

PURCHASING TERMS AND CONDITIONS

Status as of: 1st November 2019

§ 1 Applicability of the Terms and Conditions

These Purchasing Terms and Conditions shall apply to:

Swoboda Wiggensbach KG, Max-Swoboda-Str. 1, D-87487 Wiggensbach

Swoboda Schorndorf KG, Vogtswiesen 69, D-73614 Schorndorf

Swoboda Embedded Engineering GmbH, Hintern Dorf 29, 76199 Karlsruhe

Swoboda Embedded Solutions GmbH, Hintern Dorf 29, 76199 Karlsruhe

Swoboda Inc., 4108 52nd St.SE, USA-49512 - Grand Rapids - MI

Swoboda CZ, s.r.o., Hruskové Dvory 60, CZ-58601 Jihlava

Swoboda-Stamping, s.r.o., Hruskové Dvory 130, CZ-58601 Jihlava

Swoboda (Kunshan) Co., Ltd, No. 409, San Xiang Road., Kunshan Economic & Technical Development Zone (KETD), Jiangsu Province P.R.China, CN-215300 Kunshan

Swoboda Timisoara S.R.L., Str. Aeroport 46, 307201 Sat Giarmata Vii – Romania

Swoboda Sibiu S.R.L., Str. Selimbarului Nr. 111; 555300 Cisnădie; Romania

Swoboda Mechatronics S.A. de C.V., Calle Raramuris, Parque Industrial Nuevo San Juan, MX- 76800 San Juan del Rio, Queretaro

Upon initial order placement, these Purchasing Terms and Conditions shall also apply to all future orders.

§ 2 Order and order confirmation

- (1) Orders shall become binding if the Supplier does not object in writing within three business days from date of receipt. If the Supplier does not accept the order within two weeks from the date of receipt, then the Customer shall be entitled to withdraw.
- (2) Deviations from, changes to, or additions to the order by the order confirmation shall become part of the contract only if the Customer confirms them in writing. In particular, the Customer shall be bound by the General Terms and Conditions (GT&C) of the Supplier only to the extent they match the Customer's [own] GT&C or if the Customer has agreed to them in writing. Acceptance of deliveries or services and payments do not constitute agreement.

§ 3 Delivery period, contractual penalty in case of impaired performances

- (1) For the determination of the timeliness of deliveries or rectifications, the determinant is the date of receipt at the receiving site specified by the Customer, for the timeliness of deliveries that include set-up or assembly and services this shall be their date of acceptance.
- (2) Subject to proof to the contrary, the values determined by us at the incoming goods inspection shall be decisive for quantities, weights and dimensions.
- (3) The Customer must be informed immediately in the event of recognizable delays of a delivery or service and/or rectification and be asked for its decision.
- (4) If the Supplier is in default, then the Customer shall be entitled to charge a contractual penalty in the amount of 0.3% per each workday started, however, no more than 5% of the net order total of the respective delivery date.
- (5) In the event that the appropriate reservation of rights is not made at the time of acceptance of delivery, services or rectification, this penalty may be claimed up until the date of final payment, nevertheless.

§ 4 Force Majeure

Force majeure, labor disputes, non-culpable disruption of operations, unrest, official measures and other unavoidable events shall entitle us to withdraw from the agreement in whole or in part.

§ 5 Transfer of risk, shipping, place of performance

- (1) For deliveries that include set-up or assembly and for services, risk shall pass over on acceptance in the case of services, for deliveries without [installation or] assembly the risk shall pass over on their arrival at the delivery address specified by the Customer.
- (2) Unless specified otherwise, the shipping and packaging costs shall be covered with the agreed upon compensation. For pricing terms ex works or ex Supplier's warehouse, shipment must be sent out utilizing the respective lowest prices, unless the Customer specified a certain type of shipment. Additional costs incurred by not observing shipping instructions shall be borne by the Supplier. For pricing terms free recipient, the Customer may also specify the mode of transportation. Any additional costs incurred for expedited delivery required to meet a delivery deadline shall be borne by the Supplier.
- (3) Each delivery shall include a packing slip or delivery notes with details of the content as well as the complete order numbers, in particular purchase order number or delivery schedule number, the order item number or delivery schedule item number, Swoboda material number, description in accordance with order/delivery schedule, total amount, amount per unit, amount of units, batch, loading zone and delivery address.
- (4) If transportation is performed by a carrier commissioned by the Customer, the Supplier will inform carrier of the necessary data concerning dangerous goods in accordance with legal requirements.
- (5) If the Customer informs the Supplier that a further transport is scheduled with another carrier subsequent to a delivery, then the Supplier shall take the required regulations for the carriage of hazardous goods into account for the further transport as well.
- (6) If the Supplier violates its duties pursuant to paragraph (4) or (5), the Supplier shall bear all expenses and damages that the Customer incurs therefrom, unless the Supplier is not responsible for the violation of duty.
- (7) The Customer shall bear the transportation costs only if this has been explicitly agreed upon.
- (8) The place of fulfillment shall be Wiggensbach (Germany) or rather the location of Swoboda that has placed the respective order or the delivery address which is stated.

