

# terms and conditions

## General Terms of Business and Supply Schauer Agrotronic GmbH

### 1) Scope

These terms of business apply to all present and future business dealings between Schauer Agrotronic GmbH (the Seller) and the Purchaser, who may be either a consumer or an entrepreneur as currently defined in law. Differing, contrary or supplementary General Terms of Business do not become part of the contract even if the Seller is aware of them, unless the Seller agrees in writing to their applying. These General Terms apply to all contracts concluded between the Seller and the Purchaser.

### 2) Brochures, quotations etc.

Quotations and plans are free of charge unless agreed otherwise. Technical data, measurements, weights and illustrations in catalogues, price lists, blueprints and quotations are subject to alteration and the Seller can change them at any time. Plans and other project documents are the intellectual property of the Seller and may not be made accessible to third parties.

### 3) Contract

The Purchaser's contractual offer remains in force for 4 weeks. The Seller's management is not bound to accept any particular order. Verbal supplements take effect only if the Seller confirms them in writing. If the Seller's order acknowledgement deviates from the purchase order, the deviation counts as approved by the Purchaser unless a message to the contrary from the Purchaser reaches the Seller within 2 working days.

### 4) Cancellation of contract, flat-rate compensation

a) If there is reason to doubt the Purchaser's solvency, the Seller is entitled to cancel the contract.

b) The Purchaser may cancel the contract only if the Seller expressly agrees to this in writing. If the latter does so, he is entitled to a cancellation fee amounting to 30% of the contract value. The parties expressly agree that this contract shall not be challenged in any court of law. Custom fabrications and planning services shall be invoiced in full to the Purchaser.

### 5) Terms of supply, quantities supplied, delivery date

Unless expressly agreed otherwise, any delivery period indicated is not binding and should not be interpreted as assurance of a firm delivery date.

a) The delivery period starts with the dispatch of the order acknowledgement, but not before the Purchaser has provided the necessary documents, permits and releases and any down payment agreed has been received. The delivery period for custom and one-off orders starts only on receipt of the reply card signed by the Purchaser in which the correctness of the dimensions and the plans has been confirmed.

b) Changes to plans and to the order itself lengthen the delivery period. Any modifications to supplies shall be invoiced according to actual consumption.

c) Should the design, specifications etc. of a unit ordered be modified before the delivery date, the Seller is entitled to supply the unit to the specifications applying from then on.

d) A condition of supply is that the point of delivery can be reached on a road suitable for lorries. The Purchaser is responsible for prompt and proper unloading. Drivers' and fitters' waiting time and any unexpected extra expenses incurred during delivery will be charged to the Purchaser.

e) The Seller is entitled to carry out partial or advance shipments and to invoice for these.

f) Unrequired but ordered and supplied goods which are returned are to be dispatched to the Seller's place of business in their original state (free of defects) at the Purchaser's expense. Not more than one month may elapse between delivery and return. The Seller determines the value of the goods returned on the basis of their condition on return. Custom and one-off orders will not be taken back.

g) In the case of force majeure and other unforeseeable and exceptional circumstances that the Seller is not responsible for, but which hinder him in fulfilling his obligations – in particular difficulties in acquiring material, breakdowns, strikes, lockouts, transportation holdups,

intervention by the authorities or difficulties with power supply (even if the Seller's suppliers are affected by these) – the delivery period is lengthened accordingly.

h) In the case of delivery on request the Purchaser is required to take the entire quantity laid down in the contract of sale within the time it specifies. If no deadline is specified, a period of 3 months from the coming into effect of the contract applies. Once the time specified expires, the Seller is entitled to invoice for all goods covered by the contract of sale that have not yet been invoiced for and – at his choice – either to dispatch the outstanding goods or to charge the Purchaser reasonable storage costs.

6) Shipping and packing costs, transfer of risk Unless agreed otherwise in writing, shipping is invariably at the Purchaser's risk and expense. Even if delivery is free Purchaser's site, risk is transferred to the Purchaser when the goods are handed over to a forwarding agent or carrier, at the latest when they leave the Seller's works. When the goods arrive on site, the Purchaser must immediately check that the quantities are correct. In the case of damage to the goods en route, the Purchaser is to proceed in line with the forwarding agent's instructions and recommendations on the back of the dispatch note.

