

General Terms and Conditions of Sale (GTC) - status: 04.08.2022

1. Scope of application

- 1.1. These General Terms and Conditions of Sale shall apply to the sale and delivery of goods, the performance of works and services carried out by Schuster Kunststofftechnik GmbH or Back Stickers GmbH (hereinafter each referred to as SKT).
- 1.2. The legal relations between SKT and the Purchaser shall be governed exclusively by these General Terms and Conditions of Sale (GTC). Any deviating, conflicting or additional general terms and conditions of the Purchaser shall only become part of the contract if and to the extent that SKT has expressly approved their validity. This requirement of approval shall in particular also apply if SKT carries out the delivery without reservation in knowledge of the general terms and conditions of the Purchaser.
- 1.3. The version of the GTC as amended from time to time also applies to future contracts for the sale and/or delivery of movable objects, without the need to refer to them again in each individual case. Changes to the GTC will be communicated to the Purchaser immediately.
- 1.4. Individual agreements with the Purchaser (including collateral agreements, amendments and modifications) shall take precedence over these GTC. Subject to proof of the contrary, a written contract, respectively a written confirmation by SKT shall be decisive for the content of such agreements.
- 1.5. Any legally relevant declarations and notifications submitted by the Purchaser after conclusion of the contract (e.g. setting of deadlines, notification of defects, declarations of withdrawal or price reduction) must be in written form or text form (e.g. letter, e-mail, fax) to be effective.
- 1.6. Any references to the validity of statutory provisions are for clarification purposes only. The statutory provisions shall therefore also apply without such clarification, unless they are directly amended or expressly excluded herein.

2. Formation of the contract

- 2.1. Offers by SKT are non-binding and subject to confirmation.
- 2.2. The placement of an order by the Purchaser shall constitute a binding offer to enter into a contract. Orders can be placed in writing or in text form.
- 2.3. Unless stated otherwise in the order, SKT shall be entitled to accept such contract offer within 14 days of receipt. Acceptance shall be declared either in writing, in text form or by delivering the goods to the Purchaser.
- 2.4. The contract is concluded with the reservation that SKT is supplied correctly and timely by its own suppliers.

3. Delivery, delivery periods, Delay in Delivery, Right of Retention

- 3.1. The delivery is performed Ex Works (INCOTERMS 2020) the place of business of the selling SKT company, which is also the place of performance for the delivery and any supplementary performance.
- 3.2. Partial deliveries shall be permissible, to the extent as reasonable for the Purchaser.
- 3.3. Delivery periods shall start after receipt of all documents and information to be submitted by the Purchaser and required for the execution of the order, the provision of the materials to be procured by the Purchaser and execution of the down payment.
- 3.4. The event of delay in delivery by SKT shall be determined in accordance with the statutory provisions. In any case, a reminder by the Purchaser is necessary. The statutory rights of SKT, particularly with regards to an exclusion of the duty to perform (e.g. due to impossibility or unreasonableness of the performance and/or supplementary performance), shall remain unaffected.
- 3.5. The Purchaser is entitled to claims for damages due to a delay in delivery or the exclusion of the obligation to perform, unless SKT can prove that it is not responsible for the delay in performance or the exclusion of the obligation to perform. In particular, SKT is not responsible for a delay in performance or the exclusion of the obligation to perform if this is due to SKT not being timely supplied by its own suppliers or contractors and SKT,
 - a) has fulfilled the obligation to set up and maintain a safety stock, as agreed separately with the Purchaser, or
 - b) has observed the necessary and reasonable measures in accordance with the quality management system in place at SKT (ISO 9001 or IATF 16949) to keep up the supply of parts, also in the event of an interruption of the supply of products, processes and services provided by an external source.
- 3.6. If, after conclusion of the contract, it becomes apparent that SKT's entitlement to the purchase price is jeopardized by the Purchaser's inability to render payment, SKT shall be entitled in accordance with the statutory provisions, to refuse performance and – if applicable, after setting of a deadline – to withdraw from the contract (Section 321 of the German Civil Code (BGB)). This shall apply in particular in the event of
 - imminent insolvency of the Purchaser,
 - long-term deterioration of the Purchaser's financial standing, e.g. in the event that a loan is rejected,
 - refusal or cancellation of a credit limit for the Purchaser by SKT's trade credit insurer,
 - default in payment by the Purchaser at least twice within three months in long-term delivery relationships.

4. Packaging and Shipping, Transfer of Risk

- 4.1 Unless otherwise agreed, SKT shall select the packaging, shipping method and shipping route at its own discretion.
- 4.2 The risk of accidental loss and accidental deterioration of the goods shall pass to the Purchaser upon handover, in the case of a sale by dispatch, upon delivery of the goods to the forwarding agent, carrier or other person responsible for carrying out the shipment. This shall also apply if partial deliveries, freight-free delivery or other forms of delivery have been agreed. Where the Purchaser fails to accept the goods on time, this shall be equivalent to a handover.
- 4.3 Transport insurance and other insurances are only taken out at the written request and expense of the Purchaser.

