

GENERAL TERMS AND CONDITIONS

With reference to all business conducted by ourselves the following Terms and Conditions shall apply, unless otherwise agreed to in writing:

1. Introduction

Any conclusions or agreements, in particular in as far as they result in changes to these Terms and Conditions, shall not be binding for us until we have provided written confirmation. Terms and conditions relating to acquisition by a Purchaser shall thus be expressly contradicted; these do not put us under any obligation even if contradicted by us again in the confirmation of order presented by ourselves or our conformation of order.

2. Offers

Our offers are subject to change without notice. We reserve the right to make alterations to drawings, patterns, catalogues and other documentation. Changes made by the Customer shall only be effective, if these have been confirmed in writing.

3. Prices

Prices quoted are ex works excluding packing. The prices are set with full and due consideration of today's costs. Should wage and/or salary agreements, costs for the requisite basic material or energy price change prior to the delivery deadline, we reserve the right to make the necessary price corrections. Prices are not binding in respect of repeat orders.

4. Tools

A proportion of the price of tools will invariably be invoiced separately from the value of the goods. These costs are to be settled as soon as the type sample product has been sent or, if such a sample has not been requested, with the initial delivery. With the payment of a proportion of the costs for tools the Purchaser shall acquire no right to the tools; they shall continue to be our property and shall remain in our possession. We give our undertaking to keep these tools for the Purchaser for a period of 3 years after the last delivery. If the Customer informs us before the three-year period has elapsed that orders are to be placed within a year, we are obliged to store the tools for this period. Otherwise we have the right to use or dispose of the tools as we wish.

5. Payment

The conditions of payment requested from the Customers will be agreed on in transaction phases. All payments must be made at the agreed deadlines. In case of delays, penalty interest will be applied, calculated according to the provisions of D.Lgs 09 October 2002, no. 231, from the day after the payment deadline date to the day of the effective payment. Expressly excluded are the amassing or the retention of payments due to any kind of Purchaser claims we have not recognised. Failure to adhere to the terms of payment or circumstances that become known to us subsequent to each conclusion giving us reasonable cause to doubt the creditworthiness of the Purchaser, may result in the final request for settlement of all our claims. Such circumstances also justify the condition that deliveries still outstanding shall be made only if payment is in advance; we also reserve the right to withdraw from the Agreement following an adequate period of grace. In the case of orders from purchasers that are unknown to us or purchasers for whom no references have been supplied, half of the cost of tools is to be paid when the order is placed.

6. Delivery Times

The delivery deadline commences on the day on which the confirmation of the order is despatched or after all the documentation required to complete the order has been received, if these are received later. The quoted delivery deadline is to be considered as approximate. The deadline is deemed to have been adhered to, if the goods have left the works by the end of the deadline or, if shipment has proved to be impossible, the readiness to complete shipment has been announced. The delivery deadline shall be extended within a delivery delay period as well, as the outcome of force majeure or unforeseeable events that lie beyond our control (e.g. works problems, delay in the delivery of essential basic materials, subsequent alterations to the Agreement). The same shall apply in the case of a strike and lock-out. We shall always inform the Purchaser immediately of such a situation. Claims for damages, in particular the imposition of any penalty for delayed delivery, are expressly excluded.

7. Multiple Deliveries and Partial Deliveries

Partial deliveries are to be treated as separate transactions and shall be invoiced separately; such invoices are to be settled separately. In the case of agreements with a continuous delivery we must be informed of division according to type and variety in advance and as soon as possible. If the requisition and division are delayed, we have the right, after specifying an unsuccessful later delivery deadline, to divide the goods ourselves and to complete delivery accordingly, or to withdraw from that part of the Agreement still to be performed and to claim compensation for the loss that has been incurred by us.

8. Acceptance

If so agreed, acceptance procedures are to be completed at our works. Should the Purchaser dispense with acceptance procedures at our works, the goods shall be considered to have been accepted once they have been shipped. Unless there is an agreement to the contrary, the acceptance costs relating to the goods shall be borne by us and personnel expenses borne by the Purchaser.

9. Packing

The goods will be packed in the manner usual in the trade and the packing charged at cost price.

10. Despatch

Unless otherwise prescribed, we reserve the right to select the method of despatch at our own discretion, without accepting any responsibility for utilising the cheapest form of packing. Once the goods have left our works, all costs and risks associated with the despatch of the goods are transferred to the Purchaser.