§ 6 Transfer of ownership

Unless agreed otherwise, the ownership of the delivered goods shall pass to the Customer during the receipt at the place of performance under exclusion of any kind of retention of title.

§ 7 Invoices

All invoices must be issued so that they are auditable. They shall include, in particular, our purchase order number or delivery schedule number, the order item number or delivery schedule item number, Swoboda material number, description in accordance with purchase order/delivery schedule, total amount, amount per unit, the individual prices per purchase order item, delivery schedule item, the packaging costs and the transportation costs with deliveries free to place of use, the payment terms and the banking information.

The legal requirements and the principles of proper accounting must be complied with.

For prices with material escalation clauses the invoice must contain the pricing structure, for example, in the following form:

Base price:	EUR xxx/1,000
Material price increase surcharge (MPIS):	EUR xxx/1,000
Alloy surcharge (AS):	EUR xxx/1,000
Precious metal surcharges:	EUR xxx/1,000

Invoices shall not be payable if this information is missing and if not something else is otherwise written agreed. Invoice duplicates shall be marked as duplicates.

§ 8 Payments

- (1) Unless otherwise agreed upon, invoices shall be due for payment net 90 days. If payment is made within 14 days, the Customer shall be entitled to a discount of 3%, if paid within 30 days, the Customer shall be entitled to a discount of 2% on the agreed upon remuneration.
- (2) The payment period shall start as soon as the relevant goods or services have been fully delivered or provided and the properly issued invoice has been received. To the extent that the Supplier must provide material test certificates, test protocols, quality documents or other documents, the completeness of the delivery shall also presuppose the receipt of these documents. Deduction of a discount shall also be permissible if the Customer offsets or keeps back payments in appropriate amounts due to defects; the payment terms shall begin after complete remediation of the defects.
- (3) To the extent that the Supplier is a company, the Customer shall be in default only if Customer does not pay after a reminder from the Supplier, after the due date for payment has expired.
- (4) Payments shall not constitute an acknowledgement that the deliveries or services have been provided in accordance with the contract.

§ 9 Incoming inspections

- (1) Upon receipt, the Customer shall immediately inspect the delivered goods to determine whether the delivery meets the ordered quantity and ordered type, whether externally visible transport damages or externally visible defects are present.
- (2) If the Customer discovers a defect during the aforementioned inspection, the Customer will inform the Supplier thereof within a period of one month from date of receipt of goods.
- (3) If defect is discovered at a later date, the Customer shall provide notification of this defect within one month after gaining knowledge of defect.
- (4) The Customer will inspect products received for compliance with item number, quantity, and visible transport damages and obvious defects that can be detected in the ordinary course of business. Reference samples will not be made. Once a defect has been detected, Customer must notify Vendor immediately, no later than within one calendar week of the defect. Otherwise, Purchaser is released from the obligations in the Sections 377, 381 Paragraph 2 of the German Commercial Code (HGB).

§ 10 Liability for Defects

- (1) The Supplier shall warrant that the products are without defect.
- (2) If defects are discovered before or at the time of passing of risk or occur during the limitation period specified in § 10 (9) and § 10 (10), the Supplier shall, at its own expense and at the option of the Customer, either remove the defects or deliver a replacement delivery and/or performance that is free of defects. The Customer shall make its choice at its own reasonable discretion.
- (3) Should the Supplier fail to rectify any defect within a reasonable time period to be stipulated by the Customer, the Customer shall be entitled to withdraw from the agreement in part or wholly without having to pay compensation, or demand a reduction of the price, or to perform the rectification themselves or have the remedy or new delivery performed by a third party at the expense of the Supplier and demand compensation instead of performance. § 281 paragraph 2 and § 323 paragraph 2 BGB (German Civil Code) shall remain unaffected.
- (4) Setting a deadline for rectification shall be dispensable if, to avoid default by the Customer or for other particular urgency reasons, there is a particular interest by the Customer in immediate rectification and a demand made to the Supplier to effect rectification of the defect within a reasonable period is not reasonable for the Customer.
- (5) The aforementioned claims lapse after a year after receiving notification about the defect, however, in no case prior to expiry of the limitation periods mentioned in this § 10.
- (6) Further claims and other legal recourses remain unaffected.
- (7) If the Supplier, within the scope of its duty, effects subsequent delivery or remedy, then the periods mentioned in § 10 (9) and § 10 (10) shall begin anew.