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5. Prices

- 5.1. The prices shall be net ex works excluding freight, customs, additional import duties and packaging.
- 5.2. In case that the decisive cost factors, such as, for example, the material costs, increase by more than 5% after submission of the quotation or after the order confirmation but before delivery, each contractual partner has the right to demand an adjustment of the price. The adjustment of the price must be asserted against the other contractual partner in text form, providing documented evidence for the increase/reduction. The parties will then by way of amicable negotiations reach a mutual decision on the price adjustment within three months from the date of the assertion of the request (negotiation period). Unless otherwise expressly agreed, the new prices defined by the parties shall apply to all subsequent deliveries upon conclusion of the negotiations. If the parties do not agree on a new price within three months or if the other contracting party refuses to enter into negotiations despite a request for adjustment, each contracting party is entitled to terminate the contractual relationship extraordinarily with a notice period of three months. The period begins with the unsuccessful expiry of the negotiation period or upon receipt of the declaration of refusal from the other contractual partner. The right of termination under this agreement takes precedence over other contractual provisions that have been agreed between the parties.
- 5.3. If it has been agreed that the price depends on the weight of the parts, the final price results from the weight of the released initial sample.
- 5.4. When new orders are placed (follow-up orders), SKT shall not be bound by previous prices.

6. Payment Conditions

- 6.1. Unless otherwise agreed, the contractually agreed price shall be due for payment within 14 days after delivery and invoicing (the date counts) with a 2% discount and within 30 days after invoicing, net without deduction. However, SKT shall be entitled at any time, even within the scope of an ongoing business relationship, to carry out a delivery in whole or in part only against advance payment. SKT de-clares a corresponding reservation at the latest with the confirmation of the order or the delivery call-off.
- 6.2. SKT reserves the right to reject checks or bills of exchange. Checks and bills of exchange are only accepted on account of performance, all associated costs are borne by the Purchaser.
- 6.3. The Purchaser shall only be entitled to exercise set-off or retention rights if its claim has been legally established by a court of law or is undisputed.

7. Tools

- 7.1. The price for tools also includes the costs for the initial sampling, however, no other costs, such as the costs for testing and processing devices or initial sample parts shall be included. The costs for further sampling shall be borne by the Purchaser, to the extent as these are not caused by a culpable breach of duty by SKT.
- 7.2. Unless otherwise agreed, SKT remains the owner of the tools manufactured for the Purchaser by SKT itself or by a third party commissioned by SKT. Tools shall only be used for orders from the Purchaser as long as the Purchaser observes its payment and acceptance obligations.
- 7.3. SKT's obligation to store the tools expires two years after the last delivery of parts from the tool. The Purchaser will be informed about the end of the storage obligation.
- 7.4. If, according to the agreement, title to the tools shall pass to the Purchaser, such title shall pass to the Purchaser once the purchase price for these tools has been paid in full. The handing over of the tools to the Purchaser shall be replaced by the establishment of a loan relationship. Irrespective of the Purchaser's statutory claim for return and of the service life of the tools, SKT shall be entitled to possession of the tools towards the Purchaser to the extent as SKT requires them for the fulfilment of the manufacturing and delivery obligations towards the Purchaser under a delivery agreement.
- 7.5. In the case of tools owned by the Purchaser in accordance with paragraph 3 and/or made available on loan by the Purchaser, SKT's liability with regards to storage and care is limited to the care it applies with regards to its own affairs. The Purchaser bears the costs for maintenance, repair and insurance. SKT's obligations shall expire if, after the order has been completed and the Purchaser has despite having been requested to do so, not collected the tools within a reasonable period of time. In any case, SKT has a right of retention to the tools if and for as long as SKT is entitled to claims against the Purchaser arising from the delivery relationship on the basis of which the tools have been provided.

8. Reservation of title

- 8.1. SKT reserves the title to the goods sold until all present and future claims arising from the purchase contract and any ongoing business relationship (secured claims) have been settled in full.
- 8.2. The goods subject to retention of title may not be pledged to third parties or assigned as security before the secured claims have been paid in full. The Purchaser must inform SKT immediately in writing if and to the extent that third parties access the goods belonging to SKT. This also applies to any damage to or destruction of the goods. The Purchaser must notify SKT immediately of any change in possession of the goods or its own change of residence.
- 8.3. The Purchaser shall be entitled to resell and/or process the goods subject to reservation of title in the ordinary course of business. In this case, the following provisions shall apply in addition:
 - The reservation of title shall extend to the full value of the goods created by processing, mixing or combination of our goods, and SKT shall be deemed the manufacturer. If the rights of ownership of third parties remain in existence following processing, mixing or combination with their goods, SKT shall acquire co-ownership in proportion to the invoice value of the processed, mixed or combined goods. For all other in-tents and purposes, the resulting product shall be subject to the same provisions as the goods delivered subject to reservation of title.
 - the Purchaser hereby assigns to SKT as security all claims against third parties arising from the resale of the goods or the product in total or in the amount of SKT's possible share of coownership pursuant to the foregoing paragraph. SKT hereby accepts the assignment. Purchaser's obligations pursuant to the foregoing paragraph shall also apply in respect of the assigned claims.

