

## GENERAL TERMS AND CONDITIONS OF PURCHASE

valid as of December 2022

of Schubert CleanTech Gesellschaft m.b.H.

### 1. General Remarks

Customer shall be Schubert CleanTech GmbH GmbH [limited liability company], hereinafter referred to as "Customer".

Contractor (supplier) shall be such company as concludes with Customer a contract that falls within the scope of these Terms and Conditions of Purchase, hereinafter referred to as "Supplier".

The General Terms and Conditions of Purchase at hand shall apply to all legal transactions contracted with Customer, including in particular – but not exclusively – the manufacture and supply of products, processing partially finished products and rendering services (hereinafter, collectively, also referred to as "Products/Services"). Supplier shall accept these Terms and Conditions of Purchase not later than upon confirming Customer's order.

The legal relationships between Customer and Supplier shall comply exclusively with these Terms and Conditions of Purchase, unless written agreements are made on a case-by-case basis that expressly deviate from them. This shall apply regardless of reference made by Supplier to its own terms and conditions of sale or other of its own terms of business, if any, even if Customer does not expressly object to involvement of such terms and conditions. Furthermore, this shall apply also in the event that Customer accepts without reservation Products/Services that are covered by the contract while aware of contradictory or differing conditions of Supplier.

### 2. Quote

Our enquiries shall be non-binding and shall not obligate us to pay any consideration or reimburse any costs whatsoever for drawing up a quote.

Supplier must comply precisely in its quote with the enquiry of Customer with regard to quantity, description, technical data, etc., and condition of Products/Services. Supplier must expressly indicate any deviations from the enquiry. All quotes and any cost estimates of Supplier shall be made at no cost. If no term of acceptance is stated in quote of Supplier, Customer shall be entitled, in any case, to accept quotes of Supplier within six months from receipt of quote.

Silence on the part of Customer regarding documents sent by Supplier cannot be taken as acceptance of a quote.

### 3. Ordering, Commissioning - Suspension - Cancellation

Irrespective of quotes drawn up by Supplier, only the content of the order of Customer shall be binding.

Only written orders or commissions of Customer shall be legally binding. Oral agreements or agreements made over the telephone shall be legally valid only if they are confirmed in writing.

The number of the order of Customer must be indicated in a location that is easy to find on all written documents and other messages for the immediate identification of all correspondence that pertains to this legal transaction.

With regard to framework agreements, Customer shall not be subject to any obligation to accept pre-planned quantities.

Customer shall be entitled at any time to request a suspension (interruption of further implementation of an order) at no cost for up to 6 months. If the interruption exceeds 6 months, a mutual arrangement regarding the impact of the contractual provisions shall be reached. Unneeded Products shall be taken back and credited to Customer's account by Supplier. Any potential handling fee may not exceed 10 % of the net value of the order.

Customer shall be entitled to cancel the contract partially upon providing grounds for doing so.

In the event of cancellation, only the direct costs that are verified in writing shall be assumed for Products and Services that are specially produced and already delivered, respectively whose completion is still in progress. Supplier shall be obligated after declaration of the rescission to make all efforts to keep the costs to be reimbursed by Customer as low as possible.

### 4. Order Confirmation

Supplier must confirm in writing orders and commissions of Customer with a net order value exceeding EUR 500.00 within 5 working days after receipt of the order of Customer. After expiry of this period (date of arrival at Customer shall be decisive), Customer shall be entitled to cancel its order (without any claims whatsoever being due Supplier). If an order confirmation cannot be made by Supplier within the above-mentioned 5 working days, Supplier shall notify Customer in writing and of its own accord within this period of a binding deadline for the arrival of the order confirmation at Customer. Customer shall then be entitled to accept this new deadline or to cancel the order (without any claims whatsoever being due Supplier) at its own discretion.

Should an order confirmation of Supplier deviate – even only slightly – from the order of Customer, then Supplier must indicate this clearly to Customer and obtain Customer's express written approval of the deviation. Without approval, Customer shall be entitled at any time to reject – even only partially – Products/Services that do not comply with the order (without any claims whatsoever being due Supplier).

