

**General Sales and Delivery Terms and Conditions of the Companies of the  
Schürholz Group (Schürholz GmbH & Co. KG)**

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## General Sales and Delivery Terms and Conditions of the Companies of the Schürholz Group (Schürholz GmbH & Co. KG)

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### 1. Sphere of Applicability

These Sales Terms and Conditions shall be valid in dealings with companies, juridical persons under public law and special foundations under public law. Our deliveries and services shall be rendered exclusively based upon the following terms and conditions. Any Business Terms and Conditions of the Partner shall have no validity unless we have expressly recognized them.

### 2. General Provisions

The contractual partners shall promptly confirm oral agreements individually in writing. Orders shall become then become binding through our order confirmation. The data and illustrations contained in brochures and catalogues shall be considered to be merely approximate values that are customary for the industry unless we have expressly designated them to be binding.

### 3. Long-Term and Call-Off Contracts, Price Adjustment

Contracts of an indeterminate duration may be terminated subject to the provision of six months' notice. If, with regards to long-term contracts (contracts with a contractual term of more than six months and contracts of an indeterminate duration), an essential change in the labor, materials or energy costs occurs, then each contractual partner shall be entitled to demand an appropriate adjustment of the price subject to the consideration of these factors. If a binding order quantity has not been agreed, then we shall base our calculations on the non-binding order quantity (target quantity) which is expected by the Partner for a certain timeframe. If the Partner calls off less than the target quantity, we shall be entitled to appropriately increase the unit price. In the case of call-off delivery contracts, if nothing to the contrary has been agreed, we must be notified of the binding quantities at least three months before the delivery date for a call-off order. The Partner shall assume any additional costs which are incurred as the result of a belated call-off or belated changes to the call-off with regards to time or quantity upon the part of our Partner; in this regard, our calculations shall be prevailing.

### 4. Confidentiality

Each contractual partner shall use all documents (this also includes samples, models and data) and know-how, which it receives in conjunction with the business relationship, only for the jointly-pursued purposes and keep them confidential from third parties while exercising the same due care as with its corresponding own documents and know-how if the other contractual partner has designated them to be confidential or has an obvious interest in keeping them confidential. This obligation shall begin to run upon the initial receipt of the documents or know-how and shall end 36 months after the business relationship ends. The obligation shall not be valid for documents and know-how which are generally known or which, upon their receipt, were already known to the contractual partner without it being obliged to keep them confidential or which were subsequently provided by a third party entitled to make dissemination thereof or which have been developed by the receiving contractual partner without utilizing the documents or know-how from the other contractual partner which are to be kept confidential.

### 5. Sketches and Specifications

If one contractual partner provides the other contractual partner with sketches or technical documents for the goods to be delivered or their manufacture, they shall remain the property of the contractual partner who provided them.

### 6. Samples and Production Resources

Insofar as nothing to the contrary has been agreed, the manufacturing costs for samples and production resources (tools, designs, templates, etc.) shall be billed separately from the goods to be delivered. This shall also be valid for production resources which must be replaced as the result of wear-and-tear. We shall assume the costs for the maintenance and the proper storage as well as the risk of the damage to or destruction of the production resources. If the Partner suspends or ends the cooperation during the production period for the samples or production resources, it shall assume all production costs incurred up to that point in time. Even if the Partner has paid for them, the production resources shall remain our property at least until the winding-up of the Delivery Contract. Thereafter, the Partner shall be entitled to demand the surrender of the production resources if a mutual agreement has been reached regarding the time of their surrender and the Partner has fulfilled its contractual obligations in their full scope. We shall store the production resources upon a free-of-charge basis for three years after the last delivery to our Partner. Thereafter, we shall submit a written demand to our Partner to respond within six weeks regarding their continued usage in the future. Our obligation to store them shall end if no response is made or no new order is submitted within these six weeks. We may use end consumer-specific production resources for deliveries to third parties only subject to our Partner's prior written consent.

### 7. Prices

Our prices are understood to be in euro excluding the VAT, packaging, freight, postal and insurance costs.

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### 8. Payment Conditions

All invoices shall become payable net within 14 days after the invoicing date with a 2% discount or within 30 days net. If we have indisputably delivered partially-defective goods, our Partner shall nonetheless be obliged to render the payment for the flawless portion thereof unless the partial delivery is of no interest to it. Otherwise, the Partner may offset only with legally-upheld or undisputed counterclaims. In the case that the payment due date fails to be met, we shall be entitled to charge payment default interest in the amount of the rate which the bank charges us for overdrafts, but nonetheless at least in the amount of 8 percentage points above the respective base lending rate of the European Central Bank. In the case of payment default, after making written notification to the Partner, we may discontinue the fulfilment of our obligations until we receive the payments. Bills of exchange and checks shall be accepted only if this has been agreed as well as only for payment satisfaction purposes and subject to the prerequisite of their discountability. Discount charges shall be charged beginning on the date that the invoiced amount comes due. A guarantee for the prompt presentation of the bill of exchange and check and for the assertion of a protest of a bill of exchange shall be excluded. If, after the conclusion of the contract, it becomes recognizable that our payment claim has been put at risk due to the Partner's insufficient solvency, then we may refuse to render performance and set an appropriate notice period for the Partner in which it must pay or provide security concurrently against delivery. In the case that the Partner refuses to do so or such a notice period lapses fruitlessly, we shall be entitled to withdraw from the contract and demand damage compensation.