11. Transfer of Risks:

As soon as the goods are shipped, no matter who bears the costs, risks shall be transferred to the Purchaser as soon as the goods have been passed on to the shippers, but, however, at the very latest as soon as the goods leave our works. As soon as the goods are ready for shipment and there is nevertheless a delay in despatch or acceptance for reasons that are not our responsibility, risks shall be transferred to the Purchaser as soon as notification has been given that the goods are ready for despatch.

12. Complaint

Complaints must be lodged within 14 days of receipt of the goods and must be in writing. This applies also to goods delivered to an overseas destination. Any faults that cannot be discovered within the allotted deadline even after careful inspection are to be reported without delay and no later than 3 months following their discovery: further processing or utilisation of such goods must also cease forthwith. Should the complaint prove to be justified and covers more than 5% of the quantity shipped, we reserve the right to decide whether to supply replacements for the faulty items, or to repair them or to credit you with the amount already paid for them. We will not consider any claims for compensation going beyond this. We offer no guaranty that the material offered or supplied is suitable for prospective purposes not expressly agreed to. The right to submit a claim expires at the latest one month after our written rejection of the complaint. The right to present a complaint is excluded, if the goods we have supplied have already been processed by the Purchaser or further processed by him. Returns will only be accepted if our prior consent has been given. Freight costs are to be borne by the Purchaser.

13. Liability

If we carry out any contracted work and for this or other orders, materials, parts of materials, semi-finished items or tools are provided or delivered by the Purchaser, these will be processed and handled by us with care and responsibility. We are only obliged to undergo a check if this has been expressly agreed to in advance and as long as the Purchaser bears the costs of such a check. If items should become unusable as a result of circumstances which are not our responsibility or are the consequence of force majeure, no claim for a free-of-charge replacement of the material or reimbursement of other costs by us will be entertained. Should any items be unusable on account of faulty material, we must be reimbursed for the relevant processing costs. If any part becomes unusable on account of processing faults, we will execute the same task on a new work piece that is to be shipped carriage paid to us: this work will incur no further charge. No liability for consequential damage – neither Schramm GmbH nor those persons employed by them are liable for any kinds of damage (including without restriction damage arising from loss of profit, interruptions to manufacturing processes, loss of commercial and business information or data or arising from any other kind of financial loss). This exclusion shall not apply in the case of damage caused by deliberate action or gross negligence on the part of Schramm GmbH. Similarly unaffected are any claims that are based directly on the mandatory legal provisions of laws relating to product liability. The limitation period for liability for faults or defects is restricted up to 12 month after delivery.

14. Retention of Title

The title to goods that have been delivered remains with us until payment has been made in full in respect of all claims arising from the business relationship between the Purchaser and ourselves. The right to title remains unaffected after individual claims have been suspended for a current invoice as well as the striking of a balance and the recognition thereof. Payment is deemed to have been paid as soon as we have received equivalent amount. The Purchaser is accorded the right to resell the conditional commodity in the course of normal business, but any pledge or assignment as security is, however, not permitted. The Purchaser must secure our rights in the course of reselling the conditional commodity on credit. In addition, the Purchaser surrenders to us at this stage his claims from the resale of the conditional commodity. We herewith accept this reassignment. Should we so request it, the Purchaser must provide us with the information required to effect payment against reassigned claims and to inform the debtors of the reassignment. Any processing or handling of the conditional commodity is to be undertaken on our behalf by the Purchaser without our incurring any kind of obligation thereby. Should the conditional commodity be processed, combined, mixed or blended with other goods not owned by us, we have the right to a share in co-ownership of the new item equivalent to the value of our conditional commodity in proportion to the remaining items that have been processed at the time of processing, compounding, mixing or blending. Should the Purchaser acquire sole title to the new item, the Purchaser shall surrender to us in proportion to the value of our conditional commodity co-title to the new item and shall retain this title for us free of charge. Should the conditional commodity be re-sold together with other goods, no matter what their condition, the advance assignment as defined in §2 shall apply only to a total amount equivalent to the value of the conditional commodity that is, together with the other goods, the subject of the delivery agreement. Should the collaterals specified above exceed the claims made by us by 25%, we will release goods fully paid for, should the Purchaser so request it: this release will be in individual instances and the choice of what is to be released will rest with ourselves.

15. Patent Infringements

If the good is manufactured and delivered by the Purchaser in a particularly prescribed design (according to a drawing, sample or other quite specific details), the Purchaser assumes the guarantee that, as a result of the design, the rights of any Third Party, in particular to patents, utility patents and other industrial property rights and intellectual property rights, are not infringed. The Purchaser is obliged to release us from all Third Party claims that might be the outcome of any such infringement.

