



## General Purchasing Conditions of the SCHOTTEL Group

**The following General Purchasing Conditions apply to all legal transactions conducted by a company of the SCHOTTEL Group in its capacity as a Purchaser of goods and services. The following German companies belong to the SCHOTTEL Group:**  
**SCHOTTEL GmbH, Spay**  
**SCHOTTEL GmbH, Wismar Plant**  
**SCHOTTEL Schiffsmaschinen GmbH, Wismar**

Agreements made between the Purchaser and Supplier in respect of their contractual obligations must be set out in the contract in writing. Amendments to the contract shall be valid only if carried out in writing and signed by both parties. A transmission by fax also satisfies this requirement of written form.

## PURCHASING CONDITIONS

### 1. Purchase order

1.1 On acceptance of the purchase order, the General Purchasing Conditions of the SCHOTTEL Group shall form part of the contract. Conflicting terms of sale of the Supplier not expressly approved in writing shall not form part of the contract, either tacitly or otherwise. The conditions of the Purchaser shall still apply, even if the Purchaser accepts delivery from the Supplier without any reservations being expressed, despite being aware of the existence of conditions which conflict with or deviate from said purchasing conditions. The Purchaser expressly rejects the validity of any general terms and conditions of the Supplier.

1.2 The purchase order shall be binding only if issued or confirmed by the Purchaser in writing. Oral purchase orders or purchase orders transmitted by telephone as well as any additions to a purchase order require reconfirmation by the Purchaser in writing. A transmission by fax also satisfies this requirement of written form.

The Purchaser shall hold himself bound to his purchase order for a period of two weeks after the date of the purchase order.

1.3 The Purchaser shall be entitled to make reasonable amendments in respect of drawings, designs, specifications, materials, packaging, time and place of delivery as well as the mode of transportation, provided he informs the Supplier of

such amendments in writing. In case of such amendments resulting in an increase or decrease of the agreed purchase price or a lengthening or shortening of the required lead time, appropriate adjustments must be made and the contract amended accordingly in writing.

1.4 The Purchaser reserves the right to give written notice of termination of the contract as a whole or of parts thereof. In case of such termination, the Supplier must stop any related works immediately and instruct his own suppliers and subcontractors to do likewise. The Purchaser shall provide the Supplier with reasonable compensation for any reasonably incurred expenses to the extent that such expenses arise directly from such termination. The Supplier shall not be entitled to compensation for any works carried out after receipt of the notice of termination nor for any costs incurred by his own suppliers or subcontractors which could have been reasonably avoided.

1.5 In case of material default of the Supplier, the Purchaser may give extraordinary notice of termination of the contract as a whole or of parts thereof for cause. If the Purchaser is found to have given extraordinary notice of termination of the contract for cause without sufficient reason to do so, such termination shall then be regarded as ordinary termination.

### 2. Acceptance of purchase order

2.1 The Supplier shall give prompt written confirmation of each and every order received. Any modifications or additions to the contents of our purchase order, if applicable, must be separately indicated as such in this confirmation. Any modification to the purchase order shall be considered as a rejection of the purchase order in conjunction with a new quotation on the part of the Supplier.

2.2 Any drawings, diagrams or other documents pertaining to the purchase order remain the property of the Purchaser, who retains all copyrights relating to said documents. The Supplier shall check the purchase order for consistency between the order text and the documents in his possession or made available on the website of the Purchaser (drawings, SCHOTTEL Quality Standards, regulations, etc.) and, in the case of discrepancies, shall request the corresponding documents. This applies in particular to the index specified for the relevant drawing in the purchase order. If the Supplier does not accept the purchase order, these documents must be returned to the Purchaser free of charge and without delay. The Supplier shall be responsible for regularly checking the current revision status of all relevant documents.

### 3. Prices

3.1 The agreed contract prices are fixed prices. Unless otherwise agreed, the prices are to be understood as DDP delivery address (INCOTERMS



2000), including all necessary packaging, duties and other freight costs. The delivery address shall be specified in the relevant purchase order. Unless otherwise agreed in writing, no charge shall be made to the Purchaser for the drafting of quotations, project planning documentation or other planning work.

#### 4. Subcontractors

4.1 Without the prior written approval of the Purchaser, the Supplier shall not be allowed to transfer his contractual rights and obligations to a Third Party or to assign all or parts of the contract to subcontractors.