## 5. Prices

The prices indicated in the order shall be fixed prices for Products delivered and unloaded, place of fulfilment being Austria, including all ancillary costs. The prices shall be understood not to include the respectively applicable value added tax. All costs that are incurred in the context of delivery (e.g., fees, taxes, tariffs, transport insurance, etc.) shall be borne by Supplier. Price changes of any kind and prices that are not contained in the order shall require the express confirmation of Customer. Transport costs in EU or third countries shall be indicated and agreed upon separately.

## 6. Packaging, Shipping, Disposal

Supplier shall be obligated to provide appropriate packaging that ensures proper arrival of the Products at the destination. Costs arising from damage of the Products due to inadequate packaging shall be borne by Supplier. The packaging costs shall be included in the standard prices. The provisions of the packaging ordinance [*Verpackungsverordnung*], as amended, shall be complied with.

The costs of packaging disposal and costs that arise due to non-compliance with shipping instructions shall be borne by Supplier.

Products shall be accepted only on working days, on Monday through Thursday between 7:00 a.m. and 12:00 p.m. and from 12:30 p.m. to 3 p.m., and on Fridays from 7:00 a.m. to 11:00 a.m.

## 7. Delivery, receipt, Acceptance

If blueprints, operating regulations, spare parts lists, other documentation, data processing software or instructions are necessary or customary for the use and maintenance of the Products/Services that are covered by this contract, these shall form a significant component of the order and shall be delivered to Customer not later than upon handover, respectively completion. Documents shall be provided in two copies, in German.

The Products/Services shall be considered properly delivered/rendered by Supplier and received by Customer only when Customer has had the opportunity to examine them at the place of use and has given no complaint.

Each delivery shall have delivery documents attached; these shall indicate Customer's order number, and the designated description and article number of the Products.

A circumstances require, all necessary information regarding export licence regulations shall be attached and the required data shall be supplied in itemised format for the ÖSTAT [Austrian Central Statistical Office] (Intrastat) (e.g., proof of origin, supplier declaration, preferential origin, movement certificate, product declaration number with date under which the products concerned were imported, statistical article number, net weight).

With regard to shipments from a foreign customs jurisdiction, all documents required for customs clearance shall be sent to the indicated customs agent in a timely manner before departure of the shipment, respectively shall be attached to the bill of lading, at the latest. All costs arising as a result of delayed customs clearance due to insufficient documentation shall be borne by Supplier.

Delivery/rendering of Product/Service shall be completed at no cost in Austria and at the expense and risk of Supplier, even if the delivery address and/or mode of transport was stipulated by Customer.

Except for the case of express ordering, Supplier shall not be authorised to make deliveries by means of cash on delivery parcels. Customer shall be entitled to refuse to accept cash on delivery parcels as improper fulfilment.

Dangerous goods transport shall be classified according to regulations; safety data sheets shall be enclosed.

Just as with payment, acceptance confirmation on bills of delivery shall not signify acknowledgement of correctness of the delivery. The Products thus shall be accepted only under this reservation, in any case. The Products shall be accepted only after a random inspection at the place of use has been performed.

## 8. Standards for Products/Services

Supplier shall be entitled to commission subcontractors only after obtaining prior written consent from Customer, with Customer being obligated to justify refusal, if any. Supplier shall be obligated to employ exclusively such subcontractors as offer sufficient warranty of a technically flawless and timely performance of contract.

Regardless of this, provided that Supplier calls upon subcontractors, external suppliers or third parties of any kind for performance of contract or otherwise uses the products or services of these, Supplier shall be liable to the same extent (also with regard to culpability of each subcontractor, etc.) as if Supplier had undertaken itself to manufacture, respectively render, in its entirety the respective Product/Service along with the necessary material.

Supplier shall be obligated to supervise the above-mentioned standards and shall bear the associated responsibility for its subcontractors (regarding this, see Paragraph 5). Supplier shall be liable for the legal consequences that arise due to non-compliance with these regulations by the personnel working for Supplier, and Supplier shall indemnify Customer and hold it harmless in this regard.

