

General terms and conditions of SCHNEIDER Elektronik GmbH

1. General

1.1. Our general terms and conditions apply exclusively for all contractual relations with us and for all products and services of SCHNEIDER Elektronik GmbH (in the following: SCHNEIDER). They replace the so far valid general terms and conditions and are also valid for future business relationships, even if they were not explicitly agreed. Herewith we contradict to all acknowledgements of our co-contractor with regard to his own terms and conditions, also in the future. Differing conditions like terms and conditions of purchase of the purchaser are generally not accepted.

1.2. Deviations from these general terms and conditions are only effective if they are accepted and confirmed in written form by SCHNEIDER. They are only valid for the specific individual case without prejudice for the future. Our employees are not authorised to agree on differing verbal individual arrangements.

1.3. Our general terms and conditions are also valid if we do not refer to their exclusive effectiveness during continued business relationships.

1.4. The copyright of all physical and non-physical samples, design drawings, schemes, wiring diagrams and similar information (also in electronic form) provided by us remains in the possession of SCHNEIDER. It is not allowed to disclose them to third parties. Publication and copying (also of excerpts) requires our written agreement.

1.5. All documents like illustrations, drawings, weight and dimension specifications respectively other specifications or technical data of the supplier distinguish only the object of agreement and are not legal warranties. Guarantees of characteristics are only valid with a appropriate written statement.

1.6. In case of doubt the INCOTERMS 2000 apply for the interpretation of trade terms.

2. Offer and conclusion of contract

2.1. Our offers are subject to change and non-committal regarding price, amount, delivery time and availability.

2.2. Our written order confirmation is decisive for the purchase order. If the purchase order is immediately executed the commercial invoice respectively the delivery note applies as an order confirmation. If the buyer raises objections against the content of the order confirmation he has to contradict immediately. Otherwise the contract will be carried out according to the order confirmation.

3. Prices

3.1. The basis of the calculation are the prices of SCHNEIDER valid at the time of delivery.

3.2. The prices are valid ex works respectively ex warehouse plus the value added tax as well as the costs for freight, taxes, customs and packaging.

3.3. Cash discounts will not be allowed if the buyer is in arrears with the payment of former invoices.

3.4. Price alterations of firm prices are also allowed, if the agreed delivery date is changed due to circumstances SCHNEIDER is not being responsible for.

3.5. All not agreed extra charges respectively public charges have to be paid by the buyer.

3.6. The costs and the disposal of the packaging shall be at the expense of the buyer as well as the freight costs for the reshipment of the packaging material.

3.7. If the purchase price is agreed in a currency of a non-euro country, the buyer shall bear the risk of any deterioration in the exchange rate ratio of the agreed currency to the euro (EUR) for the period of the conclusion of the contract until payment receipt at the supplier's account.

4. Payment

4.1. Our invoices are to be paid within 10 days (less 2 % discount) as from the invoice date or within 30 days net without any deduction. Invoices for pure services (e. g. repairs) are payable within 10 days net without any deduction.

4.2. Payments are presumed to be received if we have access to the money.

4.3. Withholding on the part of the buyer is excluded. The buyer may only set off our claims where his counterclaim is undisputed and the title is recognised by declaratory judgement. The exercise of any lien by the buyer is only possible if his counterclaim is based on the same contractual relationship.

4.4. The buyer defaults on payment when a reminder is sent after the due date respectively 30 days after due date and receipt of an invoice or an equivalent request for payment at the latest. In case of a default of payment - subject to a claim of any further damages - the buyer has to pay default charges at the rate of 8 % above the relevant base interest rate of the European Central Bank. Furthermore SCHNEIDER is allowed to forbid the resale and the mounting of delivered goods and can request the return or the transfer of the indirect ownership of the delivered goods at buyer's costs.

4.5. If we do not receive the payment just in time we will make use of our legal right of detention by not delivering the goods and declare thereby to suspend performance. If we learn about circumstances which diminish the credit rating of the buyer after contract conclusion we are allowed to withdraw from the contract respectively demand - independent of due dates - the immediate payment or the return of the delivered goods. In this case SCHNEIDER is allowed to send outstanding deliveries only against prepayment.

