

General terms and conditions

Status 05/01/2019; new/changed

1. Scope

1.1 All deliveries, services and offers of schambeck holding GmbH, schambeck automotive GmbH, Schambeck bohemia s.r.o. and/or Schambeck Slovakia s.r.o. (in the following “schambeck group”) are made exclusively on the basis of these general business and financial terms of payment. These are part of all contracts, which the Schambeck group its contractual partners (hereinafter also referred to as “customer” about closes the deliveries or services offered by it. They shall also apply to all future deliveries, services or offers to the client, even if they are not again be agreed separately. At the latest upon receipt of the services by the customers, these terms and conditions are considered accepted.

1.2 Terms and conditions of the client or third parties are generally not applicable, even if the schambeck group does not separately object to their validity in individual cases. Even if the Schambeck group refers to a letter, which contains the terms and conditions of the client or a third party or refers to such, this does not imply any agreement with the validity of those terms and conditions.

1.3 In individual cases, deviating general terms and conditions of the customer shall only become part of the contract if they are not in conflict with the present ones and are expressly designated by the schambeck group as have been validly confirmed instead of these GTC.

1.4 The schambeck group carries out the tasks assigned to it as a contractor.

1.5 As far as the activities to be carried out by schambeck group are the testing, sorting and/or reworking of decorative surfaces of add-on and functional parts in VDA Volume 16 applies extensively to the interior and exterior of automobiles. In the case of a visual inspection of parts other than those described in sentence 1, VDA Volume 16 analog application. Deviations from this must be agreed separately in the form.

1.6 If there are developments which are not in the sphere of responsibility of schambeck group and which have not been caused by schambeck group, schambeck group is entitled to change the present conditions. Such developments are among other things a change in the law, a change in the jurisdiction or a change in the market situation, as far as they affect the balance of the contractual parties. The change is only permissible if essential contractual obligations remain unaffected.

1.7 Amendments are also possible if the execution of the contract threatens to fail because gaps exist or arise in this contract.

2. Conclusion of the contract

2.1 The contractual relationship for work and services is concluded with the delivery of the order placement in the form of the order placement form provided by schambeck group and

the confirmation by schambeck group. The order placement form is to be signed by an authorised person and send it to the schambeck group by post, by fax or as a scanned document in electronic form (e-mail).

2.2 If an order is placed by telephone, the client is obliged to submit this order immediately according to point 2.1.

2.3 If the ordering party on the telephone specifies a different third party as invoice recipient, the ordering party on the telephone shall be deemed to be the invoice recipient until the different third party has placed the order in writing.

2.4. The order is placed if the customer has delivered his goods to schambeck group for reworking or makes his goods available for reworking or has third parties make his goods available for reworking.

2.5 The order is concluded at the latest when the ordered goods have been delivered or the agreed service has been provided by schambeck group.

3. Subject matter of the contract

3.1. The individual delivery or service details (such as duration, remuneration, quantity) are determined on the basis of individual contracts between schambeck group and the client.

3.1.1 Agreements that are subsequently concluded verbally must be set down in writing to be effective and will be added in writing to the contract concluded between the parties.

3.1.2 When placing an order, information on the number of employees of schambeck group to be used for the order cannot be taken into account in individual cases.

3.2 If the subject of the contractual relationship is consulting or similar services, these must also be laid down in individual contractual provisions. Number 2. shall apply accordingly. The consulting services shall be deemed to have been rendered when the agreed need for improvement has been worked out or evaluated by means of tests, evaluations, surveys and the like.

4. Terms of delivery and service

4.1 Schambeck group commits itself to execute the contractual services or deliveries negotiated between the contracting parties according to the agreements in the individual contracts in due time.

4.2. If a shipment has been agreed upon, the delivery periods and delivery dates refer to the time of handing over to the forwarding agent, carrier or other third parties charged with the transport.

4.3 Schambeck group can - without prejudice to its rights from default of the contractual partner - demand an extension of delivery and service periods or a postponement of delivery and service dates from the customer for the period of time in which the customer fulfils his obligations towards schambeck group.

4.4 Schambeck group is not liable for impossibility of delivery or for delays in delivery as far as these are caused by force majeure or other events that were not foreseeable at the time of the conclusion of the contract (for example operational disturbances of all kinds, difficulties in the procurement of material or energy, transport delays, strikes, legal lockouts, difficulties in obtaining the necessary official permits, official measures or the missing, incorrect or untimely delivery by the supplier) have been caused for which schambeck group is not responsible. If such events make the delivery or service considerably more difficult or impossible for schambeck group and the hindrance is not only of temporary duration, schambeck group is entitled to withdraw from the contract. In case of obstacles of temporary duration the delivery or service deadlines are extended or the delivery or service dates are postponed by the period of the obstruction plus an appropriate start-up period. As far as the acceptance of the delivery or service is not reasonable for the customer due to the delay he is entitled to withdraw from the contract by immediate written declaration to schambeck group. Costs incurred by schambeck group up to this point are to be reimbursed.

