

**GENERAL TERMS AND CONDITIONS OF PURCHASE**  
**of**  
**SCHRACK SECONET AG**  
(Issue: January 2013)

**1. Conclusion of a transaction**

- 1.1 Unless otherwise agreed, these General Terms and Conditions of Purchase shall apply to all our orders of deliveries and/or services. No supplier's terms of delivery or general terms and conditions shall apply even if we do not explicitly object to such.
- 1.2 Order acknowledgements shall be sent promptly to our purchase department, stating our order number. If no such order acknowledgement is received within one week, this shall be deemed to be a full-scope tacit agreement on the part of the supplier to the content of our order.
- 1.3 No order, arrangement and other declaration shall be valid except when made in writing. Orders and their changes and additions shall be legally binding only when made in writing by our purchase department. Any statement made by any other person may be invoked by the supplier only if and when confirmed in writing by the purchase department.

**2. Delivery periods and deadlines**

- 2.1 Delivery periods shall commence on the date of our order and shall apply absolutely, unless otherwise agreed. The supplier shall be released from compliance with a deadline only by a force majeure event provided that such event has caused the delay and we have been promptly informed in writing of the occurrence of such event. In such a case, the delivery period shall be extended by the period of the delay caused by the force majeure event. If such an event continues for more than one month we shall be entitled to rescind the contract and the supplier shall not have the right to assert damages.
- 2.2 Unless otherwise agreed in writing, delivery shall be free the address stated in the relevant order. The delivery date shall be the date on which the delivery/service has been fully performed as ordered.
- 2.3 In the event that the agreed delivery period is not complied with, the supplier undertakes to pay as penalty, regardless of whether the supplier is or is not to blame (with the exception of force majeure cases), 1% (one percent) of the total price of the respective order for each week commenced after missing the deadline, but not more than 10% (ten percent). If the agreed delivery period is exceeded by more than 3 (three) weeks, we shall be entitled to rescind the contract with immediate effect without being required to grant a grace period. If the contract is terminated due to the supplier's default, the supplier shall, at the least, pay a penalty of 10% (ten percent) of the value of the contract. If we are able to prove a loss beyond such penalty such loss shall be compensated to us by the supplier. The supplier shall be liable for its subcontractors.

**3. Packaging**

- 3.1 Packaging shall be licensed pursuant to the regulations of the Austrian ordinance on packaging so that it can be disposed of through a territorial collection and utilisation scheme. Domestic suppliers shall therefore state their ARA licence number already together with their quotation. The ARA licence number shall be stated on the invoice.

**4. Invoices**

- 4.1 The invoices shall show the order number and our type and product names. Any disadvantages arising to us from invoices which do not comply with these conditions shall be borne by the supplier. We reserve the right to return such invoices without processing them. In such a case, such invoice shall be deemed as not received and thus not due for payment until an appropriately corrected invoice has been received.

**5. Payment**

- 5.1 Unless otherwise agreed, all prices shall be fixed prices.
- 5.2 The period for payment shall commence on the date of receipt of the invoice or goods whichever is the later. Payment shall be made, on condition that the delivery/service is complete and free of any defects, within 2 (two) weeks against a discount of 3% (three percent) or 30 (thirty) days net, unless otherwise agreed.
- 5.3 Our payment shall not be deemed to be in recognition of the dueness of the delivery/service nor as a waiver of any claims which we may have.
- 5.4 We shall be entitled to retain, for a period of 30 (thirty) days after the end of the warranty period, a bond of an agreed amount to safeguard any claims for warranty or damages.

**6. Title**

Title to the delivered goods shall pass to Schrack Seconet AG upon their handing-over. No reservation of title on the part of the supplier shall be valid.

**7. Specimens**

- 7.1 Drawings, standard specification sheets, master drawings, gauges, models, tools, moulds and similar shall be our property and shall be returned to us in proper condition on delivery of the order at the latest. Same as the goods made from them they shall not be passed on to any third party nor used for such third party or for advertising purposes, except with our consent. Any violation of the above shall entitle us to assert damages and to rescind all delivery contracts made by us. Any and all tools, moulds, casting models, etc. shall become or remain our property when the cost of making such is included in the price in whole or in part.
- 7.2 Such specimens shall be kept ready for use at all times and shall be kept so as to be useable for proper production at all times. The safekeeper shall be fully liable for any loss, damage, etc. and shall also provide insurance coverage for such specimens. Any gauges and calibres provided by us may be used only for checking during production. Shop gauges shall be made by the supplier itself. In the event of production problems, a serious delay in delivery or similar default on the part of the supplier, we shall be entitled to request that the moulds, etc. paid by us in whole or in part be handed over to us free of charge. Any moulds, etc. which are owned by the supplier shall be offered to us for purchase by the supplier.