4.6. Checks and bills of exchange need to be agreed upon by SCHNEIDER and are deemed to be paid after redemption. All discount and bill charges are to be paid by the buyer.

5. Delivery and dispatch

5.1. The delivery time begins with the receipt of the order confirmation and after clearing of all commercial and technical questions between both parties. The observance of delivery times is based on the performance of the contractual obligations on the part of the buyer, especially the on time delivered documents and permissions including the permission of the construction drawings as well as the observance of the payment terms. Delivery times and delivery dates refer to the completion date. They apply as fulfilled when the buyer is informed about the readiness for dispatch. In case of any belated order changes on the part of the buyer SCHNEIDER is allowed to prolong the delivery time.

5.2. The buyer has to deliver all parts to be provided free our works and unencumbered by third parties. The buyer is responsible for their quality and suitability to the exclusion of any testing by SCHNEIDER.

5.3. We reserve the right to change the construction, form and technical equipment as far as the contractual agreed functioning is not affected.

5.4. Unless otherwise stipulated in an individual contract we owe the buyer a delivery item according to the statutory provisions of the Federal Republic of Germany. We reserve the right to change a delivery item according to changed statutory provisions and official directives without consultation with the buyer. We do not guarantee for an official acceptance of the delivery item in foreign countries. This applies in particular if provisions of public law will be changed after contract conclusion. The buyer will take the costs and risks as far as changes in individual cases will be agreed.

5.5. Incidentally the costs for a change of the delivery item will be decided by a written common agreement.

5.6. The delivery of drawings and data to our co-contractor does not imply a transfer respectively licensing of copyrights. Plans and drawings remain in our ownership - they are to be kept confidential and have to be returned on demand.

5.7. The supplier is not responsible for any delays in delivery and performance which result from force majeure or are caused by events which make the delivery or performance considerably more difficult or impossible for the supplier - including but not limited to strikes, lockouts, requirements of public authorities, etc. even if these events affect SCHNEIDER, its suppliers or the suppliers' sub-contractors - even if binding delivery times or dates are agreed. We are allowed to postpone the delivery or performance by the duration of the obstacle plus a appropriate lead time.

5.8. All binding delivery promises, especially time specifications are subject to just in time delivery of raw and external materials by third parties.

5.9. If delays in delivery and performance lasts more than six months, our co-contractor is allowed to withdraw from the contract concerning the yet unfulfilled part after a reasonable period of grace which has to be set out in writing.

5.10. With the cancellation the co-contractor waives his right of claim for damages due to delivery delays.

5.11. We are allowed to send part deliveries and to issue invoices for partial delivery.

5.12. If the dispatch respectively the acceptance of the delivery item is delayed by reasons caused by the buyer we will charge the incurred expenses beginning one month after notification of the readiness for dispatch/acceptance.

5.13. If the buyer cancels a purchase order already confirmed by SCHNEIDER we are allowed to charge 10 % of the contract value for the costs incurred as a result of the order processing and for the loss of prospective profits. Besides the cancellation costs SCHNEIDER is entitled to demand payment for especially for the buyer manufactured equipment for the delivery item which will be made available to him upon request.

5.14. If SCHNEIDER falls behind with deliveries the buyer is allowed to withdraw from the contract after expiry of a reasonable period of grace which has to be set out in writing but only to the extent that deliveries have not been expedited within the extension time. Instead of withdrawal the buyer can also demand damages for non-performance if the delay is caused intentionally or as a result of gross negligence by SCHNEIDER or other agents. In case of negligence the claim for damages is limited to a foreseeable damage at the time of contract conclusion which has to be proofed by the buyer, maximum 0,5 % for each full week of delay but 5 % of the invoice amount of the delivery and performance affected by the delay at the most.

5.15. In case of default of acceptance the buyer has to pay compensation amounting to 30 % of the order value. The buyer is free to furnish proof of minor damage. SCHNEIDER is permitted to proof a higher damage.

6. Transfer of perils

6.1. If not agreed otherwise, SCHNEIDER determines dispatch means and dispatch route as well as forwarder and carrier under exclusion of all liability. On request the goods may be additionally insured against risk of breakage, fire, theft and transport damages at an extra charge.