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- the Purchaser shall remain authorized to collect the claims to the same extent as SKT. SKT undertakes not to collect the claims as long as the Purchaser properly meets its payment obligations, does not default on payment, does not have insolvency proceedings instituted against his assets and no other deficiency exists in respect of his ability to pay. However, if this is the case, SKT may demand that the Purchaser discloses to him the assigned claims and the corresponding debtors, hands over to SKT the pertinent documents and informs the debtors (third parties) of the assignment.
 - If the realizable value of the securities exceeds SKT's claims by more than 10%, SKT shall release securities at its option upon the Purchaser's request.
- 8.4. Attempts to seize or confiscate the goods subject to retention of title by third parties must be reported to SKT immediately. Costs incurred by SKT from securing its rights in such case are to be borne by the Purchaser unless they are borne by the third party.
- 8.5. To the extent that SKT makes use of its retention of title in accordance with the above provisions by taking back the reserved goods, it is entitled to sell the goods privately or to have them auctioned. The goods subject to retention of title are taken back at the proceeds thereby achieved, but at most at the agreed delivery prices. SKT reserves the right to assert further claims for damages, in particular with regards to lost profits.
- 9. Delivery of material by the Purchaser**
- 9.1. If the Purchaser undertakes to deliver materials for the production of SKT, the delivery will be made at its own expense and risk with an appropriate quantity surcharge, on time and in flawless condition.
- 9.2. An incoming inspection of the materials provided is only carried out to the extent as contractually agreed.
- 9.3. If the materials are not delivered by the Purchaser on time or if the materials do not correspond to the defined specifications, the delivery time will be extended accordingly. Any costs arising from this shall be borne by the Purchaser.
- 10. Warranty claims**
- 10.1. Unless stated otherwise in the following provisions, the Purchaser's rights in the event of quality defects and legal defects shall be governed by the statutory provisions.
- 10.2. SKT's liability for defects is based on the contractual agreement made regarding the quality of the goods. The outturn samples are decisive for the quality and design of the products, which shall be presented to the Purchaser by SKT for inspection at Purchaser's request. The assurance for certain properties of the delivery item and for the performance of molds as well as guarantees must be declared in writing in any case.
- 10.3. To the extent that the quality has not been agreed, the defectiveness shall be assessed in accordance with the statutory provisions. However, SKT assumes no liability for public statements made by SKT's suppliers or other third parties (e.g. advertising statements by sales representatives or subcontractors).
- 10.4. the Purchaser's warranty claims are subject to the prerequisite that it has met its obligations to inspect the goods and to give notice of any defects (Sections 377, 381 of the German Commercial Code (HGB)).
- 10.5. In case of the delivery of defective goods, the Purchaser can demand the following if the relevant legal requirements and those listed below are met and unless otherwise agreed:
- 1.If the defect becomes apparent before the start of production (processing or installation), the Purchaser must first give SKT the opportunity to sort out and remedy the defect or to make a subsequent delivery, provided that this is not unreasonable. If SKT is unable to do so or does not do so within a reasonable period of time, the Purchaser can withdraw from the contract and return the goods at SKT's expense. In urgent cases, after prior agreement with SKT, the Purchaser can remedy the defect himself or have it remedied by a third party. In the event of only a minor breach of contract, in particular, in the case of only minor defects, the Purchaser is not entitled to withdraw from the contract. If SKT is not responsible for the breach of duty resulting from a defect, the Purchaser is also not entitled to withdraw from the contract.
 - 2.If the defect only becomes apparent after production has started, the Purchaser can demand supplementary performance and reimbursement of the costs required for the purpose of supplementary performance to the extent as set out by the statutory provisions.
- 10.6. SKT's right to refuse supplementary performance subject to the statutory requirements remains unaffected.
- 10.7. SKT shall be entitled to make the supplementary performance owed dependent on the Purchaser paying the purchase price due. However, the Purchaser shall be entitled to retain a part of the purchase price that is reasonable in relation to the defect.
- 10.8. The Purchaser must award SKT the time and opportunity required for the supplementary performance owed, in particular it has to hand over the rejected goods for inspection purposes. In the event of a replacement delivery, the Purchaser must return the defective goods to SKT in accordance with the statutory provisions.
- 10.9. SKT shall bear the expenses required for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs, if there is actually a defect. However, if the Purchaser's request for rectification of defects turns out to be unjustified, SKT can demand reimbursement from the Purchaser for the costs incurred in connection with the inspection and other measures in connection with the unjustified notice of defects.
- 10.10. Claims by the Purchaser for damages or reimbursement of wasted ex-penses shall exist only in accordance with clause 12 and shall other-wise be excluded.
- 10.11. In particular, unauthorized reworking and improper handling of the delivery items by the Purchaser shall result in the loss of all claims for defects.
- 11. Further liability**
- 11.1. Unless otherwise stated in these GTC, including the following provisions, SKT shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the relevant statutory provisions. Accordingly, liability of SKT always requires that any damage that occurred is due to SKT's fault, to the extent that the law does not provide strict liability, such as the German Product Liability Act (ProdHaftG).
- 11.2. SKT is liable for damages, irrespective of the legal grounds, in the event of intent and gross negligence.