16. Venue, Court of Jurisdiction, Law

The venue and court of jurisdiction for all disputes arising directly or indirectly from this contractual relationship shall be our place of business: Brindisi. The same shall apply for acceptance commitments. We also have the right to proceed against the Purchaser at his domestic place of general jurisdiction. The contractual relationship is subject to the provisions of Italian Law.

17. Binding Character of the Agreement

Rights that arise from this Agreement may not be transferred to any Third Party by the Purchaser or the supplier except with the consent of both Parties. The Agreement shall also remain binding if individual parts thereof should become invalid.

18. Free Storage Period

The materials ready for delivery and not collected by the Client will be stored in our warehouses without charge, as agreed and explicitly indicated in the order issued by the Client. When there is no explicit mention, the storage will be free for 2 weeks from the communication date of goods availability. After this period, we will apply an additional charge of Euro 10/sqm/day.

CONDIZIONI GENERALI DI FORNITURA

Con riferimento a tutte le operazioni commerciali da noi effettuate, si applicano le seguenti Condizioni Generali, salvo diverso accordo stipulato per iscritto.

1. Introduzione

Qualsiasi accordo o intesa, in particolare nella misura in cui comporti modifiche alle presenti Condizioni Generali, non sarà vincolante per la nostra Società fino a quando non sia stato da noi espressamente confermato per iscritto. Le condizioni generali di acquisto del Compratore sono espressamente escluse; esse non comportano alcun obbligo a nostro carico, anche qualora non vengano ulteriormente contestate nella nostra conferma d'ordine.

2. Offerte

Le nostre offerte sono da considerarsi non vincolanti e soggette a modifica senza preavviso. Ci riserviamo il diritto di apportare modifiche a disegni, modelli, cataloghi e ad altra documentazione tecnica. Eventuali modifiche richieste dal Cliente saranno efficaci esclusivamente se confermate per iscritto.

3. Prezzi

I prezzi si intendono franco stabilimento (ex works), con imballo escluso. Essi sono determinati sulla base dei costi vigenti al momento dell'offerta. Qualora, prima del termine di consegna, intervengano variazioni nei salari, nei costi delle materie prime o dell'energia, ci riserviamo il diritto di adeguare i prezzi. I prezzi non sono vincolanti per ordini successivi.

4. Attrezzature (stampi/utensili)

Una quota del costo degli utensili sarà fatturata separatamente rispetto al valore della merce. Tali costi dovranno essere corrisposti al momento dell'invio del campione tipo oppure, in mancanza, con la prima consegna. Il pagamento non attribuisce al Compratore alcun diritto di proprietà sugli utensili, che restano di nostra esclusiva proprietà e nella nostra disponibilità. Ci impegniamo a conservarli per un periodo di 3 anni dall'ultima consegna. Qualora il Cliente comunichi, entro tale termine, l'intenzione di effettuare nuovi ordini entro un anno, saremo tenuti a conservarli per tale ulteriore periodo. In difetto, avremo facoltà di disporne liberamente.

5. Pagamenti

Le condizioni di pagamento saranno concordate di volta in volta. Tutti i pagamenti dovranno essere effettuati entro i termini stabiliti. In caso di ritardo, saranno applicati interessi moratori ai sensi del D.Lgs. 9 ottobre 2002 n. 231, a decorrere dal giorno successivo alla scadenza fino all'effettivo pagamento. È espressamente esclusa qualsiasi compensazione o sospensione dei pagamenti per contestazioni non da noi riconosciute. Il mancato rispetto dei termini di pagamento o circostanze che facciano dubitare della solvibilità del Compratore ci autorizzano a richiedere l'immediato pagamento di tutti i crediti, a subordinare le consegne al pagamento anticipato o a recedere dal contratto, previa concessione di un congruo termine. Per clienti nuovi o privi di referenze, il 50% del costo degli utensili dovrà essere versato all'atto dell'ordine.

6. Termini di consegna

Il termine di consegna decorre dalla data di invio della conferma d'ordine o dal ricevimento della documentazione necessaria, se successivo. I termini indicati hanno carattere meramente indicativo. Essi si considerano rispettati qualora la merce abbia lasciato lo stabilimento entro il termine previsto o sia stata comunicata la disponibilità alla spedizione. In caso di forza maggiore o eventi imprevedibili non imputabili alla nostra volontà (quali, a titolo esemplificativo, problemi produttivi o ritardi nelle forniture), i termini saranno prorogati. Lo stesso vale in caso di scioperi o serrate. In tali casi informeremo tempestivamente il Compratore. È esclusa qualsiasi responsabilità per danni da ritardo.