4.5 Schambeck group is only entitled to make partial deliveries if the partial delivery can be used by the client within the framework of the contractual purpose, the delivery of the remaining ordered goods is ensured and the client does not incur any considerable additional work or additional costs (unless schambeck group declares itself willing to bear these costs).

4.6 If schambeck group is in default with a delivery or service or if a delivery or service becomes impossible for schambeck group for whatever reason, the liability of schambeck group is limited to compensation for damages according to number 9 of these general terms of delivery.

5. Place of performance, dispatch, packaging, transfer of risk, acceptance

5.1 Place of performance for all deliveries from the contractual relationship is the headquarters of the schambeck group in Gewerbepark Siebenkofen 4, 94363 Oberschneiding, Germany, unless otherwise specified. If the use is carried out at the customer's premises, the place of use shall be the place of performance.

5.2. mode of dispatch and packaging are subject to the dutiful discretion of schambeck group unless otherwise agreed.

5.3 the risk is transferred to the customer at the latest with the handing over of the delivery item (whereby the beginning of the loading process is decisive) to the forwarding agent, carrier or other third parties determined to carry out the dispatch. This also applies if partial deliveries are made or if schambeck group has taken over other services (e.g. dispatch or installation). If the dispatch or the handover is delayed due to a circumstance, the cause of which lies with the customer, the risk is transferred to the customer from the day on which the delivery item is ready for dispatch and schambeck group has notified the customer of this.

5.4 Storage costs after transfer of risk shall be borne by the customer. If no other agreements have been made, the storage costs for storage on the premises of schambeck group amount to 0.25 % of the invoice amount of the delivery items to be stored per elapsed week. We reserve the right to assert and prove further or lower storage costs.

5.5 If the material risk is on the side of the customer, the shipment will only be insured by schambeck group against theft, breakage, transport, fire and water damage or other insurable risks at the express request of the customer and at his expense.

6. Obligations to cooperate

6.1 It is clarified that the schambeck group depends on the cooperation of its customers to fulfil the contractual services. The customer has to ensure that all documents necessary for the fulfilment of the contract are made available in time, completely and in an up-to-date version. As far as it is necessary for the fulfilment of the contract he also guarantees the access to his premises and systems.

6.2 Unless otherwise agreed, the Customer's obligations to cooperate shall be free of charge.

6.3 If the services are rendered on the premises of schambeck group, the latter has to ensure that the general conditions "(in particular illuminance, light color, ESD equipment, size of the working area and disturbing noises)" necessary for the proper rendering of services are observed. If the services are provided on the customer's premises, the customer shall ensure that the aforementioned framework conditions are met and make them available free of charge.

6.4 Basically, the schambeck group uses test aids for the provision of services which are not subject to calibration. If the customer demands the use of calibrated measuring equipment these are to be provided free of charge by the customer to schambeck group with priority. If calibrated measuring equipment is provided by schambeck group the customer shall bear the costs of acquisition and calibration by an externally accredited body.

7. Remuneration, invoices, mode of payment, default of payment

7.1 Schambeck group charges the customer the remuneration according to the individual contractual agreement, whereby the customer receives a calculation in the absence of any other agreement, in which the material consumption and the use of tools as well as travel costs are described in a separate list and integrated in the calculation. The scope of remuneration starts with the departure from the headquarters of the schambeck group and ends with the time of return. Travel and break times are to be compensated in full.

7.2 Unless otherwise agreed between the parties, the total invoice for the services provided by schambeck group to its customers within the framework of an individual order is made weekly, at the end of the month or after complete provision of the services concerning the individual order.

7.3 Schambeck group is also entitled to issue interim invoices in case of corresponding proofs.

7.4 All invoices must be accompanied by receipts and proof of costs and expenses incurred, in particular costs and expenses passed on to third parties, and must be presented to the customer on request.

7.5 Unless otherwise agreed, invoicing and payment shall be made in the respective national currency of the schambeck group. All amounts stated are exclusive of value added tax at the statutory rate, which must be shown separately on the invoices. If no other agreements have been made, the invoices of schambeck group have to be paid within 14 days after receipt of a proper and verifiable invoice without any deduction to an account of schambeck group.

8. Liability for material defects

8.1 The warranty period shall be one year from handover or acceptance of the object of performance or contract. The statutory periods of limitation shall apply to claims for damages by the client arising from injury to life, body or health. This also applies to intentional or grossly negligent breaches of duty by schambeck group or its vicarious agents.

