

# General Conditions of Sale of SCHOTT VTF

## 1. General

- 1.1 These General Conditions of Sale are only applicable, if and to the extent not expressly agreed otherwise.
- 1.2 Customer's general terms and conditions are only applicable to the extent that we have explicitly agreed to them in writing. This also applies if we perform delivery without reservation, even if we are aware of Customer's general terms and conditions.

## 2. Prices, Delivery, Deadlines, Cancellation of Contract

- 2.1 All prices are net prices and do not include sales taxes, which the Customer is to pay, additionally, at the respective statutory rate.
- 2.2 Deliveries are carried out EXW manufacturing plant in accordance with Incoterms® in force at the date of the conclusion of the contract.
- 2.3 Delivery dates and periods for delivery are non-binding. Periods for delivery are calculated from the date of our order confirmation. If no delivery dates and periods for delivery are agreed, the Customer may set us a reasonable grace period of no less than two weeks for delivery. We can be in default only after this deadline has expired.
- 2.4 Our contractual obligations are subject to punctual delivery to us by our suppliers.
- 2.5 We reserve the right to fulfill our delivery obligations in full or in part through a company directly or indirectly controlled by SCHOTT AG.
- 2.6 We have the right to partial deliveries or performance of services if this is not unreasonable for the Customer. To the extent they are customary in the business, excess and short deliveries are permitted and do not give a right of complaint.

## 3. Payment

- 3.1 Payment is to be made after delivery within 30 calendar days of the invoice date. Timeliness of payment is determined by receipt of payment.
- 3.2 Article L. 441-6 of the French commercial code applies in case of any delay in payment (late payment penalties at the European Central Bank interest rate applied in its current refinancing operation plus 10 percentage points; in addition, a lump-sum penalty of 40 € for collection costs for every delay in payment).
- 3.3 The Customer has rights of retention and set-off only to the extent its claim has been finally determined by a court or is undisputed.
- 3.3 If there are reasonable doubts as to the Customer's ability to pay, especially in case of delay or general payment stoppages, all our claims become due immediately. In these cases, we also reserve the right to withhold outstanding deliveries against advance payment or collaterals.

## 4. Reservation of Proprietary Rights

- 4.1 We reserve ownership of the delivered goods ("reserved goods") until complete payment.
- 4.2 The Customer must inform his sub-purchaser of the ownership reservation clause. We are entitled to claim the outstanding price from the sub-purchaser. The Customer must provide us with the contact details of the sub-purchaser without being able to object on the basis of a confidentiality clause.
- 4.3 The right of reclaiming possession of unpaid serial products will be transferred on identical products still in the Customer's stock, without us being required to prove that the delivered and unpaid goods are identical with the products still in the Customer's stock.
- 4.4 The reserved goods remain in our ownership as long as they are removable. In all other cases of modification, we become co-owner of the finished product pro rata of our rights.
- 4.5 Rehabilitation and/or reconditioning costs for the goods taken back are to be paid by the Customer.

## 5. Customer's Drawings and Specifications

The Customer is responsible for ensuring that the drawings and specifications it provides are correct in terms of content and technical details and that they are free from third party rights.

## 6. Product Quality; Customer's rights regarding defective products

- 6.1 The agreed quality of the products is exclusively determined by the specifications or technical delivery conditions which are given to the Customer before placement of the order or were included in the contract in a comparable way as these General Conditions of Sale. Insofar as no limits for deviations were explicitly agreed, deviations which are customary in the business are permitted in any case.

- 6.2 Published data regarding the supplied products, in particular the pictures and data given in our product descriptions as well as the properties of specimens and samples are binding only insofar as they have been explicitly agreed to define the quality of the products.
- 6.3 Information and advice which we render in connection with our performances without having any obligation to do so shall not relieve the Customer from carrying out its own tests.
- 6.4 If the products are defective and provided we are given written notification of the defect without delay, we will, at our discretion, either remedy the defect or deliver a non-defective replacement and bear the costs for remedying the defect and only to the extent that these are not increased by the fact that the products have been used, processed or taken to a location other than the place of delivery (costs for separation, dismounting, replacement, remounting works and the like are excluded).
- 6.5 If subsequent performance is unsuccessful, the Customer may cancel the contract or reduce the remuneration. Before a possible return of the products to us, our consent must be obtained.
- 6.6 Claims based on defects are time-barred after twelve months. The starting point of the limitation period is the delivery, unless a mandatory law imposes a different starting point.
- 6.7 Regarding claims for damages and reimbursement of expenses, the provisions of Section 7 shall apply.