6.2. The risk is transferred to the buyer as soon as the delivery item has left the supplier's facility, even in the case of partial deliveries. This applies as well for carriage paid delivery.

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6.3. The buyer is bound to the conditions of the forwarder and insurance companies responsible for the dispatch. Even in the case of taking out a transport insurance by SCHNEIDER the risk remains with the buyer.

6.4. In case of transport damages the buyer must immediately arrange for a factual report by the responsible authorities and inform SCHNEIDER.

6.5. In the event of defects on the delivery item, such goods shall still be accepted by the buyer without prejudice to any eventual rights.

7. Retention of title

7.1. SCHNEIDER reserves the property of the delivery item until completion of all payments of the delivery contract.

7.2. In case of delayed payment or any other breach of contract by the buyer, SCHNEIDER is permitted to take back the delivery item. The redemption includes the cancellation of the contract.

7.3. If the delivery item is inseparably mixed with other items not belonging to the supplier, the supplier shall obtain co-ownership in the new item in the proportion of the value of the delivery item (total invoice amount plus VAT) to the other items at the time of mixing. If the mixing is done such that the matter of the customer is to be deemed a main component, the parties agree that the buyer shall assign to the supplier proportional co-ownership. The buyer shall keep the sole property or co-property for the supplier.

7.4. For coverage reasons the buyer assigns by now to the extent of the ownership interest all claims resulting from the sale of goods which are subject to SCHNEIDER's property rights. The buyer assigns all claims against third parties to secure our claims against him which arise from connecting the delivery item with a property. The assignment occurs in advance. We will accept the assignment.

7.5. The buyer has to inform SCHNEIDER immediately about any infringement of their property rights regarding the delivery item, especially distraints and other confiscations. If the buyer does not fulfil his obligations to the full extent regarding SCHNEIDER, he has to return the goods to SCHNEIDER on demand, without SCHNEIDER's withdrawal from the contract.

7.6. The request for opening of the insolvency procedure regarding the assets of the buyer entitles SCHNEIDER to withdraw from the contract and the immediate return of the delivery item.

7.7. SCHNEIDER is allowed to insure the delivery item against theft, breakage, fire, water and other damage at the buyer's expense, provided the buyer has not demonstrably taken out the relevant insurance policy.

7.8. If the value of the securities exceeds our demands by more than 20 %, then, upon demand of the customer and at our own choice, we are obliged to release the appropriate securities.

8. Claim for defects

8.1. Data indicated in the technical specifications about the capability of the delivery item are approximate indications with a descriptive character. They do not represent any guarantee about the characteristics in terms of §463 BGB (German Civil Code), provided they are not explicitly described and confirmed in writing as a "warranty of a characteristic feature".

8.2. SCHNEIDER does not provide any guarantee for the deliveries and services of pre-suppliers, if they are assigned by the buyer to process orders. In these cases the buyer is entitled to claim warranties directly against the above mentioned pre-suppliers. Therefore, SCHNEIDER will assign warranty claims to the buyer.

8.3. Without prejudice to legal limitation a warranty claim does not apply, if the buyer does not perform his examination and complaint obligations. Visible

defects must be reported immediately in writing, within 5 days after receipt of goods at the latest. Latent defects have to be reported within 10 days after discovery, decisive for the timeliness is the receipt of the the letter of complaint at SCHNEIDER. The faulty goods have to be returned on demand.

8.4. As far as SCHNEIDER is responsible for the defect of the delivery item, the buyer has to specify a reasonable deadline for supplementary performance. SCHNEIDER reserves the right to choose the method of supplementary performance in case of defects. In the event of a letter of complaint SCHNEIDER has the right to decide if the faulty delivery item shall be returned for repair with subsequent reshipment, shall be repaired at the particular facility or shall be replaced. In case that the replacement delivery or the supplementary performance fail, the buyer is allowed to demand an abatement of the purchase price or to withdraw from the contract after expiration of a written reasonable deadline. Incidentally the buyer waives a claim for damages because of culpably omitted or delayed supplementary performance. If the buyer has connected the delivery item with other items, we are not liable for the costs of assembly and disassembly of the faulty goods or for the assembly of the replaced goods.