7) Site work, compliance with regulations

a) The Purchaser is to obtain all necessary official permits at his own cost and to ensure that all statutory regulations (particularly those applying to fire and accident prevention, building regulations, regulations governing health and safety at work, animal protection regulations, etc.) are complied with. Any building work required must be entrusted to an authorized construction supervisor. It is emphasized that such work must be done to plan and must in particular comply with the plans provided by the Seller. Drawbacks resulting from preparatory work of any kind being done incorrectly and/or late are the responsibility of the Purchaser ; the Seller is not liable for these in any way.

b) The Seller supplies exclusively incomplete machines in the sense of the Machinery Directive. The commissioning of the machines in which these incomplete machines are installed, is not permitted until it has been confirmed at the Purchaser's request and expense that these machines comply with the terms and conditions of the Machinery Directive.

c) If acceptance, installation or start-up are delayed through no fault of the Seller's, the Purchaser bears all resulting costs for waiting periods, travel and other outlays of the Seller's personnel.

d) Assistants with the appropriate skills for the site work involved, and accessories such as lifting tackle and transport facilities, plus gas, water and electricity are to be made available to the Seller's personnel on site.

e) Dry, lockable rooms are to be provided for storing the equipment supplied, material and tools. The purchaser bears the risk of items that are mislaid or damaged on site.

f) The purchaser is to confirm the time worked by the Seller's personnel on site and the material used, by signing the site work certificate presented to him. If the Purchaser's signature is missing, the entries made by the Seller's personnel on site form the basis for invoicing.

g) As a general rule site work is done in unoccupied units ; at the Purchaser's request and risk it can be done in occupied units. The Purchaser is to bear all additional costs arising as a result.

8) Due date of purchase price

The purchase price is due for payment four weeks after delivery at the latest – irrespective of any required acceptance or the presentation of official permits.

9) Prices, payment, arrears, offsetting

a) Unless otherwise agreed, the Seller's prices are net cash ex works, excluding packing, insurance, freight (customs duty and similar dues), site work and value-added tax.

b) Price increases after the expiry of a price guarantee are to be borne by the Purchaser.

c) The Seller is entitled to demand payment in advance for production and supply.

d) The Seller is entitled to invoice in instalments, and to hold back services if part payment is not made in due order. Payment made subsequently will be taken into account when the final settlement is made.

e) If the Purchaser is in arrears with payment the Seller is entitled to claim immediate payment of the purchase price. Any discounts or bonuses agreed no longer apply.

f) The Purchaser is entitled to offset claims of his against the Seller's purchase price claims only in the case of claims that are undisputed or have been established as legally valid.

#### 10) Restriction of liability

- a) The Seller is liable exclusively for any loss concerning injury to life, body or health arising from negligent breach of obligation by the Seller or wilful or negligent breach of obligation of a legal representative or assistant and for other loss arising from grossly negligent breach of obligation by the Seller or a legal representative or assistant and for breaches of significant cardinal (material) obligations.
- b) Losses from production stoppage, loss of earnings and loss of turnover shall not be reimbursed.
- c) Any indemnification is limited to the sum which the Seller can obtain insurance cover for.
- d) Claims to indemnification by the Purchaser lapse one year.

#### 11) Special Purchaser obligations

- a) The Purchaser agrees to comply exactly with the instruction manual plus safety regulations issued to him.
- b) The Purchaser agrees not to make available or pass on goods manufactured exclusively for entrepreneurial use to untrained personnel.
- c) If goods are sold or passed on the Purchaser undertakes to agree the same limits to liability as described above in section 10) with his customer or business partner.

