

General Conditions of Sale of the Schmidt & Bartl GmbH

I. Validity; exclusion of Terms and Conditions of other parties

The company Schmidt + Bartl GmbH shall execute current and future orders only within the framework of the conditions described hereinafter. This applies regardless of whether individual cases are governed by a purchase contract, a contract for work, a contract for work and materials or any other contractual relationship. Terms and conditions of the Purchaser or separate agreements which deviate, contradict or supplement the same require our written confirmation in order to be considered valid.

II. Offers / conclusion of contract

All offers are non-binding. If an order is placed, acceptance of the same can be declared in writing (order confirmation) or by delivering the goods. We reserve the right to recalculate, particularly in case of inquiries without available scaled drawings or original samples. We cannot be held liable for submitted samples. In case of new tools, the ordering party shall receive a confirmation. Conclusion of the contract is subject to us receiving goods from our suppliers in a timely and correct manner, insofar as we are not responsible for any delays. The customer shall be notified about the performance failure immediately. The stated delivery dates shall be considered approximate values.

III. Prices

1. Unless our prices and charges are agreed as fixed on ordering, our prices or remuneration rates shall be those valid on the day of delivery.
2. Our prices are set ex works and do not include statutory VAT. Packaging, transport and other additional services (such as customs clearance) will be charged separately.
3. In case of subsequent orders we are not bound by price agreements for preceding orders.

IV. Terms of payment

The invoice shall be issued during or after shipping. On complete receipt of payment within 10 days of the invoice date, we will grant a 2 % discount on the amount invoiced. The net amount invoiced must be received within 30 days of the invoice date. Tool costs shall be paid at the time of invoicing without deductions. Subject to special agreements. If payment is not made by the due date, it shall be considered to be in default without reminder. Should doubts as to the creditworthiness of the customer arise, we reserve the right to supply against payment in advance only and to claim all outstanding payments regardless of their due date. Bills of exchange are not accepted. Checks will be accepted on account of payment. The customer shall have a right to set-off only if any counterclaim is determined by way of a final court judgment or is acknowledged by us. Payments shall not be considered effected until the amount is at our disposal. In the event of delayed payment, interest at 2 % above the discount rate charged by the Federal State Central Bank shall be charged.

V. Retention of title

The goods shall remain our property until paid in full. The supplied goods shall be insured against fire / theft / water damage. If the goods are resold after they have been combined or processed, a right to settlement from the profit on the sale or the new product itself (or joint ownership thereof) shall replace the seller's right to retention of title. We reserve the right to collect the claim ourselves in case of delayed payment. Any sales where the receivables are paid into a current account are impermissible.

VI. Technical documentation, molds and tools

1. Technical documentation of our products, such as figures, technical drawings or data sheets, may only be used for the purpose we intended and shall not be copied or made available to third parties with the exception of government authorities and courts.
2. We retain the ownership and copyright of such documentation. If and when requested by us, the customer shall return such documentation to us immediately and free of charge.
3. Unless agreed otherwise, molds and tools shall remain our property, even if the customer bears the cost of them. The customer shall bear the cost for replacing tools that are worn as a result of production. The customer can demand release of the tool after paying the actual tool price and making redemption payment for the tool know-how.

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VII. Performance time, delay, place of performance

1. Delivery times do not start until we have agreed with the customer on all details of execution and all conditions for the transaction, including releases and permissions of master samples and/or drawings. If the customer makes provisions, delivery times do not start until the materials and technical documentation to be provided by the customer have been received. Agreed delivery dates shall be shifted by the period of time by which these prerequisites are delayed.
2. If our services are provided late, we shall not be considered to be in default as long as the delay is due to circumstances which we could not have predicted or prevented given a reasonable level of care and which we cannot overcome by taking reasonable measures.
3. In case the customer does not fulfil obligations arising from this or any other agreement or any other legal reason, we shall have the right to defer our performance.
4. The place of performance for our deliveries and services shall be Villingen-Schwenningen, Germany.
5. We reserve the right to partial deliveries.

VIII. Compensation and limitation

Any complaints shall be registered immediately after receipt of the goods. We shall compensate, at our discretion, for any defective or failed deliveries by way of replacement delivery or rectification or by crediting the differential invoice amount. All claims for damages (regardless of the legal reason, particularly of precontractual (fault in conclusion of a contract) and contractual nature but also positive breach of contract and tort) are limited to the value of the goods. Claims for damages arising from gross fault or the absence of an assured property. In case of a delay of delivery or impossibility of performance for which we are responsible, the rights of termination and withdrawal of the customer shall remain unaffected. We shall not grant any warranty for products if we do not know their final purpose and conditions of use. We shall not be liable for defects which result from documents, specifications or designs submitted by the customer, or from parts supplied by the customer. The warranty period is one year starting from the day of delivery of the goods.

IX. Properties

The specifications issued by us contain average values. Guaranteed properties in a legal sense shall be expressly confirmed by us in writing.

X. Drawings / consultation

Drawings created by us shall remain our property and shall be protected by copyright. Consultation for applications shall be provided to the best of our knowledge. The consultation is free of charge and is based on experience, however, we cannot be held liable for the content of such consultations.

XI. Risk assumption, dispatch and receipt

1. The risk for the goods is passed to the customer at the latest on dispatch of the goods to the customer. This also applies if we bear the transport costs or deliver ourselves. We are not obliged to insure the goods against transport damage. If expressly requested by the customer, we will insure the consignment against theft, transport damage as well as other insurable risks. The customer shall bear the cost of such insurance.
2. If dispatch is delayed for reasons beyond our control, the risk for the goods shall pass on to the customer as soon as the goods are ready to dispatch.
3. The customer shall accept delivery of the goods supplied, even if the goods are damaged, without affecting the statutory rights of the customer. In case we have fraudulently concealed the defect or have given a quality guarantee for the condition of goods, the statutory regulations shall apply.

XII. Withdrawal

If the financial situation of the customer deteriorates significantly, if an application for his insolvency is made or if insolvency proceedings have been started, we shall be entitled to withdraw from the contract.

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XIII. Property rights

If we have to render service on the basis of drawings, models, samples or using parts provided by the customer, it shall be the responsibility of the customer to ensure that property rights of third parties are not violated. The customer shall release us from any claims by third parties due to the violation of property rights and shall reimburse to us any damages arising as well as our costs and expenses.

If the customer and/or we are forbidden to manufacture or deliver by a third party with reference to a property right, we are entitled, without closer examination of the legal position, to cease work.

XIV. Choice of law and legal venue

1. German law excluding conflict of law rules and the United Nations Agreement on Contracts for the International Sale of Goods (CISG) shall apply.
2. For all disputes arising directly or indirectly from the business relationship between Schmidt + Bartl and the customer, the exclusive legal venue shall be at the registered office of Schmidt + Bartl. For legal action against the customer, Schmidt + Bartl shall also be entitled to commence legal proceedings at the legal venue of the customer or any other permissible legal venue.

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