### 9. Delivery

Insofar as nothing to the contrary has been agreed, we shall deliver "ex works". Prevailing for the fulfilment of the delivery date or the delivery timeframe shall be our notification of the readiness for shipment and/or the readiness for pick-up. The delivery timeframe shall begin to run upon the sending of our order confirmation and shall be extended appropriately if the requirements in Clause 15 have been fulfilled. Partial deliveries shall be permitted in a reasonable scope. They shall be separately billed. Within a tolerance of 10 percent of the total order quantity, production-related delivery overages or delivery underages shall be permitted. The total price shall thus change based upon their scope.

### 10. Shipping and Transfer of Risk

If a notification of readiness for shipment has been made for a set of goods, the Partner must promptly take possession of them. Otherwise, we shall be entitled, as we so choose, to either ship them or store them at the Partner's expense and risk. In the absence of a special agreement, we shall select the transport method and the transport route. Upon the handover of the goods to the railed transport provider, the carrier or the shipper and/or upon the beginning of the storage, but nonetheless by no later than when the goods leave the factory or the warehouse, the risk shall be transferred to the Partner and indeed even if we have assumed responsibility for making the delivery.

### 11. Delivery Delays

If we can foresee that the goods cannot be delivered within the delivery timeframe, then we shall promptly notify the Partner in writing, inform it of the reasons for this as well as, insofar as this is possible, state the anticipated delivery time. If the delivery is delayed as the result of a circumstance specified in Clause 15 or through an action or failure to act upon the part of the Partner, then an extension of the delivery timeframe shall be granted that is appropriate for the respective circumstances. The Partner shall be entitled to withdraw from the contract only if we are responsible for the failure to fulfil the delivery timeframe and the Partner has granted us an appropriate notice period that lapses fruitlessly.

### 12. Reservation of Ownership

We reserve the ownership to the delivered goods until all payment claims from the business relationship with the Partner have been satisfied. The Partner shall be entitled to sell these goods during ordinary business dealings as long as it promptly fulfils its obligations from the business relationship with us. However, it may neither pledge the goods subject to the reservation of ownership nor assign them by way of security. It shall be obliged to safeguard our rights from the credited resale of the goods subject to the reservation of ownership. In the case of contractual violations by the Partner—particularly in the case of payment default, after the setting of an appropriate notice period for the Partner for rendering performance which lapses fruitlessly, we shall be entitled to withdraw from the contractual agreement and to take back the goods; the statutory provisions regarding the dispensability of the setting of a notice period shall remain unaffected. The Partner shall be obliged to surrender the goods. We shall be entitled to withdraw from the contractual agreement if a petition is filed to open bankruptcy proceedings for the Partner's assets. The Partner shall already now assign to us for security purposes all payment claims and rights from the sale or, where applicable, a leasing of the goods that is permitted to the Partner whereby we hold the rights of ownership to such goods. We hereby accept the assignment. The Partner shall always undertake any handling or processing of the reserved goods for us. If the reserved goods are processed or inseparably mixed with other goods not belonging to us, then we shall acquire the co-ownership to the new goods based upon the proportional invoiced value of the reserved goods to the other processed or mixed goods at the time of their processing or mixing. If our goods are combined or inseparably mixed with other movable goods to form one standard set of goods and the other goods must be regarded as being the main goods, then the Partner shall assign to us proportional co-ownership insofar as it owns the main goods. The Partner shall safeguard the ownership or co-ownership for us. For the goods created through the processing or combining and/or mixing, the same shall otherwise be valid as for the

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reserved goods. In the case that third-party debt enforcement measures are undertaken against the reserved goods, the payment claims assigned to us or any other security, the Partner must promptly notify us of this while surrendering the documents that are required for an intervention. This shall also be valid for any other types of restrictions.

If the value of the existing security exceeds the secured payment claims by a total of more than 20 percent, then we shall be obliged, upon the Partner's request, to release the security of our choice in this regard.

