

# Terms and conditions of purchase of the STEBATEC group

Preamble:

The terms and conditions of purchase are valid for the business relations with the:

- Stebatec AG/Switzerland and
- Stebatec GmbH/Germany and
- Scheidegger Fernsteuerungen AG/Switzerland

Unless otherwise agreed in writing, the following terms and conditions of purchase shall apply exclusively to our orders, including future orders. The terms and conditions of the supplier or contractor (hereinafter uniformly referred to as the supplier) shall only apply if we agree to them in writing.

## 1. ORDER PLACEMENT AND ACCEPTANCE

1.1 Only orders and agreements placed in writing are binding. Our employees are, in particular, obliged to confirm in writing any verbal subsidiary agreements or undertakings which go beyond the content of the written contract or which amend these Terms and Conditions of Purchase to our disadvantage.

1.2 The supplier shall confirm the order in writing without delay. If we do not receive the order confirmation within 14 days of the order date, we shall be entitled to revoke the order without the supplier being able to derive any claims from this.

## 2. DELIVERY TIME

2.1 Agreed delivery dates are binding. The receipt of the delivery at the place of destination shall be decisive for compliance with the delivery date.

2.2 As soon as the supplier recognises that it is not possible for it to deliver and/or perform (hereinafter uniformly referred to as delivery) on time, in whole or in part, it must inform us of this immediately, stating the reasons and the expected duration of the delay.

2.3 Partial deliveries are only permissible if we agree to them in writing.

2.4 The period for the fulfilment of our contractual obligations shall be extended in the event of force majeure, industrial disputes, operational disruptions, shortages of energy and raw materials, civil unrest and other unforeseeable or unavoidable events for which we are not responsible, for the duration of the disruption and to the extent of its effect. We shall inform the supplier immediately of the beginning and end of the obstacles mentioned. A delay in acceptance/payment cannot be held against us in this respect.

2.5 In the event of a delay in delivery, we shall be entitled to demand 0.2% of the agreed total price of the delivery as a contractual penalty for each day of the delay, but not more than a total of 10%. This contractual penalty may be claimed

up to the final payment. Further legal rights remain unaffected. The supplier shall be entitled to prove that the damage is less than the contractual penalty.

## 3. INFORMATION OBLIGATIONS OF THE SUPPLIER

The supplier shall notify us in good time before changes are made to production processes, materials or supplier parts for the products, before production sites are relocated, and before changes are made to procedures and equipment for testing the products or to other quality assurance measures, so that we can check whether the change could have an adverse effect. The supplier shall impose a corresponding obligation on third parties whom he uses to fulfil his obligations towards us. He shall also notify us of any change in his service providers and suppliers during the supply of the goods to us. If adverse effects cannot be ruled out, the supplier shall ensure our supply with unchanged parts until we have found an alternative solution.

## 4. DELIVERY / ACCEPTANCE

4.1 Each delivery must be accompanied by delivery notes stating our order number, our order reference, the type of packaging and the quantity and weight of the delivery. In the case of services, the hours worked and the materials provided by the supplier must be confirmed by us in writing within a reasonable period of time.

4.2 The invoice for each order shall be sent separately in duplicate to our address after delivery; it must not be enclosed with the delivery.

4.3 We are entitled to specify the mode of dispatch and the carrier. Otherwise, the supplier shall be obliged to choose the mode of dispatch most favourable to us.

4.4 The supplier has not fulfilled his delivery obligation until we have received the proper delivery and shipping documents. Until then, we are entitled to store the delivery at the expense and risk of the supplier.

## 5. PRICING AND PAYMENT

5.1 The agreed prices are fixed prices including packaging and are to be understood free place of destination.

5.2 In the absence of any other agreement, payment shall be made at our discretion either

- within 14 days with 3% cash discount or
- within 30 days net.
- In the event of a project delay, in exceptional cases within 60 days net.

We reserve the right to freely choose the means of payment. The payment period shall commence after receipt of the complete goods in accordance with the contract and receipt of the documents pursuant to sections 4.1 and 4.2, but not before the agreed delivery date.

