

GENERAL TERMS AND CONDITIONS of Schelle GmbH Welding and Fastening Technology (hereinafter referred to as Schelle GmbH)

§ 1 Scope

(1) These general terms and conditions apply to all contracts for the delivery of goods concluded between the buyer / purchaser and Schelle GmbH. In this respect, only the terms and conditions of Schelle GmbH shall apply. Deviating terms and conditions of our contractual partners shall not become part of the contract even if they are accepted. Supplementary agreements and deviations generally require written form, with telefax agreements also being considered as written form. (2) The goods of Schelle GmbH are exclusively intended for use by entrepreneurs. These general terms and conditions apply only to entrepreneurs.

§ 2 Offer and Conclusion of Contract

(1) The offers of Schelle GmbH are subject to change unless Schelle GmbH expressly designates them as binding. Documents, brochures, drawings, dimensions, load values, weight specifications and samples are non-binding as long as they are not expressly made part of the contract.

(2) All agreements and arrangements are binding only with the written confirmation of the contract by Schelle GmbH or with the conclusion of a written contract. (3) Schelle GmbH reserves all ownership, copyright and other protective rights to all drawings, illustrations, calculations and other documents. The buyer / purchaser may only pass these on to third parties with the written consent of Schelle GmbH, regardless of whether the documents are marked as confidential.

§ 3 Prices and Payment Conditions

(1) The prices of Schelle GmbH are, unless otherwise agreed in writing, ex works, excluding packaging, insurance, and any surcharges for raw material prices on the day of delivery. Prices are subject to the applicable value-added tax on the day of delivery. The list price of Schelle GmbH on the day of delivery applies. The buyer/contractor confirms the accuracy of their VAT identification number.

(2) Payment of invoices is due immediately, unless otherwise agreed in writing. (3) If the buyer/contractor is in default with a payment, the statutory provisions generally apply. In any case, the buyer/contractor must compensate Schelle GmbH for the resulting reminder costs and any other damages resulting from the payment delay. Default interest of 8% above the current base rate is agreed upon. After repeated reminders and written notice, Schelle GmbH may also exercise a right of retention with regard to all services not yet provided until all overdue payments are settled.

(4) The buyer/contractor is only entitled to offsetting, even if complaints or counterclaims are asserted, if the counterclaims have been legally established, recognized by Schelle GmbH, or are undisputed.

(5) The minimum order value is € 100.00 plus the applicable value-added tax. For orders below the minimum order value, proportional processing costs of € 50.00 will be charged in addition to packaging and shipping costs.

§ 4 Shipment, Packaging, and Transfer of Risk

(1) Loading and shipment are carried out at the buyer's/contractor's risk and expense, without any responsibility of Schelle GmbH for the cheapest mode of shipment. The transfer of risk occurs upon delivery of the goods to the carrier, freight forwarder, or at the beginning of loading for self-collection. If the delivery to the buyer/contractor is delayed due to reasons for which they are responsible, the transfer of risk occurs upon notification of readiness for shipment to the buyer/contractor.

(2) Shipment is made in disposable packaging, which will not be taken back. The buyer/contractor is responsible for the disposal of the packaging at their own expense.

(3) In the case of orders for different quantities, the next larger packaging unit will be delivered and charged for.

§ 5 Delivery conditions and special contract models

(1) The calculation of the delivery time begins with the receipt of the order confirmation by Schelle GmbH, but not before the final agreement on all technical and commercial details. Information on delivery times is non-binding unless expressly agreed in writing as binding.

(2) Compliance with the delivery deadline is subject to proper and timely self-supply. (3) In the event of a delay in delivery, liability for damages due to slight negligence is limited to the typical, foreseeable damage. Further claims for damages only exist if the delay is based on intent or gross negligence. A withdrawal from the purchase contract by the buyer/orderer is only possible after setting an appropriate deadline for performance.

(4) Schelle GmbH reserves the right to make partial deliveries. These are due for payment separately after calculation has been carried out. (5) Framework and call orders have a term of twelve months from receipt of the order confirmation and oblige to purchase the total quantity, unless otherwise agreed. If the quantity is not taken over by the end of the twelfth month, Schelle GmbH is entitled to deliver and charge for the remaining quantity four weeks after written notification.

§ 6 Drawing parts and special designs

(1) For articles produced according to samples or drawings that require special production, production-related short/over deliveries of up to 10% must be accepted as contract-compliant delivery. An exception applies if there is an explicit reference in the order and written confirmation.