7. Consegne parziali

Le consegne parziali sono considerate operazioni autonome e saranno fatturate separatamente. In caso di forniture continuative, il Cliente dovrà comunicare tempestivamente le specifiche necessarie. In caso di ritardo, ci riserviamo il diritto di suddividere autonomamente la merce o di recedere dalla parte non eseguita del contratto, con diritto al risarcimento del danno.

8. Accettazione

Qualora concordato, il collaudo sarà effettuato presso il nostro stabilimento. In mancanza, la merce si intenderà accettata al momento della spedizione. Salvo diverso accordo, i costi di collaudo sono a nostro carico, mentre le spese del personale restano a carico del Compratore.

9. Imballo

La merce sarà imballata secondo gli usi commerciali. L'imballo sarà addebitato al costo.

10. Spedizione

Salvo diversa indicazione, ci riserviamo la scelta del mezzo di spedizione senza responsabilità per l'economicità della stessa. Dal momento della spedizione, tutti i costi e i rischi sono a carico del Compratore.

11. Trasferimento del rischio

Il rischio si trasferisce al Compratore al momento della consegna al vettore o, al più tardi, all'uscita della merce dal nostro stabilimento. In caso di ritardo non imputabile a noi, il rischio si trasferisce al momento della comunicazione di disponibilità alla spedizione.

12. Reclami

I reclami devono essere presentati per iscritto entro 14 giorni dalla ricezione della merce. I vizi non rilevabili devono essere denunciati senza indugio e comunque entro 3 mesi dalla scoperta. In caso di reclamo fondato superiore al 5% della merce, ci riserviamo di scegliere tra sostituzione, riparazione o rimborso. È escluso ogni ulteriore risarcimento. Non garantiamo l'idoneità per usi non espressamente pattuiti. Il diritto di reclamo decade entro un mese dal rigetto scritto. Non sono ammessi reclami su merce già lavorata. I resi sono accettati solo previa autorizzazione e a spese del Compratore.

13. Responsabilità

I materiali forniti dal Compratore saranno trattati con diligenza. Eventuali controlli saranno effettuati solo se concordati e a spese del Cliente. Non rispondiamo per danni derivanti da cause non imputabili o da forza maggiore. In caso di difetti del materiale, i costi di lavorazione saranno a carico del Compratore. In caso di difetti di lavorazione, provvederemo alla rilavorazione senza ulteriori costi. È esclusa la responsabilità per danni indiretti o consequenziali, salvo dolo o colpa grave. Restano ferme le disposizioni inderogabili in materia di responsabilità da prodotto. Il termine di responsabilità per vizi è limitato a 12 mesi dalla consegna.

14. Riserva di proprietà

La proprietà della merce resta a noi riservata fino al pagamento integrale di tutti i crediti. Il Compratore può rivendere la merce nell'ambito della normale attività, ma non può costituirne in pegno o garanzia. I crediti derivanti dalla rivendita si intendono ceduti a nostro favore. In caso di lavorazioni o commissioni con altri beni, acquisiremo una quota proporzionale. Qualora le garanzie eccedano il credito del 25%, provvederemo alla liberazione su richiesta.

15. Violazione di diritti di proprietà industriale

Qualora la merce sia prodotta su specifiche del Cliente, quest'ultimo garantisce che non siano violati diritti di terzi e si impegna a manlearci da qualsiasi pretesa.

16. Foro competente e legge applicabile

Per ogni controversia è competente il Foro di Brindisi. Resta salva la facoltà di agire presso il foro del Compratore. Il rapporto contrattuale è regolato dalla legge italiana.

17. Validità del contratto

I diritti derivanti dal presente contratto non possono essere ceduti senza il consenso di entrambe le parti. Il contratto resta valido anche qualora singole clausole risultino nulle o inefficaci.

19. Deposito gratuito

I materiali pronti per la consegna e non ritirati saranno custoditi gratuitamente secondo quanto indicato nell'ordine. In mancanza di indicazioni, il deposito sarà gratuito per 2 settimane dalla comunicazione di disponibilità. Decorso tale termine sarà applicato un costo di Euro 10/mq/giorno.