Supplier shall be liable for all social security contributions when utilising its employees and other sub-employees.

In particular, the following shall be adhered to:

- A. Compliance with the applicable safety-related regulations.
- B. Compliance with the applicable accident prevention regulations.
- C. Compliance with the labour law and social law regulations that apply in Austria.
- D. The associated administrative duties to inform.
- E. The responsibility for the qualification and work permit / authorisation required on the respective date for the personnel working for Supplier.

Customer shall be provided with evidence of this at no cost.

Services such as assembly, servicing, etc., always shall be performed by the sufficient number of licensed and qualified personnel. Customer shall be entitled to reject personnel that it deems seem unsuitable. Safety measures shall be the responsibility of Supplier.

Work certificates shall be subject to confirmation immediately, or daily for permanent employment, at all times. Measurements shall be taken by mutual consent with Customer, as long as the items concerned are accessible. Proper, confirmed work certificates and measurement lists shall be enclosed in the billing as a condition for payment.

## 9. Transfer of Risk

The risk for the delivery items shall be transferred upon arrival and unloading on the shop floor of Customer at Industriestrasse 3, Ober-Grafendorf, A-3200, Austria, or at another agreed delivery site in Austria; however, if assembly, first-time operation and the like or a formal acceptance are incorporated in the delivery, risk will be transferred, in each instance, upon complete implementation of these. Returns shall be made at the risk and expense of Supplier.

## 10. Transfer of Ownership

Ownership of all delivered Products shall be transferred with the hand-over of the Products to Customer. Reservations of ownership by Supplier shall be invalid.

## 11. Delivery Dates, Delayed Delivery, Contractual Penalties

Agreed delivery dates and periods shall be binding. Products/Services that are delivered/rendered before the agreed delivery date shall be considered delivered/rendered only at the moment of the agreed delivery date, and terms of payment, in particular, only begin once the originally agreed delivery date is reached or with the beginning of the delivery period. In the event of premature delivery without consent of

Customer, Customer reserves the right to charge the associated costs (warehouse rental, etc.) to Supplier.

Delivery dates shall be considered fulfilled once the necessary documentation (e.g., operating and maintenance instructions, shipment and inspection documentation) is also delivered.

If Supplier realises that the agreed dates cannot be complied with for any reason whatsoever, Supplier must inform Customer of this in writing immediately, stating the reasons and the expected duration of the delay.

In the event of delayed delivery, Customer shall be entitled either (i) to insist on performance of the contract; or (ii), upon setting a 14-day grace period, to declare rescission from the contract in the event that the contractual Product/Service is not delivered/rendered within the grace period; and (iii), in addition to (i) or (ii), to demand compensation for the loss incurred. No claims whatsoever against Customer shall arise for Supplier due to rescission by Customer.

In the event of delayed delivery, regardless of culpability of Supplier an independent of evidence of actual loss, Customer shall be entitled to charge a contractual penalty of 0.5 % of the order value per commenced week; however, a maximum of 10 % of the order value. Furthermore, Customer reserves the right to assert a damage claim beyond the contractual penalty.

Supplier acknowledges that the purchaser itself must render scheduled services and is obligated to pay a contractual penalty.

Supplier assures us of the storage of the Products for up to three months at its own risk and cost in the event that we postpone the shipping date.

## 12. Billing, Payment, Prohibition of Offsetting and Assignment

All order and shipping data (order number, description and number of Products indicated by Customer, type description, delivery date, etc.) shall be stated on each invoice, and a single copy with the value added tax being stated separately shall be sent to the issuer indicated in the order.

A separate invoice must be prepared for each order; collective invoices shall not be accepted, unless expressly agreed with Customer.

Invoices must be prepared in verifiable format, organised with items of our order, and all documents needed for invoice verification shall be enclosed. Invoices with factual or mathematical defects or errors shall not form the basis for payment being due and may be objected to by Customer within the term of payment. In this case, the term of payment first begins upon receipt of the corrected invoice. The date of payment shall have no effect on the warranty of Supplier. Payment shall not signify any acknowledgement of the correctness of the Product/Service and shall not represent a waiver of

claims arising from the warranty/guaranty or claims for damages.