4.2 The transfer of any of his contractual obligations or of parts of the design work, manufacture or supply of goods by the Supplier shall not relieve the Supplier of any of his contractual obligations.

#### 5. Delivery

5.1 The Supplier confirms that the purchase orders issued by the Purchaser will be issued in accordance with his own scheduling requirements and his scheduled workflow. For this reason, it is an essential requirement of any contract that the shipping schedule agreed upon in the contract is carefully adhered to by the Supplier. The Purchaser reserves the right to reject acceptance of under-deliveries and/or over-deliveries. Partial and premature deliveries shall be permitted only if agreed upon in writing by both Parties prior to such deliveries, and they must be identified as such by the Supplier.

5.2 The Supplier agrees to inform the Purchaser in writing of any circumstances which have occurred or which have come to his knowledge, which will or might lead to a delay in delivery. If, due to the fault of the Supplier, the Purchaser requests shipment of goods by express delivery, all additional expenses in relation to such delivery shall be for the account of the Supplier. In case of any premature deliveries, payment will be made in accordance with the original delivery schedule, unless otherwise agreed.

5.3 In the absence of prior agreements to the contrary, deliveries in respect of all purchase orders shall be made DDP (in accordance with Incoterms 2000). Possession and risk of accidental perishing shall pass to the Purchaser at the time of the goods being delivered and unloaded at the facilities of the Purchaser as specified in the respective contracts.

5.4 Without prejudice to any more extensive legal or contractual rights of the Purchaser, the Purchaser shall be entitled in case of default in respect of any contractually agreed delivery date to liquidated damages amounting to 0.2% of the total net value of the purchase order for each working day of the delay, up to a limit of 5% of the total net

value of the purchase order. Liquidated damages may be claimed even if delivery had been accepted without any reservations. However, liquidated damages may be claimed only within six months following full payment for the delivery in question. Liquidated damages may also be claimed for breach of contract as a minimum amount of damages. However, deductions may be made for any liquidated damages already paid.

5.5 Adherence to the agreed delivery schedule is of particular importance and constitutes a material contractual obligation. The lead times agreed upon in the contract shall be binding.

5.6 The Supplier must inform the Purchaser immediately in writing if any circumstances have occurred or are about to occur which may prevent timely delivery on the agreed date.

5.7 Events of Force Majeure, such as floods, hurricanes, earthquakes, thunderstorms, fire, legitimate labour strikes, operating disruptions and other hindrances beyond the control of the Purchaser shall relieve the Purchaser from his obligations to take delivery or declare acceptance of delivered goods for as long as such circumstances prevail, and they shall entitle the Purchaser to reschedule any planned deliveries. The same shall apply to unavoidable delays or modifications to the manufacturing schedules of the Purchaser. In case of such delay, the Supplier shall hold the goods in custody as instructed by the Purchaser and make delivery of such goods as soon as the reasons for the delay have been removed.

5.8 Bills of lading and delivery notes must include the SCHOTTEL order number and ID number and the customs tariff number of the Supplier's goods and must accompany the relevant delivery. In the case of EXW and FCA terms of delivery, the shipping company will be stated in the purchase order. This may be changed by the Purchaser at any time, provided this is done in writing.

The Supplier must allow sufficient time for loading and dispatch when fixing the staging date. The Purchaser shall only accept the quantities or numbers of units ordered. Over-deliveries and under-deliveries are only permissible after consultation with the Purchaser. Insofar as the weights specified in the drawings are not used, the values established by the Purchaser during the goods receiving inspection shall determine the quantities, weights and measurements. Any evidence to the contrary must be produced by the Supplier. It is the Supplier's responsibility to show proof of the contrary.

5.9 The Supplier is obliged to use environmentally friendly packaging which can be reused or disposed of at low cost. All necessary information regarding the contents, their storage, lifting and transportation must be permanently attached to the packaging in an easily visible



position. In particular, the contents must be clearly identified on the outside of the packaging by means of the SCHOTTEL ID number, order number and order item. The Supplier must observe all regulations relating to the shipping of dangerous goods.

## **6. Insurance**

Transportation insurance for EXW and FCA deliveries is covered by the Purchaser. In the case of transportation by a shipping company, the shipping company must be informed that the Purchaser is a customer exempt from forwarding, logistics and warehousing insurance.