- (8) The Supplier shall bear the costs and risks for sending back defective delivered items.
- (9) Claims based on material defects shall expire in three years unless the law provides for longer periods.
- (10) Claims based on legal defects shall expire in five years unless the law provides for longer periods.
- (11) The limitation period begins with the transfer of risk § 5 (1). When delivery is effected to locations where the Customer executes orders outside of its plants or workshops, it will commence upon acceptance by the Customer's client no later than one year after transfer of risk.
- (12) If, as a result of defective delivery of the contractual item, we incur expenses, particularly transportation costs, route costs, work costs, installation costs, removal costs, material costs or costs for an incoming goods inspection that exceeds the ordinary scope, the Supplier shall bear these costs.

§ 11 Review for freedom from defects of title / duty of notification

It is essential for the Customer that the products are delivered free from any third party rights. For this reason, the Supplier shall agree to check the delivery and service for freedom from defects of title and to inform the Customer of any potential conflicting industrial and intellectual property rights. A violation of these duties shall be subject to the statutory period of limitation.

§ 12 Subcontracting orders to third parties

Subcontracting orders to third parties without the written consent of the Customer is not permitted and shall entitle the Customer to cancel the agreement either in whole or in part and to demand compensation for damages.

§ 13 Provision of materials

- (1) Provided materials shall remain the property of the Customer and shall be stored separately, identified as the property of the Customer and administered free of charge. They may only be used for the Customer's orders. In case of culpable loss of value or loss, the Supplier shall provide reimbursement, whereby the Supplier shall also be liable for simple negligence. This shall also apply to the invoiced provision of order-related material.
- (2) The processing or transformation of the material shall be performed for the Customer. The Customer shall immediately become the owner of the new or transformed item. If this is not possible due to legal reasons, Customer and Supplier shall agree that the Customer shall become the owner of the new item at any point in time of the processing or transformation. The Supplier shall hold the new object free of charge for the Customer with the due care of a prudent businessman.
- (3) The Supplier shall have no rights of retention to the materials provided by the Customer. The Supplier agrees to make available during regular business hours the provided materials free of charge upon the first request by the Customer for pick-up by the Customer.

§ 14 Tools, dies, samples, etc.

- (1) Tools, dies, samples, models, profiles, drawings, standards sheets, print templates and gauges provided by the Customer must not, just like items produced thereafter, be passed to third parties or used for purposes other than the contractual purposes. They must be secured against unauthorized view or use. Subject to any further rights, the Customer may demand that they be returned if the Supplier violates these obligations.
- (2) In accordance with § 14 (1), the Supplier shall mark all items provided by the Customer conspicuously as the Customer's property with a respective label.
- (3) The Supplier shall not make available to third parties any information obtained from the Customer unless it is common knowledge or the Supplier has gained lawful knowledge thereof in another manner. To the extent that the Customer has agreed to orders being subcontracted to third parties, they must be obligated accordingly in writing.
- (4) The Supplier shall have no rights of retention with respect to the tools, dies, samples, models, profiles, drawings, standards sheets, print templates and gauges provided by the Customer. The Supplier agrees to make available the tools, dies, samples, models, profiles, drawings, standards sheets, print templates and gauges provided by the Customer free of charge upon the first request by the Customer for pick-up by the Customer during regular business hours.

§ 15 Confidentiality

- (1) The Supplier agrees to keep confidential all commercial and technical details concerning the order as business secrets and to handle them in a strictly confidential manner. The Supplier shall also impose a corresponding obligation on the Supplier's sub-suppliers.
- (2) Documents we provided to the Supplier, such as samples, drawings, models, data, etc. must not be handed to unauthorized third parties or made available to them in any other way.
- (3) Products manufactured using documents we drew up, such as drawings, models, etc. or that were manufactured using our confidential information or with our tools or tools copied from our tools may neither be used by the Supplier itself nor be offered to or delivered to third parties.
- (4) Upon initial request the Supplier must prove to the Customer that the documents provided have been destroyed, that electronic data, regardless on which data storage media (in particular backup media) have been deleted permanently.
- (5) The supplier may only advertise the business relationship with Swoboda with a prior written agreement by Swoboda.

§16 Environmental and quality management

- (1) Suppliers of components for the automotive industry shall agree to abide by Guideline 2000/53/EC regarding the ecological recovery of old vehicles and to provide the buyer/orderer (Customer) with precise information about the composition of the products delivered by the Supplier, using the material safety data sheets maintained in the IMDS Internet file.
- (2) In addition, the Supplier shall agree to utilize a quality assurance system in accordance with the standards and writings of IATF 16949 and to establish an environmental management system in accordance with ISO EN 14001 and to apply the respective regulations. If a quality assurance system within the meaning above has not been established no later than one year from date of incoming goods receipt of the first partial delivery, then the Customer may set a deadline of six months for establishing a quality assurance system. The Customer shall be entitled, after the deadline has passed without results, to terminate the contractual relationship with three months notice to the end of the month, whereby the termination must be executed within one month after said deadline of six months has passed.

