

General Terms and Conditions of Procurement of Schenker Storen AG

1. Exclusive validity

1.1. These Terms and Conditions shall apply to procurement.

1.2. Terms shall only be binding for the parties if agreed upon in writing. Until such a time, withdrawal from negotiations may occur without any financial consequences.

2. Offer

2.1. A query will request the Supplier to submit an offer free of charge. It must be based on the descriptions and goals in the offer, and in the event of any discrepancies refer expressly to this fact; the Supplier accepts a duty to provide clarifications. Unless the Supplier states a deadline in its offer, it shall remain binding for 60 days.

3. Order

3.1. A contract shall be concluded upon issue of an order confirmation. In addition, Schenker Storen AG shall only be bound upon condition that this confirmation does not depart from the order.

3.2. In the event that the order confirmation departs from the order, Schenker Storen AG shall only be bound in the event that it accepts the change in question.

4. Prices

4.1. Unless agreed otherwise, the prices agreed upon shall be all-inclusive prices. They shall include all ancillary costs, such as e.g. packaging, transport costs, etc.

5. Delivery dates and consequences of delays

5.1. Delivery shall be due on the agreed delivery date at the place of destination. Any delay shall automatically constitute a default, unless the parties have agreed to another solution following advance notification of difficulties.

5.2. If liquidated damages have been agreed upon, then those separate terms agreed shall apply. If the Supplier defaults on part of the delivery, liquidated damages shall be charged in proportion with the price for the overall supply to be effected by the Supplier, the usage of which is impaired by the default on partial delivery. The foregoing shall be without prejudice to any claims of Schenker Storen AG to damages or withdrawal in accordance with clause 8 of the General Terms and Conditions of Procurement.

5.3. The Supplier may only invoke the failure by Schenker Storen AG to provide services that are necessary upon condition that it requested them in a timely manner.

5.4. Partial delivery and early delivery shall only be permitted by agreement.

6. Assumption of risk and packaging

6.1. Risk shall transfer upon delivery at the place of destination.

6.2. The Supplier shall bear full responsibility for appropriate packaging.

7. Guarantee/warranty

7.1. The Supplier warrants as a specialist that the item supplied does not feature any defects that may impair its value or its suitability for the intended use, that it features the warranted characteristics and complies with the performance and specifications agreed upon.

7.2. Should it emerge during the guarantee period that the delivery or part thereof is not compliant with the guarantee under clause 7.1, the Supplier shall be obliged to rectify the defects or arrange for them to be rectified in situ at its own cost. In the event that comprehensive rectification cannot be expected within a time limit set by Schenker Storen AG, the Supplier shall deliver and assemble a faultfree replacement. If the Supplier is materially unable to rectify a defect immediately, Schenker Storen AG shall be entitled to rectify the defect, to arrange for it to be rectified or to procure a replacement at the cost of the Supplier. Transport cost and any travel expenses relating to guarantee work shall be borne by the Supplier.

7.3. A further 2-year guarantee period shall apply to deliveries of replacements and rectification work.

8. Withdrawal

8.1. In the event that the Supplier is late in effecting delivery or carrying out guarantee work in accordance with clause 7.2, and for transactions for which a fixed date has not been specified following expiry of a reasonable grace period, the Buyer may withdraw from the contract and refuse delivery.

8.2. In the event that it becomes certain prior to the time when delivery is due that the Supplier will be unable to honour the delivery deadline, Schenker Storen AG may likewise withdraw from the contract and refuse delivery.

8.3. Entitlement to withdraw shall also arise if it can be foreseen with certainty during the course of production that the item to be supplied will not be suitable.

8.4. The foregoing shall be without prejudice to any claims of Schenker Storen AG to damages.

9. Warranty of title

9.1. The Supplier warrants that no third-party industrial property rights (patents, registered designs, utility models, etc.) will be infringed by the supply and usage of the item supplied. Otherwise it shall hold harmless Schenker Storen AG in full. In the event that Schenker Storen AG becomes involved in litigation, the Supplier shall conduct the trial at its own cost and shall be obliged to indemnify Schenker Storen AG against all court and procedural costs.

10. Confidentiality

10.1. All information, diagrams, etc. provided by Schenker Storen AG to the Supplier for the manufacture of the item supplied may not be used for any other purposes, copied or made available to third parties. All rights over these documents shall be vested in Schenker Storen AG. Upon request, all documents shall be surrendered to Schenker Storen AG promptly along with all duplicates or copies. In the event that no supply is made, the Supplier shall deliver up the documents to the Buyer unsolicited.

10.2. The Supplier shall treat the order and the related work or supplies as a confidential matter.

10.3. Technical documentation of the Supplier or its sub-suppliers shall be treated in confidence by Schenker Storen AG. Intellectual property rights over such material shall remain with the Supplier or the sub-supplier.

11. Payment terms

11.1. 2% discount at 30 days, unless agreed otherwise.

12. Force majeure

12.1. The contractual party shall bear no liability for the failure to comply with contractual duties resulting from force majeure occurrences. «Force majeure» means any unforeseeable and objectively unavoidable circumstances arising after conclusion of the contract.

12.2. The contractual party invoking force majeure shall be obliged to inform the other party promptly of its occurrence and expected duration. If it fails to do so it will not be able to invoke force majeure.

13. Applicable law and jurisdiction

13.1. Applicable law: the individual contract, these Terms and Conditions of Procurement of Schenker Storen AG and the relevant Swiss law.

13.2. Place of performance and jurisdiction: Olten or the registered office of Schenker Storen AG.