## **7. Invoice and payment**

7.1 Invoices must be sent for the attention of the Purchaser to the address stated on the corresponding purchase order. Incorrect invoices shall become payable at the time of their correction.

7.2 Unless otherwise agreed, payment shall be made by means of a payment method to be selected by the Purchaser, either within 14 days after receipt of the invoice with a discount of 3%; within 30 days with a discount of 2%; or after 90 days without a discount. Unless otherwise specified by the Purchaser in his purchase order, payment shall be made after delivery and receipt of a proper invoice.

7.3 Claims of the Supplier against the Purchaser for payment payable or becoming payable shall be under the reserve that Purchaser may deduct or offset any and all counterclaims resulting out of this contractual relationship or any other business relationship between Purchaser and Supplier.

7.4 Unless otherwise agreed, complete delivery will always include complete documentation and inspection reports and the provision of operating instructions and safety instructions. Payments governed by discount provisions are subject to performance of the contractual obligations. All invoices must be submitted in duplicate, to the address specified in the purchase order, immediately after delivery has been carried out. In addition to the order number and order item, the invoices must contain the order date, the delivery note number, the SCHOTTEL ID number, the country of origin and the customs tariff number. The invoices issued by the Supplier must meet requirements governing the indication of statutory turnover tax.

## **8. Inspection at the Supplier's premises**

8.1 The Purchaser shall be entitled to inspect the goods at the Supplier's premises during normal business hours or to have such inspections carried out on his behalf. Such inspections do not relieve

the Supplier of his responsibilities. The Supplier shall carry out regular quality controls and establish and maintain a quality management system in respect of all goods to be supplied to the Purchaser in order to ensure a high level of quality. For the purpose of carrying out such inspections, the Supplier shall grant the Purchaser free and safe access to his facilities.

## **9. Proof of origin, VAT certificates, export restrictions**

9.1 For each shipment, the Supplier shall provide all relevant documents to prove the origin of the goods (e.g. certificates of origin, supplier's declarations, movement certificates in accordance with EC and/or EFTA regulations regarding the origin of goods) containing all required information. He shall ensure that all such documents will be properly signed by authorized representatives of the Supplier.

9.2 Goods subject to CE marking provisions must carry the appropriate marks of the Supplier. They must be accompanied by the documentation required in respect of such markings.

9.3 The Supplier shall inform the Purchaser immediately in case of all or parts of the goods being subject to export restrictions of the European Union or Germany, or to other duty and tax provisions (e.g. those of the United States).

## **10. Warranty**

10.1 The technical characteristics specified in our purchase order, technical documentation, regulations, DIN/ISO standards, SCHOTTEL Quality Standards (SNQ), paint specifications and drawings constitute an agreement regarding the properties of the delivery items. The Supplier shall provide a full warranty that the delivery items have the agreed or presumed properties and characteristics, and that they can be used for their agreed or customary purpose without restrictions. To this end, and as a minimum requirement, the Supplier shall take into consideration that the goods are intended for use in the shipbuilding industry.

10.2 The liabilities of the Supplier shall be governed by the applicable statutory regulations. The Supplier is liable, in all cases, for defects resulting from errors in design, manufacturing or instruction. The warranty expires 2 years after successful completion of commissioning at the Purchaser's customer's site, or, at the latest, 3 years after the date of delivery.

10.3 The Supplier undertakes to remedy, at short notice, any defects occurring during the warranty period. At the Purchaser's discretion, remedial action to be taken by the Supplier may be either the elimination of defects that have occurred or the delivery of replacement items without defects. The costs incurred as a result of remedial action, in



particular transportation costs, travelling expenses, administrative costs, labour costs and material costs, as well as disassembly and assembly costs, are to be borne by the Supplier. If, despite the setting of a reasonable extended deadline, the Supplier fails to meet his contractual obligations, the Purchaser is entitled to claim, at his discretion, damages or damages in lieu of performance. The same rights apply if the Supplier has twice failed in his endeavours to remedy the defects. This does not affect the right to discount.

10.4 The Purchaser shall be entitled inter alia to repair defects at the expense of the Supplier, if any delay would result in undue risk or exposure to imminent danger. In such a case, the Purchaser shall inform the Supplier of the defect prior to repairing it. Any additional costs which may arise from the above-mentioned replacement of defective goods must be taken into account beforehand by the Supplier in his pricing.