## **7. Liability**

- 7.1 We are liable for damages in accordance with statutory law, to the extent there are not deviating terms in these General Conditions of Sale. In the event of simple negligence, we are only liable for damages resulting from death, bodily injury, or harm to health as well as from the breach of a material contractual obligation (i.e. an obligation whose fulfillment is essential to the due and proper implementation of the contract and on whose fulfillment the Customer regularly should be able to rely), in the latter case, however, our liability is limited to damages foreseeable and typical for this type of contract and as stipulated in article 7.2.
- 7.2 Our liability, all damages and losses taken into account, is limited to the lowest of the following amounts: 200 000 euros per year per contract or 20% of the amounts received (excluding applicable tax) in the framework of the individual contract or order concerned. Our liability is limited to direct and material damages only (dommages matériels et directs) and only in case of fault committed by us and proved by the Customer. We are not liable for any damages caused by the fault and/or negligence of the Customer and/or a third party. Our liability is expressly excluded for all indirect, immaterial or financial losses or damages, suffered by the Customer or a third party, including, but not limited to, losses or damages resulting from a third party claim against the Customer, loss of profit, operating loss, loss of production, loss of income, loss of data, deprivation from a right, interruption of a service rendered by a person or by a good, damage to brand image, loss of opportunity, etc. Any possible penalties and liquidated damages agreed upon by contract are fixed aggregate and in full discharge (forfaitaire et libératoire).
- 7.3 The limitation restrictions according to Section 6.6. also apply for the Customer's claims for damages or reimbursement of expenses which are based on defective products.
- 7.4 We are entitled to apply the guarantee and liability limitations which the Customer applies to third parties sub-acquiring the delivered products or performed services. The Customer guarantees that its insurers or third parties with whom it has a contractual relationship waive the rights to any action against us or against our insurers which goes beyond the above mentioned limits and exclusions.

## **8. Termination**

- 8.1 Non-compliance with any of the Customer's obligations entitles us to terminate the contract, in full or in part, without court proceedings being required (*de plein droit*), to take back already delivered products, to claim damages for the loss suffered and therefore to keep, as a minimum, the amounts already paid, or, if no advance payments were made, to charge at least 10% of the amount of the order as compensation.
- 8.2 Termination will be effective eight (8) calendar days after the Customer received a formal notice via registered mail with acknowledgement of receipt and which remained unsuccessful.

## **9. Industrial Proprietary Rights**

- 9.1 We warrant that the products are free from third party industrial proprietary rights and copyrights in the country in which they were manufactured ("proprietary rights").
- 9.2 Should a third party file justified claims against the Customer due to an infringement of proprietary rights through the use of the products in accordance with the contract, we are liable within the period of time set forth in Section 6.6 as follows: We will, at our discretion, either secure a license for the rights concerned or modify the products in a way acceptable to the Customer and in which the proprietary rights are no longer infringed. In the event that this is not possible under commercially reasonable conditions or within a reasonable period of time, the Customer is entitled to its statutory rights of rescission and reduction of the purchase price.
- 9.3 The Customer undertakes to inform us immediately of any claims from third parties concerning infringement of proprietary rights, not to admit to such an infringement and to support us to an appropriate extent in fending off such claims.
- 9.4 Claims on the part of the Customer are excluded if the Customer is responsible for the infringement of these proprietary rights or this was caused by specific requirements of the Customer.
- 9.5 Regarding claims for damages and reimbursement for expenses, the provisions of Section 7 apply.

## **10. Confidentiality, Data protection**

- 10.1** Documents provided to the Customer may not be made accessible to third parties, duplicated or used for any other purposes than those that have been agreed to.
- 10.2** Information provided to us in connection with orders is not to be considered confidential unless the confidentiality is obvious or has been expressly stated by the Customer.
- 10.3** We hereby point out that we store personal data and share it with companies affiliated with us to the extent that this is necessary in order to establish, implement or terminate our contractual agreements with the Customer; we do so in compliance with the requirements of the French "Informatique et Liberté" law.

## **11. Miscellaneous**

- 11.1** The Customer is liable for compliance with all applicable laws and ordinances of export control laws of France or other countries, in particular for having the permits needed in order to export or import the products. Furthermore, the Customer ensures that the products will not be supplied either directly or indirectly to countries that prohibit or limit the import of these products.
- 11.2** Exclusive jurisdiction is given to the competent courts for the place of our registered office. We are, however, also entitled to file claims against the Customer with the courts having jurisdiction at the Customer's place of business.
- 11.3** The contractual relationship shall be governed by French law, excluding the rules of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the French rules of renvoi.

**Edition: 10/ 2017**