**8. Non-disclosure**

- 8.1 The supplier undertakes to keep secret any and all information regarding Schrack Seconet AG (data, figures, addresses, etc.) which may have become known to the supplier in the course of negotiations or actual business relations. If the supplier fails to comply with this undertaking we shall be entitled to claim damages. The supplier furthermore undertakes to bind any and all persons who have access to such information to the same secrecy.

**9. Commercial warranty**

- 9.1 The supplier undertakes to warrant the unrestricted, intended use, proper quality and performance of all promised characteristics. Any deviation of the delivery/service from these properties shall constitute a defect. The warranty period shall commence on the date of taking-over and shall run for 24 (twenty-four) months for movable property and 36 (thirty-six) months for immovable property.
- 9.2 Section 377 of the Austrian Business Enterprise Code UGB (duty of prompt inspection and complaint) shall not apply. A claim based on warranty shall be deemed to be asserted in good time when we have sent a written notification of the defect to the supplier within the above warranty period.
- 9.3 In the event that the goods delivered or services rendered are defective we shall be entitled to choose either cancellation of the contract, reduction of the purchase price or remedy of the defect by way of repair or new delivery. The remedy or delivery of a replacement shall be carried out promptly and at the supplier's cost. In urgent cases we shall be entitled, at the supplier's cost, to remedy the defect(s) ourselves or have it/them remedied by a third party. If a defective good is replaced, a new warranty period of the same duration as for the first delivery shall commence upon delivery of the replacement and/or its installation.

9.4 In the event that delivery by instalments was agreed we reserve the right to cancel any further deliveries not yet made if the product delivered does not comply with the contract.

9.5 If the delivered products cannot be used by us due to their defectiveness the supplier shall pay a penalty as set out in Item 2.3 above for the period until such defect has been remedied. If the contract is cancelled then 10% (ten percent) of the contract value shall, at all events, be due and payable as penalty.

9.6 If we are able to prove any loss in excess of the penalty such loss shall be similarly compensated by the supplier. The supplier shall be liable for its subcontractors.

**10. Health and safety requirements**

10.1 The supplier undertakes to comply with any and all health and safety regulations applicable in Austria, including, without limitations, the Electric Engineering Act of 1994 as amended and any and all regulations based on this Act, as well as the applicable ÖVE and VDE regulations, Austrian ÖNORM standards and DIN standards and the general rules of engineering, and to furnish proof of certificates as required.

**11. Subcontracting**

Subcontracting of our orders to a third party shall require our express prior written consent. Passing-on of any drawings, specimens and other work tools whatsoever shall be prohibited. Any violation of this clause shall entitle us to immediately rescind the contract and to claim damages. Any indication of a business relationship with our company shall require our prior written consent.

**12. Industrial property rights**

The supplier shall indemnify and hold us harmless with regard to any actual or alleged claims by any third party under industrial property rights for the agreed deliveries/services.

**13. Change in ownership, insolvency**

If threatened with insolvency or undergoing a change in ownership, the supplier shall promptly and completely inform us of such circumstances. In the event that insolvency proceedings are instituted against the supplier's assets or rejected due to lack of assets, or if the ownership situation is changed we shall be entitled to promptly have the disposition of the deliveries stored with the supplier or its subcontractor and/or to rescind the contract in whole or in part.

**14. Place of performance**

14.1 The place of performance of the delivery/service shall be its place of destination, and the place of performance for payments shall be Vienna.

14.2 Delivery and shipments shall as a rule be carried out at the supplier's cost and risk. If, however, it is agreed that we will undertake the transport risk, such as in the case of a delivery ex works, then the supplier shall be obliged to safeguard our interests with the care of a prudent businessman and, if necessary, immediately assert any and all claims for damages for any loss, deterioration or damage of the goods, etc. with the carrier and upon our request promptly assign to us such claims regardless of the supplier's liability.

**15. Jurisdiction – applicable law**

15.1 Any disputes arising from or in connection with this delivery contract shall be settled exclusively by the court of the Inner City of Vienna which shall be the competent court as regards the subject matter.

15.2 The legal relationship between the parties shall be governed by Austrian law, and both parties have agreed to exclude application of the United Nations Convention on Contracts for the International Sale of Goods (UNCITRAL).