10.5 The Supplier's warranty shall also cover parts manufactured or delivered by sub-suppliers. The Supplier warrants that the delivered goods conform to German and European law, and also to the laws of the country of the end user, insofar as this has been disclosed in the purchase order, and that they are free from asbestos and not contaminated with nuclear substances. The Supplier shall furnish appropriate written certificates upon request.

10.6 If claims are made against the Purchaser for breach of local government safety regulations, or for a breach of domestic or foreign product liability regulations on the grounds of a defect in the product, either actual or presumed, that can be attributed to the goods and services of the Supplier, the Purchaser is entitled to claim compensation from the Supplier for any damages and/or expenses incurred.

10.7 At the time of delivery at the Purchaser's facilities, the Purchaser shall check whether the goods conform to the level of quality agreed upon in the contract. In case of defects, violations of contractual provisions and/or damages caused in transit, the Purchaser shall be entitled to decline acceptance of the goods. The Supplier shall furnish appropriate inspection or test reports upon request. The goods receiving inspection carried out by the Purchaser shall merely check the type of goods (identity check) and the quantity, as well as checking for any obvious damage caused in transit, and any other obvious defects. The Purchaser shall not be obliged to carry out any more extensive investigations. In this regard, the Supplier waives the objection to violation of obligations to carry out inspections and to late notice of defects pursuant to Section 377 HGB (German Commercial Code). If the Purchaser discovers defects only at a later time, the Purchaser shall give prompt notice of such defects to the Supplier. The Purchaser reserves the right to reject such faulty goods when indicated.

## **11. Property rights and other rights of third parties**

11.1 All deliveries must be free from reservation of proprietary rights and rights of third parties; only an ordinary reservation of title in accordance with normal industry practice shall be recognized. If, in breach of contract, the delivery items are supplied under prolonged and additional reservation of proprietary rights, acceptance of the delivery items without express reservation against the extended reservation of title does not constitute recognition of said prolonged and/or additional reservation of proprietary rights. In the case of a violation of the rights of third parties, the Supplier is obliged to compensate the Purchaser for any damages and expenses arising from said violation, insofar as the violation is attributable to the Supplier.

## **12. Spare parts**

12.1 The Supplier shall ensure that spare and wearing parts will continue to be manufactured and supplied for a period of 20 years in accordance with the most recent price agreements. The Supplier confirms that such a period is customary in the shipbuilding industries.

## **13. Assignment, offsetting and rights of retention**

13.1 The assignment of claims of the Supplier requires the written approval of the Purchaser. Clause 11 of these terms and conditions and Section 354a HGB (German Commercial Code) remain unaffected. The Supplier shall have a right of offset only if his counterclaims have been recognized by the Purchaser or have been finally and absolutely established at law.

Payments of the Purchaser having a claim within the SCHOTTEL Group may be offset against claims of the Supplier at any time.

## **14. Quality/Documentation**

14.1 By accepting the purchase order, the Supplier confirms that the delivery items fully comply with the requirements of the Purchaser and also with the current legal regulations, the equipment safety law, the accident prevention regulations, the VDE regulations, the DIN/ISO standards, the relevant directives and guidelines and the recognized state of the art.

14.2 The required documentation is to be printed in duplicate, free of charge, in German, in English and, at the discretion of the customer, in another UNO official language. This documentation is also to be provided to the Purchaser, free of charge, as a PDF file for use in overall documentation.

14.3 Insofar as the Purchaser has authorized the use of drawings, calculations and other



documents, this does not relieve the Supplier of his sole responsibility for their being free of error. This also applies in the case of suggestions, recommendations and other cooperation on the part of the Purchaser, which the Supplier must check for their utility prior to their implementation, informing the Purchaser immediately in writing of any concerns he may have.

#### **15. Provision of information by the supplier**

15.1 The Purchaser shall be entitled to use, change and dispose of any documents, files, plans and drawings incl. data prepared by Supplier in order to fulfil his obligations towards his customers.

15.2 Part of the contract price shall be deemed to be the sole and only compensation with regard to Purchaser's entitlement to use Supplier's copyright.

15.3 The Supplier shall provide Purchaser with all information (documents, files, plans, drawings incl. data) needed to fulfil his contractual obligations immediately upon request of the Purchaser, in formats allowing the Purchaser to integrate and use the information in his systems without further conversion. In general, drawings have to be sent in DXF format by electronic mail (e-mail) and as hard copies by separate letter.