Provided that delivery, respectively performance, is flawless, and provided that another agreement has not been made in writing, Customer shall pay at its discretion 30 days after acceptance of Products and receipt of invoice, less a 3 % discount for prompt payment, or 45 days net, calculated from receipt of a correct invoice. The term of payment shall be deemed adhered to if the transfer order is made within the deadline.

Discounts designated in the order shall apply to each individual partial invoice; if a partial invoice is not settled by the deadline, the discount shall be cancelled for this partial invoice without consequences for the others. The discount shall also be due in the event of repayment by means of offsetting.

During the warranty period, Customer may resort to an interest-free warranty reserve of up to 5 % of the order value (unless the order value does not exceed EUR 200,000.00). Customer shall be entitled to withhold payments due to any warranty claims or other claims against Supplier, or to offset any outstanding accounts of Supplier with such claims; in this case, the claim to discount shall remain in effect in its entirety.

Supplier shall not be entitled without written approval of Customer to assign its outstanding accounts of Customer to third parties or to have these collected by third parties. Furthermore, Supplier shall not be entitled to offset its own outstanding accounts against the outstanding accounts with Customer.

### 13. Rescission

Irrespective of the other grounds for termination standardised in the Terms and Conditions of Purchase, such as, for example, in Item 3, Customer shall be entitled to dissolve all contractual relationships with immediate effect for cause. Cause shall exist, in particular

- a) if insolvency proceedings are initiated regarding the assets of Supplier or the petition to initiate insolvency proceedings has been rejected due to lack of sufficient assets;
- b) if circumstances exist that render the proper delivery/rendering of the Product/Service impossible;
- c) if Supplier itself or a person called upon by Supplier to deliver/render the Product/Service violates significant contractual provisions or confidentiality obligations;
- d) if the proper processing of the order is compromised due to financial difficulties of Supplier;
- e) in the event of existence of agreements that offend common decency with other tenderers;

- f) in the event of culpable delay in or frustration of performance, with the right to compensation for the damage caused thereby;
- g) in the event of violation of statutory regulations, with the right to compensation for the damage caused thereby; e.g.,
  - labour and social law regulations
  - administrative duties to inform
  - employment / work permit
  - data protection.

### 14. Warranty/Guaranty

Supplier guarantees and warrants that the Product/Service conforms to the agreed intended purpose and the specifications as per the manufacturer's information. Furthermore, Supplier guarantees that Products/Services shall be free from rights of third parties and were manufactured, purchased and placed on the market without the violation of commercial and other trademark rights or provisions under competition law. Supplier shall indemnify Customer and hold it harmless with regard to claims asserted under this heading (including all costs associated with these, such as, in particular, legal costs).

The warranty period for movable assets shall amount to 3 years from acceptance of the Product/Service with the reservation that the warranty period shall amount to 5 years for corrosion protection and paint. For Products/Services that follow a warranty claim, this period shall begin to run anew. Customer shall not be subject to any obligation to examine or give notice of defects. The application of Section 377 UGB (*Unternehmensgesetzbuch*, Austrian Commercial Code) to Products/Services covered in this contract shall be excluded.

In the event of a defective Product/Service, Supplier must either amend the defect or exchange the defective Product/Service within an appropriate grace period set by Customer and at Customer's option.

Should it become apparent (e.g., in the event of a voluntary, random examination by Customer), that individual parts of the Product/Service are defective Customer shall be entitled to reject the entire Product/Service and return it to Supplier at Supplier's expense. Sorting out defective parts from flawless parts of the Product/Service shall be the responsibility of Supplier, in any case.

Should both amendment and exchange be (i) impossible, (ii) infeasible or associated with considerable inconvenience for Customer, or (iii) if the amendment or exchange was not performed or not completed, Customer shall have the option either to withdraw from the contract or demand a reduction in price. In the event of withdrawal from the contract, already delivered Products shall be returned to Supplier at Supplier's expense and risk.

