

General Terms and Conditions

Schwanog LLC

1. The following terms and conditions of business shall only apply for supplies of tool systems made of hard alloy or hard metal and HSS as well as pressure foot, unless arrangements to the contrary have been made in writing, for all contracts, goods and services. All offers are subject to change without notice as a matter of principle. The Seller shall only be under an obligation to supply once the order has been properly confirmed in writing. Only EUR (EURO) will be accepted as a method of payment.
2. Unless otherwise agreed, the prices shall apply ex Works, excluding packing. They shall only apply for each quantity ordered in each case and only for the model intended in the offer and order confirmation. If, drawings, samples, adjustment pieces or templates differing from those in the offer and request requiring more extensive processing than assumed in the offer and request are submitted with the order, the Seller shall reserve the right to increase his prices. The prices do not include value added tax. If orders are cancelled or reduced in scope by mutual consent, costs already incurred plus 20% of the order value shall be invoiced. Any materials already produced and completed is to be purchased by the Buyer. The Buyer shall not acquire any right to the tools as a result of paying a proportion of the costs of the tools. These shall remain our property. The Seller shall reserve the title rights and copyrights to design drawings and other documents. Third parties must not be allowed access to them.
3. The Seller shall reserve the right to withdraw from the contract if in the interim period circumstances arise making the security of the new accounts payable by the Buyer appear doubtful. If, after an order has been received information is acquired jeopardising the lending of credit, this shall be regarded as such a circumstance.
4. If nothing has been agreed to the contrary, we shall, when an order is placed with a call-off facility, allow a period of 12 months calculated from the date of delivery. Once the period within which orders have to be called off expires we shall consequently be entitled to invoice the goods. The goods shall be manufactured in a single batch, it will not be possible to modify the goods originally ordered once a part delivery has been made.
5. Type samples requested will be taken from the initial mass production, so that once they have been received it will no longer be possible to modify the shape originally ordered. If the manufacture of type samples is desired prior to the commencement of mass production, they shall be invoiced separately.
6. We must reserve the right to supply over and under deliveries +/- 10% of the quantities ordered.
7. Dispatch shall be at the cost and risk of the Buyer alone. Dispatch shall be arranged at the Seller's best judgement unless specific instructions have been issued for dispatch. However, the Seller shall not be obliged to select the cheapest method of freight. In general we take out insurance policies to cover goods in transit.
8. The delivery period shall begin when the order confirmation is dispatched, but not, however, before the documents, licences and clearances to be furnished by the Buyer as well as the agreed down payment have been received by the Buyer. The delivery period shall be regarded as having been observed, if the goods have left the Seller by the agreed point in time. In the event of default a reasonable subsequent period shall be set for performance. If in the event of default the subsequent period for performance set for and recognised by us is not observed, the statutory regulations shall apply. If we are in default and the Buyer incurs a loss, he shall consequently be entitled to demand a lump sum compensation for default. For each week of default it shall amount to 0.5%, but not to exceed in total 5 % of the value of that part of the total delivery, which cannot be used as a result of the default. If the Buyer sets the Seller a reasonable period of time to render performance after performance is due, taking into consideration exceptions provided for by statutory law – and if this subsequent period is not observed, the Buyer shall be entitled to withdraw from the contract in line with statutory regulations. Force majeure of every type, war, machinery breakdowns or other exceptional restrictive circumstances in the Seller's own operation or in his supplier's operation, the Seller shall, without more ado, be entitled to cancel some or all of his supply obligations to the best of his judgement or to extend the delivery period without the Buyer being entitled to any claims for fulfilment or for compensation for damages, to withdraw from the contract or to cancel the contract.
9. Technical specifications. Provided that the enquiries and order documents do not include any special requirements with regard to the model, the technical terms and conditions of supply of DIN version m (average) shall be regarded as having been agreed. The Seller shall not be liable for defects arising as a result of the documents submitted by the Buyer.
10. Liability for defects: Notifications of defects can only be accepted if they are made straight away upon receipt of the goods. Number 4 shall apply with regard to the period within which defects have to be rectified. If it can be demonstrated that the Seller is to blame for goods supplied being defective, the Seller shall choose whether to supply a replacement or to raise a credit. As far as allowed by law, any further claims by the Buyer are expressly inadmissible. (If the goods are not sent to the Buyer but to a third party, they shall consequently have to be inspected and accepted at the manufacturer's premises, otherwise they shall be regarded as having been delivered in accordance with the order when they are dispatched). Unless an agreement is made to the contrary, goods about which a complaint is made are to be returned to the manufacturer. Inspection and acceptance is to be carried out in accordance with DIN.
11. In the absence of a special agreement our terms and conditions of payment are, including part deliveries: 10 days from the date of invoice to qualify for 2% prompt payment discount or 30 days net. Default interest 8 % above the base rate charged by the ECB at that time. The Seller reserves the right to impose special terms and conditions of payment for buyers outside Germany or unknown buyers. The Buyer may not withhold payments or offset against payments due on account of any counter claims by the Buyer which may be contested by the Seller. The goods shall remain the Seller's property until they have been paid for in full, and to be more precise, until a draft has been honoured, if payment is made by draft. Up until that time the goods supplied by the Seller must not be pledged or assigned by bill of sale as a security without the Seller's consent. In so far as our Buyer resells the goods, he shall assign to the Seller here and now his future account payable by his buyers and our Buyer shall undertake to agree reservation of title with his buyer safeguarding the Seller's rights. He has to notify the Seller of this and upon request submit a declaration of assignment in duplicate.
12. The Buyer's terms and conditions shall not place the Seller under any obligation even in those cases in which the Seller does not expressly reject them again. Only Buyers placing an order stating their value added tax registration number identifying their country shall be supplied.
13. The place of fulfilment and payment is Villingen-Schwenningen. The courts having jurisdiction where the Seller is based shall be the place of jurisdiction. Only German law shall apply. The international chamber of commerce in Zurich (Switzerland) shall be the court of arbitration for consignments delivered outside Germany. The international law on sales (CISG) shall not apply.
14. Should some of the Buyer's terms and conditions differing from these terms and conditions apply and if they have not been expressly confirmed by us in writing, they shall have to be withdrawn by the Buyer straight away upon receipt of the order confirmation.

Stand 11/2003

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