5.3 All payments shall be made subject to the rights of any defects. If delivered goods should be defective, we shall be entitled to exercise a right of retention. Payments do not imply any acknowledgement of performance or waiver of warranty or damages. The same applies to the receipt of our goods acceptance.

5.4 The goods are covered by our transport insurance and no additional transport insurance is required. We are an SLVS waiver customer.

## **6. PACKING**

6.1 The goods to be delivered shall be packaged in a manner customary in the trade or, at our request, shall be provided with special packaging in accordance with our instructions.

6.2 We are entitled to return the packaging carriage paid to the place of departure and to charge the supplier 1/3 of the invoiced value for this.

## **7. PASSING OF RISK**

The risk shall pass to us when the delivery has been properly handed over to us at the specified destination or has been accepted by us. The same shall also apply if we use our own transport persons.

## **8. WARRANTY**

8.1 The limitation period for claims for defects is 36 months. The statutory limitation period shall apply to buildings and building materials. In the case of individual parts, the period begins with the acceptance (contract for work and services) by or delivery (purchase contract) to us, in the case of machines or plant parts with the signing of the final acceptance protocol.

8.2 The supplier warrants that the delivery item is free from defects of title or quality at the time of handover to us or our customer and that it complies with the latest state of the art, the relevant laws, protective and accident prevention regulations as well as the usual and technical quality assurance standards (e.g. DIN, VDE, VDI, TÜV, Ex guidelines of the BG). In the event of different versions of these standards, the respective version of the country of destination shall be authoritative.

8.3 Upon receipt, we shall inspect the goods for obvious defects, identity, shortages and transport damage. There shall be no further obligation to inspect the goods. We shall notify the supplier of any defects or other deviations within a reasonable period of time. In this respect, the supplier waives the objection of delayed notification of defects.

8.4 In the event of defects, we may, at our discretion, demand either rectification of the defect or subsequent delivery of the defective goods. After the unsuccessful expiry of a reasonable grace period or - if it is no longer possible to set a grace period due to the particular urgency - after informing the supplier, we shall also be entitled to remedy the defect ourselves, to have it remedied by a third party or to procure a replacement elsewhere at the supplier's expense.

8.5 The supplier shall bear all expenses for the purpose of rectification or replacement deliveries at the respective place of use of the goods. We shall inform the supplier of the place of use upon request.

8.6 If the supplier repairs or replaces delivery items in whole or in part, the limitation period of section 8.1 shall start to run again regarding these parts, unless it is a matter of an insignificant supplementary performance effort or an express goodwill act by the supplier.

## **9. LIABILITY**

9.1 In order to cover the general liability risk, the supplier is obliged to take out liability insurance with a sum insured of at least CHF 5 million or the equivalent in euros and to provide evidence of the existence of the cover.

9.2 If a claim is made against us on the basis of product liability, the supplier shall indemnify us against such claims upon first written request, if and to the extent that the damage was caused or contributed to by a defect in the product delivered by the supplier. In cases of liability based on fault, however, this shall only apply if the supplier is at fault.

9.3 If the cause of the damage lies within the supplier's sphere of responsibility, it shall be sufficient to prove the causality of the defect for the damage; otherwise, the supplier shall bear the burden of proof.

9.4 The supplier shall in any case bear the costs and expenses corresponding to its share of the cause/responsibility, including the costs of any legal action or recall action; this shall also apply in the case of recognisable or imminent serial defects.

9.5 The supplier shall bear any damage resulting from non-compliance with these terms and conditions of purchase. He shall also be liable for any simple negligence on the part of his employees or agents.

9.6 Claims for damages - of whatever kind - against us are excluded if we, our legal representatives, or vicarious agents have caused the damage by simple negligence. This exclusion of liability shall not apply in the case of bodily injury or in the case of a breach of essential contractual obligations which jeopardise the fulfilment of the purpose of the contract. However, our liability is limited to the typical and foreseeable damage.

## **10. WORK WITH US OR WITH OUR CLIENT**

10.1 If employees or agents of the supplier work on our business premises or at the customer's premises, they must observe the accident prevention regulations and all other safety regulations as well as the respective company regulations. They may not start work without knowledge of these regulations.