### 13. Material Defects

The quality features of the goods shall be based exclusively on the agreed technical delivery guidelines. If we must deliver based upon the sketches, specifications, samples, etc. provided by our Partner, the Partner shall assume the risk of the suitability for the designated usage purpose. Prevailing for the contractual condition of the goods shall be the point in time when risk is transferred in accordance with Clause 31. We shall neither be responsible for material defects, which are created through unsuitable or improper usage, flawed mounting and/or commissioning by the Partner or third parties, customary wear-and-tear, flawed or careless handling and in goods which, based upon their customary manner of usage, have been used for a building structure and have caused its defectiveness. If an acceptance of the goods or an initial sample inspection has been agreed, the notification of defects shall be excluded which the Partner would have been able to ascertain during a careful acceptance or initial sample inspection. We must be granted the opportunity to verify the defect regarding which a notification has been made. Upon request, the goods regarding which a notification of defects has been made must be promptly sent back to us; we shall assume the transport costs if the notification of defects is justified. If the Partner does not fulfil these obligations or, without our approval, makes modifications to the goods regarding which a notification of defects has already been made, it shall forfeit any claims for material defects. In the case of justified, timely notifications of defects, we shall, as we so choose, either rectify the flawed goods regarding which a notification of defects has been made or supply flawless replacement goods. If we do not fulfil these obligations or not fulfil them contractually within an appropriate timeframe, then the Partner may set a final notice period for us in writing within which we must fulfil our obligations. After the fruitless lapsing of this notice period, the Partner may demand a reduction of the price, withdraw from the contractual agreement or undertake the rectification on its own or have it undertaken by a third party at our expense and risk. A cost reimbursement shall be excluded insofar as the expenditures increase because the goods, after our delivery was made, have been moved to another location unless this corresponds to the contractual usage of the goods. Any statutory recourse claims of the Partner against us shall only then be valid if the Partner has concluded no agreements with its consumer which extend beyond the statutory claims for defects. Moreover, the last passage of Clause 48 shall be accordingly valid for the scope of the recourse claims.

### 14. Miscellaneous Claims, Liability

Insofar as nothing to the contrary is stated below, any other miscellaneous and more extensive claims of the Partner against us shall be excluded. This shall be valid particularly for damage compensation claims due to the violation of obligations from the contractual relationship and from tortious acts. Thus, we shall not be liable for damage to the delivered goods themselves. Above all, we shall not be liable for lost profits or other financial damages suffered by the Partner. The aforementioned liability restrictions shall not be valid for intentional wrongdoing, for gross negligence upon the part of our legal representatives or management personnel as well as for the culpable violation of essential contractual obligations. In the case of the culpable violation of essential contractual obligations, we shall be liable—except in the cases of intentional wrongdoing or gross negligence upon the part of our legal representatives or management personnel—only for the contractually-typical, reasonably foreseeable damages. Moreover, the liability restriction shall not be valid in the cases in which liability is prescribed for personal injury or property damage to privately-used objects in accordance with the German Product Liability Act for defects in the delivered goods. It shall also not be valid in the case of the loss of life, physical injury or damage to health and in the absence of guaranteed quality features if and insofar as the guarantee precisely had the intention of protecting the Partner against damages which are not to the delivered goods themselves. Insofar as our liability is excluded or limited, this shall also be valid for the personal liability upon the part of our salaried personnel, contractors, employees, legal representatives and vicarious agents. The statutory provisions regarding the burden of proof shall remain unaffected.

### 15. Force Majeure

Force majeure events, labor struggles, civil unrest, government measures, the failure to make deliveries upon the part of our suppliers and other unforeseeable, unavoidable and grave events shall release the contractual partners from their performance obligations for the duration of the disruption and in the scope of its applicability. This shall also be valid if these events occur at a point in time in which the affected contractual partner is in default unless it has caused the delay based upon its own intentional wrongdoing or gross negligence. Insofar as this is reasonable, the contractual partners shall be obliged to promptly provide the required information and to adapt their obligations to the changed conditions in good faith.

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### 16. Place of Performance, Legal Venue and Applicable Law

Insofar as nothing to the contrary is stated on the order confirmation, our commercial residence shall be the place of performance. For all legal disputes—including disputes regarding a bill of exchange or check process, our commercial residence shall be the legal venue. We shall also be entitled to take legal action in the legal venue which is competent for the Partner's commercial residence. Exclusively the law of the Federal Republic of Germany shall be applicable to the contractual relationship. The applicability of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 (CISG - "Vienna Sales Convention") shall be excluded.

#### Valid for:

##### **Schürholz GmbH & Co. KG Punching Technology**

Industriestraße 9  
58840 Plettenberg  
Germany

##### **Schürholz GmbH & Co. KG Sheet Metal Processing**

Albaumer Straße 35  
57399 Kirchhundem  
Germany

##### **Schürholz Polska**

Środa Śląska  
Komorniki ul. Polna 17b  
PL - 55-300 Środa Śląska  
Poland