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- 11.3. SKT is only liable in case of simple negligence
- for damage resulting from injury to life, body or health
 - for damage resulting from the breach of a material contractual obligation (obligation, the fulfillment of which is essential for the proper execution of the contract and on the observance of which the Purchaser regularly relies and may rely on); in this case, however, SKT's liability is limited to compensation for the foreseeable, typically occurring damage.
- 11.4. The limitations of liability resulting from Section 11.3 do not apply if SKT has fraudulently concealed a defect or has assumed a guarantee for the quality of the goods. The same applies to the Purchaser's claims under the Product Liability Act..
- 11.5. If a claim is asserted against the Purchaser by third parties based on strict liability under mandatory law, SKT will assume liability towards the Purchaser to the extent that SKT would also be directly liable. Section 254 of the German Civil Code (BGB) applies accordingly to compensation for damage between SKT and the Purchaser. This shall also apply if direct claims are made against SKT.
- 11.6. FSKT shall be liable in accordance with the statutory provisions for measures taken by the Purchaser to avert dangers (e.g. recall).
- 11.7. Due to any breach of duty that is not a defect, the Purchaser shall only be entitled to withdraw from the contract if SKT is responsible for the breach of duty.

12. Period of limitation

- 12.1. Deviating from § 438 Section 1 No. 3 of the German Civil Code (BGB), the general limitation period for claims arising from quality defects and legal defects is one year from delivery.
- 12.2. The limitation period for claims of SKT for compensation for the performance of works shall be five years after the start of the statutory limitation period.
- 12.3. To any claims for damages by the Purchaser due to injury to life, body or health, exclusively the statutory limitation periods shall apply. The same shall apply to claims for damages based on a grossly negligent breach of duty by SKT or on an intentional or grossly negligent breach of duty by its legal representatives or vicarious agents.
- 12.4. The limitation periods of the Product Liability Act (ProdHaftG) shall remain unaffected.

13. Confidentiality, other rights of ownership

- 13.1. The Purchaser and SKT undertake to treat all non-public commercial and technical details that become known in the course of the business relationship as business secrets.
- 13.2. Drawings, models, templates, samples and similar items may not be disclosed to unauthorized third parties or made accessible in any other way. The duplication of such items is only permitted within the scope of operational requirements and copyright regulations.
- 13.3. Each party reserves ownership and any other rights to the documents or data carriers it has made available, in particular quotation documents and technical documentation. Reproduction and transfer of such documents or data carriers are only permitted with the consent of the disclosing party.

14. Termination of long-term supply relationships

- 14.1. If there is a long-term delivery relationship between SKT and the Purchaser without an express framework agreement having been concluded, both parties are entitled to terminate the delivery relationship by way of ordinary termination observing a reasonable notice period.
- 14.2. The delivery relationship is considered long-term if it has existed for at least 1 year.
- 14.3. The deadline for ordinary termination is at least 9 months.
- 14.4. After notice of termination has been given and until the end of the delivery relationship, the Purchaser is obliged to call off the same volumes as were called off on average in the last 9 months before the notice of termination.

15. Choice of law and place of jurisdiction

- 15.1. The law of the Federal Republic of Germany applies to these GTC and all legal relationships between SKT and the Purchaser, excluding the United Nations Convention on the International Sale of Goods.
- 15.2. Prerequisites and effects of the retention of title according to Section 9 are subject to the law at the respective location of the goods, to the extent as the choice of law made in favor of German law is invalid or ineffective.
- 15.3. The exclusive place of jurisdiction, also international, for all disputes arising directly or indirectly from the contractual relationship is the place of business of SKT. However, SKT is also entitled to bring legal action at the Purchaser's general place of jurisdiction.