa in contrahendo*.
2. This does not apply to claims in accordance with the German Product Liability Act (Produkthaftungsgesetz), in cases of intent or gross liability, to fatal or physical injury or damage to health, to fraudulent concealment of a defect, or to a breach of material contractual duties. Damages for a breach of material contractual duties are, however, limited to damage which is foreseeable and typical for the type of contract, except in the event of intent or gross negligence or in the event of liability on account of fatal or physical injury or damage to health. Material contractual duties are those duties which, when performed, make the execution of the contract possible at all, and which the contractual partner may regular rely on compliance with.
3. Our supplies may not be used in the military field or for aviation without our prior written consent.
4. Exclusions and limitations of liability also apply to the personal liability of our employees, co-workers, representatives and vicarious agents.
5. The limitation period applying to the claims for damages to which the Customer is entitled under this sec. 9 is governed by the limitation period applying to claims for defects as to quality set forth in sec. 8, subsec. 2. This does not apply to the cases of sec. 9, subsec. 2 sentence 1. The statutory limitation periods apply to claims for damages under the German Product Liability Act. Sec. 479 BGB remains unaffected.
6. No change to the burden of proof to the detriment of the Customer is associated with the foregoing provisions.

#### **§ 10 Place of performance; Applicable law; Place of jurisdiction; Partial invalidity**

1. The place of performance for all Orders placed with us is in 71069 Sindelfingen.
2. The legal relationships between the Customer and us shall be governed and construed solely by the laws of the Federal Republic of Germany. The applicability of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.
3. If the Customer is a businessman within the meaning of the HGB, it is agreed that the courts of Böblingen have jurisdiction and venue. The same shall apply if the Customer is a public law legal entity or a public law special fund or if the Customer has no place of jurisdiction of its own in the Federal Republic of Germany. The agreements on jurisdiction set forth in sentences 1 and 2 do not apply in the event of exclusive jurisdiction deviating herefrom stipulated by statute. We are also entitled to take legal action at the domicile of the Customer.
4. The ineffectiveness of individual provisions of these General Terms and Conditions of Contract shall not affect the validity of the remaining provisions hereof.

#### **Schnorr GmbH**

Registered office of the Company: Sindelfingen

Local Court – Court of Registration - Stuttgart HRB 737166, Managing Director: Andy Haunholter