15.4 The Purchaser shall have the right to publish information provided by the Supplier with or without indication of the Supplier's name to meet his contractual obligations. Any information the Supplier may want to publish is subject to the prior written consent of the Purchaser. The above regulations shall remain valid even in case of premature termination of the contractual relationship.

15.5 The Supplier warrants that all information provided by him is clear and free of proprietary rights of third parties and shall remain so in future.

15.6

15.7 The Purchaser shall use the information only according to the terms of the contract and shall disclose them to third parties only if necessary to meet his contractual obligations.

15.8 Purchaser's goods stored on the premises of the Supplier shall remain the property of the Purchaser. Any processing or retooling work of the Supplier shall be carried out in the name of the Purchaser. If goods of the Purchaser are combined or mixed up with goods not owned by the Purchaser, the Purchaser shall obtain co-ownership of the new goods in proportion of the value of his own goods (purchase price plus value added tax) to the value of the other processed goods at the time of processing.

#### **16. Purchaser's tools**

16.1 The Purchaser retains ownership in all tools and other production equipment or parts, which are stored on the Supplier's premises for the

purposes of production or repair. The Supplier shall insure such items against fire and water hazards and against theft for an amount equal to the replacement value of the goods. The Supplier shall authorize the Purchaser to claim insurance payments on his own account. The Supplier shall use such tools and all other production equipment exclusively for the production or repair of the goods, or for the performance of services, which were commissioned by the Purchaser. The Supplier shall undertake, at his own expense and using his own workforce, any required maintenance, inspection and repair work related to the tools and other production equipment of the Purchaser. The Supplier shall promptly inform the Purchaser of any problems with repair or maintenance of the Purchaser's tools. The Supplier shall, furthermore, give timely notice of any foreseeable measures requiring action by the Purchaser. Tools, parts, drawings and other property of the Purchaser shall be returned by the Supplier to the Purchaser at the Purchaser's request in good order and in ready-for-use condition, together with all such materials which were added by the Supplier. The Supplier shall have no rights of retention regarding these tools, drawings or materials, neither in lieu of payments arising from this purchase order, nor in lieu of any other payments or obligations, unless such payments or obligations have been approved by the Purchaser and confirmed by a court of law.

At the end of each year, an inventory listing must be taken of all stored models, tools and other production equipment owned by the Purchaser; this listing must be sent to the Purchaser unprompted. All such models, tools and other production equipment shall be marked as property of "SCHOTTEL".

16.2 All technical information, drawings, design documents and other data, commercial know-how, specifications, inventions, processes or other information provided to the Supplier by the Purchaser shall be treated as confidential and remain the property of the Purchaser. Such information is provided to the Supplier exclusively for the purpose of the purchase order and must not be disclosed to any third parties without prior approval of the Purchaser. When taking measures to protect the confidentiality of the information, the Supplier must apply at least the same degree of care as he would apply for the protection of his own confidential information; in any case, however, he must apply a customary level of care. This obligation shall also apply to the Supplier's employees, agents and authorized sub-suppliers. The Supplier shall be liable to the Purchaser for any breach of confidentiality on the part of any of his employees, agents or sub-suppliers, irrespective of whether such employee, agent or sub-supplier was aware of this confidentiality requirement. This confidentiality requirement remains in force until the knowledge or the information incorporated in the



Purchaser's information is disclosed without any breach of confidentiality on the part of the Supplier.

**17. Advertising material**

17.1 The Supplier may only refer to his business relations with the Purchaser in advertising materials or similar with the express written authorization of the Purchaser. The Supplier undertakes to send the Purchaser a courtesy copy free of charge prior to publication.

**18. Jurisdiction**

18.1 Any legal disputes between the Supplier and the Purchaser shall in the first instance be referred exclusively to either the Koblenz District or Regional Court depending on the amount in dispute.

18.2 The legal relationship shall be governed exclusively by German law; the UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

**19. Miscellaneous**

19.1 The Purchaser's liability during processing of his purchase order shall be limited to wilful intent or gross negligence.

19.2 This does not apply in the case of violation of fundamental contractual obligations, or in the case of loss of life, physical injury or impairment of health.

19.3 Liability is limited to the typical loss or damage that could be reasonably expected to occur and is not accepted for indirect or consequential damages.

19.4 If any of the above conditions should be invalid, either in whole or in part, this shall not affect the validity of the remaining provisions and of the contract as a whole.