8.5. Any liability for deficiencies in title are excluded.

8.6. The warranty is excluded in case of improper use, faulty assembly or maintenance, improper commissioning of the delivery item by the buyer or third parties, wear and tear, excessive strain, improper equipment, use in areas which are not indicated in the product and assembly specifications, improper storing (outside a temperature range of 10 - 50 °C and/or 40 - 70 % relative air humidity), use of exchange tools or any other damage causing influences, SCHNEIDER is not responsible for as well as the application under special circumstances, especially under constant influence of chemicals, gases, steam, seawater, fluids, electrical and electrochemical surroundings, overstress, use of wrong components or replacement parts, related materials, coupling with other devices or systems, etc. or outside the allowed operating parameters or conditions of use.

8.7. Maintenance and confirmation intervals should be observed. Claims of damage in tort are excluded, unless the damage was caused on purpose or grossly negligent. This applies for our vicarious agents.

9. Liability

9.1. Our liability for contractual breaches of duty as well as in tort is limited to intent and gross negligence. The limitation of liability also covers the personal liability of our legal representatives, employees and vicarious agents.

9.2. The liability of SCHNEIDER at any rate is limited to the positive performance interest (value of goods of the order) of the buyer. Claims of substitution of indirect and direct damages and consequential damages are always excluded, except in cases of intent or gross negligence. It is the responsibility of the customer to provide the proof.

9.3. For third-party products or defects which occur as a result of such products our liability is accordingly restricted. In this respect we are entitled - for relief of the obligations resulting therefrom - to transfer any claims against the supplier to the buyer. The buyer is not allowed to assign claims resulting from guarantees and product liability. Any such assignment would be invalid against SCHNEIDER.

9.4. For electrical and pneumatical actuators and controller apply exclusively the directives of VDE and VDMA. Maintenance and confirmation intervals should be observed. We are not liable for damages not occurring to the delivery item itself (e. g. personal injury, property damage and financial losses of all kind, direct and indirect consequences, loss of

profit, scrap, loss of production, costs of operational downtimes), except in cases of culpable violation and SCHNEIDER or their representatives acted with intent, gross negligence or fraudulent intent.

9.5. In case of culpable violation of essential contractual obligations or duties we are liable for gross negligence of non-executive employees as well as for minor negligence, whereby the latter instance shall be limited to the reasonably foreseeable damage. The damage is limited in any case to the respective amount covered of the liability insurance. The respective amount covered is announced during the contract negotiations. The above mentioned applies as well for a liability concerning faults of the delivery item as far as a liability according to Product Liability Act for personal injuries or property damage for privately used items can be considered. Claims above and beyond this are ruled out.

9.6. In the event of embedding SCHNEIDER components in facilities provided by the customer the compatibility shall be established by the equipment manufacturer. Compatibility problems are beyond SCHNEIDER's sphere of influence.

9.7. Any liability for wear and tear are excluded.

10. Utilisation of software

10.1. Software provided by SCHNEIDER is subject to our copyright. Buyers are granted only a non-exclusive right of utilisation for its intended application in accordance with the specified purpose of the agreement. Utilisation of the software in more than one system is forbidden. Translation, copying, revision or conversion of the object code to the source code without a written permission is liable to prosecution. All rights reserved by SCHNEIDER. Sub-licensing is prohibited.

11. Limitation of time

11.1. All buyer's claims - irrespective of the legal grounds - become time-barred within 12 months from the starting date of the legal period of limitation, unless the delivery item is used for a building according to its usual utilisation and caused its defectiveness. In this case applies the legal deadline with the beginning of the legal limitation period.

12. Final clauses

12.1. Place of fulfillment for both parties is Frankfurt am Main.

12.2. German law applies exclusively with the exclusion of the UN Sales Convention, even if the buyer's head office is situated in a foreign country.

12.3. Assignment of rights and duties of the buyer concerning contracts between the buyer and SCHNEIDER require our written acceptance.

12.4. Court of jurisdiction is Frankfurt am Main. Beyond that SCHNEIDER is authorised to assert claims at the court of jurisdiction of the buyer.

12.5. In the event that one or more regulations of these general terms and conditions are or become effectless, the remaining regulations retain their validity. The co-contractors are committed to replace the effectless regulation by a effective regulation coming as close as possible to the economic result of the effectless regulation.

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