(2) In the case of production based on customer drawings, samples, and other instructions of the customer, Schelle GmbH assumes no warranty or liability for the functional capability of the product and other defects resulting from customer instructions, unless Schelle GmbH is guilty of gross negligence or willful misconduct.

(3) The buyer/orderer warrants that the production and delivery of the goods produced according to their wishes do not infringe any third-party rights and assumes liability to the extent possible in the external relationship, but in any case, releases Schelle GmbH from the corresponding liability.

(4) The buyer/orderer releases Schelle GmbH from any claims of third parties arising from product liability and damages caused by the goods, unless the damage is solely due to the nature of the goods and was caused by Schelle GmbH with intent or gross negligence.

§ 7 Complaints, warranty, damages, liability, and limitation period

(1) Any warranty, damages, and liability by Schelle GmbH are excluded if only slight deviations in dimensions and execution are present in the ordered goods within technical and commercial tolerances.

(2) The buyer's claims for defects exist only if the buyer/orderer has properly fulfilled their inspection and complaint obligations owed under § 377 of the German Commercial Code (HGB). In addition, it applies: obvious defects relating to the scope and quality of the delivery and services must be claimed directly from Schelle GmbH in writing immediately, but no later than eight days after receipt of the goods. The return of contested goods is only to be made with our prior written consent.

(3) In case of a defect and timely notice of defects, Schelle GmbH will, at its option, remedy the defect (subsequent performance) or make a replacement delivery, provided that the buyer / purchaser proves that the defect was present at the time of the transfer of risk. If subsequent performance has been carried out twice or a replacement delivery has been made once and the defect could not be remedied within a reasonable period for subsequent performance, the buyer / purchaser may assert the legally provided remedies of withdrawal, reduction or self-performance. Schelle GmbH is not obliged to provide subsequent performance if this can only be done at disproportionately high costs.

(4) Excluded from the warranty are defects caused by faulty operation, natural wear and tear, wear, insufficient maintenance, electrical influences, interventions or changes or use, mixing and processing of parts from other manufacturers without precise prior information and consent of Schelle GmbH, provided that the defect occurred in the course of mixing or use or is due to incompatibility. In any case, process warranties are excluded if process-relevant parts / assemblies of a system and the welding elements (sleeves/pins), the quality and characteristics of which Schelle GmbH has no influence on, do not come from Schelle GmbH.

(5) For damages that do not arise on the delivered item itself, Schelle GmbH shall only be liable, for whatever legal reason, subject to the following conditions: In cases of intent or gross negligence, also within the framework of an organizational fault or fault of the management personnel; In cases of injury to life, body, health caused by culpable action, also within the framework of an organizational fault or fault of the management personnel; In cases of defects that have been fraudulently concealed; In cases of defects in the goods to the extent that liability extends under the Product Liability Act.

(6) However, the liability for damages is limited to the foreseeable, typically occurring damage, insofar as Schelle GmbH, its legal representatives or vicarious agents have not acted with intent.

(7) Any further liability on the part of Schelle GmbH is excluded.

(8) Warranty claims expire twelve months after the transfer of risk to the buyer / purchaser. The statutory limitation periods shall otherwise apply.

§ 9 Confidentiality and Intellectual Property Rights

(1) The buyer / client, as well as Schelle GmbH, undertake to treat all operational and business secrets, in particular documents, findings and information of any kind of the respective other party, which become known in the course of the initiation and execution of the contract, strictly confidential and to maintain confidentiality towards third parties, especially competitors.

(2) Intellectual property, in particular protective rights or inventions that arise in the course of contract initiation or cooperation between Schelle GmbH and the buyer / client, especially if the basic idea of the protective rights or invention originates from Schelle GmbH, will be registered and used by Schelle GmbH. If it is not clearly determined whose idea the protective rights come from, both parties agree that the protective rights can be used by both parties.

§ 10 Final Provisions

(1) The place of performance and jurisdiction for deliveries and payments as well as all disputes arising between Schelle GmbH and the buyer / client from contracts concluded between Schelle GmbH and him/her are the headquarters of Schelle GmbH. However, Schelle GmbH is entitled to sue the buyer / client also at his/her place of business.

(2) The relations between the contracting parties are governed exclusively by the law applicable in the Federal Republic of Germany. The application of the UN Convention on Contracts for the International Sale of Goods is excluded. (3) Should individual provisions of the terms and conditions prove to be invalid, this shall not affect the validity of the remaining provisions.