10.2 Assembly and installation work must be approved. Approval shall be deemed to have been given when our authorized representative has expressly accepted the supplier's performance in writing as being in accordance with the contract. However, we may still assert claims for defects in the final invoice. If we do not comply with our approval obligation, the supplier must grant us a period of at least 3 weeks.

10.3 The hours worked, and the materials provided by the supplier must be confirmed by us in writing within a reasonable period of time after the work has been carried out.

## **11. THIRD PARTY PROPERTY RIGHTS**

11.1 The supplier warrants that the use of the delivered goods does not infringe any industrial property rights, e.g. patent or utility model, other rights, business or trade secrets of third parties - also not in the country of use. In this respect, he shall indemnify us against any claims of third parties.

11.2 The supplier shall be liable for any direct or indirect damage incurred by us because of an infringement of such rights.

11.3 This does not apply if the supplier manufactures goods exclusively according to our drawings and models and did not know or should not have known that the manufacture of these goods infringes the rights of third parties.

## **12. MEANS OF PRODUCTION, SAMPLES, DRAWINGS**

12.1 Tools or other means of production manufactured on our behalf and paid for by us shall become our property upon payment in full. The transfer of ownership shall be replaced by the supplier keeping the items in safe custody for us free of charge with the diligence of a prudent businessman. The supplier shall keep the items that are our property separately from other items that do not belong to us. Our ownership shall be indicated on the items themselves and in the business records. After termination of the business relationship, the tools shall be surrendered upon request.

12.2 In the event of the award of contracts for work of any kind (e.g. research and development contracts), we shall be exclusively and fully entitled to the results of the work as well as any resulting intellectual property rights. The decision as to whether intellectual property rights are registered shall be ours alone. If an order gives rise to copyrights, the supplier shall grant us exclusive rights of use to the work, unlimited in time and space.

12.3 Products which are manufactured according to documents designed by us (such as drawings, models and the like) or according to our confidential information or with our tools or copied tools may neither be used by the supplier himself nor offered or delivered to third parties.

## **13. SECRECY**

13.1 The supplier undertakes to keep all details of our orders, such as quantities, technical design, conditions, etc., secret from third parties. The inclusion of our company in a reference list or the use of our order for advertising purposes is only permitted after obtaining our written consent.

13.2 Documents as well as objects of any kind, such as samples, drawings, tools, models, etc., which we make available to the supplier shall be returned to us free of charge as soon as they are no longer required for the execution of the order. Such documents may neither be used by the supplier for his own purposes nor made accessible to third parties.

13.3 The supplier undertakes to pay a contractual penalty of 20% of the order value in the event of breach(es) of this confidentiality obligation unless he is not responsible for such breach(es). In the event of particularly serious violations, we shall be entitled to terminate the entire contractual relationship with the supplier without notice and without compensation and, if applicable, to reclaim any payments already made. A particularly serious breach shall be deemed to have occurred if the supplier passes on the knowledge it has acquired or received to third parties competing with us.

## **14. PROVISION OF MATERIALS**

14.1 Materials provided remain our property. They shall be stored clearly and separately and clearly marked as our property. The supplier shall be liable for damage to or loss of the materials provided, even if he is not responsible for this. He shall take out adequate insurance against fire and water damage as well as against theft at his own expense.

14.2 The material may only be used as intended and must be returned to us if it is not required for the order.

14.3 After processing the materials provided, we shall acquire co-ownership in proportion to the value of the object produced.

## **15. ABRATION**

Any assignment or pledging of the rights accruing to the supplier under the contract may only be made with our written consent. This does not apply to monetary claims. However, we may make payment to the supplier with discharging effect.

## **16. PLACE OF PERFORMANCE, PLACE OF JURISDICTION AND APPLICABLE LAW**

16.1 The place of performance for all deliveries and services is the destination specified by us.

16.2 The place of jurisdiction is the court responsible for our place of business. However, we shall also be entitled to bring an action before the court having jurisdiction for the supplier's place of business.

16.3 Swiss law shall apply to deliveries to Stebatec AG and Scheidegger Fernsteuerungen AG or German law to deliveries to Stebatec GmbH.