In urgent cases, Customer shall be entitled to make the required amendments, respectively subsequent improvements, itself at Supplier's expense.

The warranty obligation shall also include the costs to remedy defects on site. Supplier assures a response time of four hours, or the next working day, at the latest, by itself or a company commissioned by it. Readiness to travel is guaranteed within 3 days. Apart from that, the statutory warranty provisions shall apply; their application cannot be contractually excluded to Customer's detriment.

Customer shall be due rights of recourse within the meaning of Section 933b ABGB [*Allgemeines Bürgerliches Gesetzbuch*, General Civil Code] against Supplier, even if the end customer is not a consumer, but rather an entrepreneur. However, Supplier waives objection to delayed assertion of the right of recourse according to Section 933b para. 2 ABGB.

Moreover, Supplier gives assurance and guarantees that no defects shall appear during the warranty period. In this respect, it shall be irrelevant whether the defect already existed when the item was delivered. Defects, be they due to material faults, faulty construction, defective manufacturing, etc., shall be remedied by Supplier at no cost on request. All costs and risks arising in the context of remedying defects (e.g., transport, travel, dismantling, assembly) shall be borne by Supplier. The warranty period shall begin anew for replaced parts.

## **15. Damage Compensation, Product Liability**

Supplier shall be liable within the framework of the statutory regulations for all damage caused through intent or negligence. Damage compensation of Customer shall cover all damage, including lost profits and all consequential damage, that arises for Customer, its contractual partners and/or the end customers. The liability shall be limited to an amount of EUR 4 (four) million.

Supplier guarantees that the delivered Products shall be flawless within the meaning of the provisions of the Product Liability Act [*Produkthaftungsgesetz*] (BGBl [*Bundesgesetzblatt*, Federal Law Gazette] No. 99/1988, as amended) with regard to construction, production and instructions. Supplier guarantees in particular that, according to the state of science and technology at the time the Products are put on the market, no defectiveness of the delivered Products could be detected. Supplier must inform Customer in writing of intended changes to materials, production processes, vendor parts of the Products/Services and other changes pertaining to the provision or composition of the Products/Services. Customer may not make such changes without express written consent of Supplier, which may not be refused without factual justification.

Supplier undertakes to provide Customer with all information that is useful for the delivery of a flawless product within the meaning of the Product Liability Act (e.g., operating instructions, storage instructions, licensing requirements). Should circumstances

subsequently become known to Supplier that could constitute a product defect within the meaning of this law, Supplier shall be obligated to notify Customer of this in writing immediately and to reimburse all costs for recovery of defective Products, if any.

Restrictions of any kind whatsoever to the obligations resulting for Supplier from the Product Liability Act, and restrictions of any kind whatsoever to the damage compensation claims due Customer in accordance with this law or other provision, shall be invalid.

In the event that recourse should be taken to Customer by third parties, Supplier shall be obligated to indemnify Customer and hold it harmless. Supplier shall be obligated to identify the manufacturers, respectively pre-suppliers, of the defective Product at any time upon request of Customer.

## **16. Industrial Property Rights of Third Parties**

Supplier shall be liable to ensure that no patents, trademarks, prototypes, copyrights or other trademark rights of third parties in any form whatsoever are violated by Products/Services. Supplier undertakes to indemnify Customer and hold it harmless from all claims of third parties.

## **17. Insurance**

Upon acceptance of an order, Supplier shall be obligated to provide evidence of liability insurance that corresponds to the scope and possible consequences of liability of the order. Failure to provide this evidence shall entitle Customer to withdraw from the order either entirely or in part and without setting a grace period.

## **18. Quality Assurance**

Supplier, respectively the production facility of the manufacturing plant, must ensure through an in-plant, documented control system that only Products that are flawless and comply with regulations are delivered.

The supplier must have inspections of its quality assurance system conducted upon request. Requested quality documentation, such as acceptance test certificates, etc., shall be considered an essential component of the delivery.

Customer shall be entitled, after giving prior notice, to visit the operating and production site of Supplier and to inform itself regarding the state of the work to be performed under the orders, and to accept the delivery in the plant of Supplier. Factory acceptance tests may be conducted after setting a prior deadline and at appropriate costs.