#### 12) Reservation of ownership

- a) The goods remain the Seller's property until the purchase price has been paid in full.
- b) Any processing by the Purchaser of the goods that are subject to the reservation of title takes place on behalf of the Seller without obligation to him in the sense that he counts as the producer, i.e. retains property rights in the products throughout the processing. If the Purchaser processes the goods together with others not the property of the Seller, the Seller is entitled to joint property rights in the resulting goods in proportion to the ratio, at the time of processing, of the invoiced value of the goods the property rights to which are reserved to that of the other goods processed. If the Purchaser acquires the sole ownership of the new item, the parties to the contract agree that the Purchaser grants co-ownership of the new item to the Seller to the ratio of the value of the processed goods that are subject to the reservation of title at no charge.
- c) The Purchaser is entitled to resell goods the property rights to which are reserved (on the basis of a purchase agreement, service contract or the like) only if the claim resulting from such resale passes to the Seller. The Purchaser is not entitled to dispose in any other way of goods the property rights to which are reserved. At the Seller's request the Purchaser is required to inform his customer that he has assigned his right of payment to the Seller regardless if they have been processed or not and if they have been sold on to one or more clients. The Purchaser is required at the request of the Seller to notify the third-party client of the transfer for payment to the Seller. If the value of the sureties on hand for the Seller exceeds the Seller's claim by more than 20% the Seller is required (at the request of the Purchaser or a third party affected by the Purchaser's excessive burden of sureties) to release sureties to this extent ; the choice of sureties is left to the Seller. If third parties lay hands on goods the property rights to which are reserved, the Purchaser must inform the Seller of this immediately. If the Purchaser breaches the contract, the Seller is entitled to repossess at the Purchaser's expense the goods the property rights to which are reserved. Neither repossessing nor impounding goods the property rights to which are reserved constitutes a cancellation of the contract by the Seller.

#### 13) Warranty

- a) Immediately after transfer of risk the goods must be inspected with all due care to establish any nonconformities. The Seller is to be notified about any nonconformity immediately and in writing; if this is not done no claims whatever can be considered. If it is not possible to inspect the goods immediately when they are received, this circumstance must be recorded on the acknowledgement of receipt or freight note. In this case the inspection is to be carried out at the earliest possible opportunity, likewise any notification of nonconformity.
- b) Steps taken by the Seller to minimize damage do not constitute an admission of defects. By entering in negotiations about a complaint, the Seller does not waive a possible objection that the complaint was not made by the Purchaser within the allotted time, was not objectively justified or was unsatisfactory in some other way.
- c) No warranty applies in the case of damage from causes located in the Purchaser's sphere,

such as : improper use, faulty installation or start-up, natural wear and tear, faulty or negligent treatment, non-compliance with instructions, unsuitable utilities or spare parts, faulty construction work, unsuitable site, chemical, electrochemical or electrical influences, use of unsuitable feed and conveyors.

d) Wear parts (providing the wear occurs during the expected course of use) are excluded from the warranty and the warranty likewise does not cover any minor structural deviations of zinc-coated and painted parts, scratches and deformation which have no impact on the function or service life of the product.

e) The Seller is liable neither for defects in the materials employed that could not be detected with the methods available at the time when the Seller put the product in circulation, nor for consequential damage due to defects. The Purchaser accepts that the current state of the art does not enable the production of products and systems for agricultural, industrial and commercial use so that they work flawlessly in all applications and combinations. This likewise applies expressly to any software which is supplied. The Seller accordingly warrants only that the products supplied are basically usable as indicated in the instructions. The warranty of the functions designed and confirmed does not apply until the system is in full operation. The Seller is under no obligation to provide services not explicitly mentioned in the Seller's order acknowledgement.

f) If the Seller fabricates goods to the Purchaser's design data, drawings, models or other specifications, the Seller's liability is limited to accurate implementation and does not cover function or other requirements.

g) No warranty applies where used goods are sold or orders for repair work are accepted.

h) The Purchaser is not entitled to remedy any defect himself and claim compensation for his expenses.

i) Where work is done on site under warranty the Seller invoices for travel costs and other material expenses.

j) The Seller's warranty obligations lapse if the Purchaser fails to fulfil his obligations, including his duty to settle invoices punctually.

k) Claims raised by the Purchaser in connection with material defects lapse after one year.

l) The lapse of claims in connection with material defects which are then rectified at a later date shall be suspended only in respect of those items involved in the later remedial action.

#### 14) Final provisions

a) The law of the Republic of Austria applies. The regulations of the United Nations law of purchase do not apply.

b) The Seller's place of business is the exclusive forum of jurisdiction for all legal disputes arising out of the contract.

c) Should individual clauses of the contract, including these terms of business, be or become partially or completely ineffective, this has no effect on the remaining clauses. The partially or completely ineffective clause should be replaced by a clause which has economic consequences as close as possible to those of the ineffective clause.