§ 17 Plant rules, accidents

Persons who carry out work on the Customer's plant premises or a third party named by the Customer in the performance of contractual obligations shall comply with the provisions of the relevant plant rules. Claims for damages by the Supplier against the Customer due to accidents that befall these persons on the premises of the plant shall be excluded, unless they were caused by an intentional or grossly negligent breach of duty by the Customer's legal representatives and/or vicarious agents.

§ 18 Assignment of claim

The assignment of a claim shall be permitted only with the prior written consent of the Customer.

§ 19 Inability to Pay/insolvency of Supplier

Should the Supplier suspend making its payments, an interim insolvency administrator shall be appointed or insolvency proceedings for the Supplier's assets applied for or opened, then the Customer shall be entitled to withdraw from the agreement in whole or in part or to terminate the agreement.

To maintain the ability to deliver, the Customer shall be entitled to use the manufacturing facilities, the equipment and stored materials of the Supplier to produce the contractual parts for a period of six months. The Supplier shall herewith grant the Customer a right to access during regular business hours. The Customer shall agree to pay adequate compensation to be determined for the use of equipment and facilities, including the power required for that. In this context, the Supplier agrees to instruct the Customer in all necessary technical details for the Customer to be able to carry out the production independently.

§ 20 Product-related environmental protection, declaration obligation, hazardous material

- (1) Should the Supplier deliver legally permissible products which are, however, subject to statutorily-imposed substance restrictions and/or

information requirements regarding materials (e.g. REACH, RoHS), the Supplier shall declare such substances in an appropriate format specified by the Customer no later than the point in time of the first delivery of the products. The above shall only apply to laws that apply at the Supplier's or the Customer's place of business or at the site of the receiving location indicated by the Customer.

- (2) If the delivery contains goods that are required to be classified as hazardous goods as per the international regulations, the Supplier shall inform the Customer of this no later than with the order confirmation, using a form agreed on between Supplier and Customer.

§ 21 Regulations regarding export control and foreign trade data

- (1) The Supplier agrees to comply with all regulations of applicable national and international customs and foreign trade law (Foreign Trade Law). The Supplier shall provide the Customer in writing no later than two weeks after the order as well as immediately, in the case of changes, with all information and data that the Customer requires to comply with foreign trade law for exporting, importing and re-exporting, in particular:

- All applicable export list numbers, including the Export Control Classification number as per the U.S. Commerce Control List (ECCN)

- The statistical goods code as per the current merchandise classification of the foreign trade statistics and the HS (Harmonized System) Code and

- Country of origin (non-preferential origin) and, if required by the Customer, preferential origin declarations by the Supplier (for European suppliers) or certificates of preference (for non-European suppliers)

- (2) If the Supplier violates its obligations as per § 21 (1), the Supplier shall bear all expenses and costs for damages that the Customer incurs therefrom, unless the Supplier is not responsible for such violation of obligation.

§ 22 Proviso clause

The fulfillment of the agreement by the Customer is subject to the condition that there are no impediments arising out of national and international foreign trade requirements or any embargos and/or other sanctions which might prevent this.

§ 23 Code of Conduct for Suppliers

Supplier agrees to ensure and to be complied with Code of Conduct for suppliers. The respectively valid version is available at www.swoboda.de under the heading suppliers.

Supplier ensures that no conflict-materials are used or processed according to the "Conflict Free Sourcing Initiative (CFSI)" and that the specifications of DIN/ISO 26000 are ensured.

§ 24 Changes at Supplier

Any changes of the supplier's company, relocation of its business, changes of owner or associate must be reported to Swoboda without delay.

§ 25 Place of jurisdiction, applicable law

- (1) The law of the Federal Republic of Germany shall apply, excluding the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG).
- (2) Place of jurisdiction is Kempten (Germany).
- (3) If one of the provisions of these Terms and Conditions and of additional agreements reached should be or become ineffective, this shall not affect the validity of the agreement in other respects.
- (4) The language used in and for this PURCHASING TERMS AND CONDITIONS and the business done thereunder shall be German. The binding text of this PURCHASING TERMS AND CONDITIONS shall be the German language version. If the PURCHASING TERMS AND CONDITIONS or annex papers is translated for whatever reason, it shall nevertheless only and solely be the German language version which shall be governing for the understanding and the interpretation thereof.