## **19. Force Majeure**

In events of force majeure, such as strikes (including political strikes), lockouts, events of war and the elements and the like, Customer shall be due the right to withdraw from the contract entirely or in part or to request the Product/Service, respectively

performance of an issued order, at a later date without this giving rise to claims of Supplier.

## **20. Designs, Documents and Non-disclosure**

All information, designs and other technical documents that are transmitted to Supplier by Customer in the context of performance of the contract shall remain our property and, as with the designs, information and other technical documents of Supplier drawn up according to Customer's special specifications, may not be used by Supplier for other purposes, duplicated or made available to third parties. These items together with all portions and duplicates shall be surrendered to Customer immediately upon request. If Products/Services are not delivered/rendered for any reason whatsoever, Supplier must send these items back to Customer immediately and unrequested; copies, if any, must be destroyed, and backups and records on electronic data carriers, if any, must be deleted. The orders and the work based on them shall be treated as trade secrets and accordingly handled with confidentiality (see Para. 3). Supplier shall be liable for all damage that arises for Customer due to violation of these obligations.

Supplier shall be obligated to non-disclosure of all technical and commercial information of Customer made known to Supplier as part of the contractual relationship. Each instance of passing on a company and trade secret shall require the prior written consent of Customer. This shall also apply to scientific publications. Supplier undertakes to secure and protect from access by third parties all documents and materials that could contain company and trade secrets of Customer.

Supplier is forbidden to exploit for Supplier's own purposes confidential technical and commercial information that Customer has shared with Supplier as part of the contractual relationship. All plans, detailed drawings and the like developed, respectively designed, based on such information shall become the property of Customer on the date of creation and shall be indicated as property of Customer.

After termination of the contractual relationship, Supplier shall be obligated to return to Customer all documents and materials that could contain business and trade secrets of Customer, to destroy copies of these, if any, and to delete any backups and records of these saved on electronic data carriers.

This Item 20 shall survive without limitation the termination or discontinuation of the contractual relationship.

## **21. Data Protection and Rights for Purposes of Advertising**

Supplier declares its express agreement that Customer is entitled in commercial practice to produce at no charge and publish for advertising purposes photographs of the sold or manufactured, respectively processed, Products, whether or not these are

assembled. This right of use shall also cover products of pre-suppliers.

The Data protection guidelines of Schubert and information according to the Global Data Protection Regulation (GDPR) and the Austrian Data-Protection Law can be found at our website: [www.schubert.tech/en/data-privacy/](http://www.schubert.tech/en/data-privacy/)

## **22. Legal Venue and Applicable Law**

The legal relationships between Customer and Supplier shall be subject to the substantive law of Austria to the exclusion of the conflict-of-law rules of the Austrian IPRG [*Internationales Privatrechtsgesetz*, International Private Law Act], the conflict-of-law rules of the EVÜ [*Europäisches Schuldvertragsübereinkommen*, Convention on the Law Applicable to Contractual Obligations] (respectively, for contracts that were concluded after 17 December 2009, to the exclusion of the Rome I Regulation, (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations) and the provisions of the UN Convention on the International Sale of Goods.

For all disputes arising in the context of contracts on Products/Services or that concern their coming into existence, violation, termination or invalidity, the court having subject-matter jurisdiction for commercial matters in Ober-Grafendorf shall have exclusive jurisdiction. However, Customer can sue Supplier at Customer's option also in the court having local jurisdiction for Customer's main office.

## **23. Severability Clause**

If a provision of these General Terms and Conditions of Purchase is void, invalid or unenforceable, this shall not affect the effectiveness, validity or enforceability of the other provisions. In such a case, the affected provision shall be replaced by a provision that most closely reflects the economic result of the affected provision and that is not void, invalid or unenforceable.

## **24. Requirement of Form, Contract Language**

Amendments of and supplements to these General Terms and Conditions of Purchase and the other contractual agreements between Customer and Supplier shall require written form in order to be valid. The same shall apply for deviations from the requirement of written form.

The contract language shall be German.