8.2 The acceptance of the service by the client has to be made in writing immediately after the service has been rendered. schambeck group does not assume any liability for defects after the service has been rendered, e.g. due to delayed acceptance by the client or subsequent manipulation of any kind by third parties.

8.3 The delivered or inspected items must be carefully examined immediately after delivery to the customer or to the third party designated by the customer. With regard to obvious or other defects that would have been recognisable in a careful examination they are considered to be approved by the client if schambeck group does not receive a written notice of defects within three days after delivery. With regard to other defects the items are considered to be approved by the customer if schambeck group does not receive the notice of defects within three days after the point in time at which the defect became apparent; if the defect was already recognisable to the customer at an earlier point in time during normal use, however, this earlier point in time is decisive for the start of the period for making a complaint. Upon request of schambeck group a delivery item which is the subject of a complaint must be returned to schambeck group carriage paid. In case of a justified notice of defect schambeck group will reimburse the costs of the most favourable dispatch route. This does not apply if the costs increase because the delivery item is located at a place other than the place of intended use.

8.4 In case of material defects of the delivered goods schambeck group is obliged and entitled to choose between repair or subsequent delivery within a reasonable period of time. In case of impossibility, unreasonableness, refusal or unreasonable delay of the rectification or replacement delivery, the customer can withdraw from the contract or reduce the purchase price appropriately. If the client withdraws from the contract, he is not entitled to any additional compensation for damages due to the defect.

8.5. In case of occurring defects of parts of other manufacturers, which schambeck group cannot eliminate for legal or factual reasons, schambeck group will, at its choice, either assert its warranty claims against the manufacturers and suppliers for the account of the client or assign them to the client. Warranty claims against schambeck group for defects of this kind exist under the other conditions and in accordance with these general terms and conditions only if the legal enforcement of the above mentioned claims against the manufacturer and supplier was unsuccessful or is hopeless. For the duration of the legal dispute the limitation of the relevant warranty claims of the customer against the schambeck group is inhibited.

8.6 The warranty does not apply if the customer changes the delivery item or has it changed by third parties without the consent of schambeck group and the removal of the defect is impossible or unreasonably difficult. In any case the customer has to bear the additional costs of the removal of defects resulting from the change.

8.7 In the case of defective services provided by schambeck group it is first obliged and entitled to rectify the defect within a reasonable period of time. This only applies if the rectification of defects is not impossible for legal or factual reasons.

8.8 Only the customer of schambeck group is entitled to warranty claims and these are not transferable.

8.9 Visual inspections are considered to be deficient if they exceed the error slip rates described in the relevant technical regulations (AIAG manual, VDA 16).

9. Liability

9.1 Schambeck group's liability for damages, no matter for which legal reason (e.g. impossibility, delay, defective or wrong delivery, breach of contract, breach of duty during contract negotiations and unauthorised action) is limited by the following provisions.

9.2 The schambeck group is exclusively liable for errors which were demonstrably announced to it in advance and which it was demonstrably informed about in the form of an error catalog.

9.3. Schambeck group is not liable in the case of simple negligence of its organs, legal representatives, employees or other vicarious agents as far as it does not concern the violation of essential contractual obligations. The contractual essence results from the respective individual orders and includes the compliance with the agreed deadlines, freedom from legal and material defects as well as protection and care obligations.

9.4 If schambeck group provides services, it is not liable for an economic or other success that has been considered by the client, for example a consulting success.

9.5 Schambeck group is liable without limitation for intent.

9.6 The liability for material and financial damages caused by gross negligence and slight negligence is limited to the monthly turnover of the individual order value in the current month.

9.7 Liability for indirect and unforeseeable damages, damages resulting from an interruption of operations, loss of production and use, loss of profit, loss of savings, financial losses due to third party claims is excluded in the case of simple and gross negligence - except in the case of injury to life, body or health.

9.8 Any further liability other than in this contract is excluded, regardless of the legal nature of the asserted claim. However, the above limitations or exclusions of liability shall not apply to any strict liability prescribed by law or to liability under a strict guarantee.

9.9 Schambeck group is not liable if the customer changes the delivery item, leaves it to third parties for change or manipulates it after acceptance of the service. In this respect the customer indemnifies schambeck group from all claims.

10. Final provisions

10.1 Should any provision of these GTC be invalid in whole or in part, the validity of the remaining provisions shall not be affected; in this case, the invalid provision shall be replaced by the statutory provision.

10.2 German law shall apply exclusively. The application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) as well as the applicable conflict of laws provisions is excluded. Place of jurisdiction is Straubing in Germany.

10.3 Neither party is entitled to assign its rights and obligations under this agreement to third parties without the consent of the other party.