

**General Terms & Conditions for the Delivery of Dual Fuel Engines and Plant Oil
Aggregates For Customers (Entrepreneurs) of
SCHNELL Motoren AG**

For exclusive use for:

1. any natural or legal person acting in a commercial capacity or in the capacity as self-employed professional when concluding the contract (entrepreneur pursuant to § 14 German Civil Code)
2. any legal person under public law or a special fund under public law

§ 1 Validity of the Terms and Conditions

- (1) Any deliveries, services and offers of SCHNELL Motoren AG are exclusively made on the basis of these Terms and Conditions, which therefore also apply to any future business relations, even if these are not expressly agreed again.
- (2) These Terms and Conditions are considered to have been accepted when delivery of the goods and/or service occurs at the latest. Any counter-confirmation by the Customer referring to his own terms and conditions is hereby rejected.
- (3) For the interpretation and the execution of the contract between the Customer and the Seller shall apply in the following order:
 - a) The written contract concluded between the Customer and SCHNELL Motoren AG, if one exists
 - b) The confirmation of the order by SCHNELL Motoren AG
 - c) The documents prepared by SCHNELL Motoren AG: interface description and operating instructions including maintenance procedures as well as complementary technical specifications according to the confirmation of order or contract
 - d) The conditions of the "pro rata guarantee" by SCHNELL Motoren AG, if these have been agreed
 - e) These General Terms and Conditions
 - f) The German Civil Code (BGB) and – if relevant – the Commercial Code (HGB) of the Federal Republic of Germany, applicable at the time of contract conclusion
 - g) The written order of the Customer including all listed enclosures
 - h) The written offer of the Seller including all listed enclosures.

Apart from these, the law and statutes of the Federal Republic of Germany shall apply.

§ 2 Offer and Conclusion of Contract

- (1) The offers of SCHNELL Motoren AG are without obligation and non-binding. For validity, declarations of acceptance and any orders are subject to confirmation, in written form or by telex, by SCHNELL Motoren AG.
- (2) The order of the Customer is a binding offer which SCHNELL Motoren AG can accept within two weeks by sending an order confirmation or by executing the work.
- (3) The deliveries and services to be rendered are named in the order confirmation, and the presumed date of delivery or completion are specified. The Customer receives a copy of the order confirmation. The content of the order confirmation is considered as accepted by the Customer, unless the Customer objects, in written form or by telex, within 10 working days.
- (4) In relation to the individual agreements and offers and confirmation letters of SCHNELL Motoren AG, these General Terms and Conditions are deemed subordinate.
- (5) Any images, measures, weights etc. are only binding if this has been expressly agreed.

§ 3 Cost Estimate and Preliminary Work

- (1) A non-binding calculation of the presumed cost of the delivery and services is not to be remunerated.

- (2) If the Customer requests a binding calculation of cost, a written cost estimate needs to be ordered, in which the deliveries and services are listed item by item, together with the corresponding prices. SCHNELL Motoren AG is bound by this cost estimate for a period of four weeks after its submission. The services rendered for the submission of a cost estimate may be invoiced to the Customer, if this has been agreed individually.
- (3) Preliminary work to be executed in individual cases is to be agreed and remunerated separately.

§ 4 Modified and Additional Services

- (1) At the Customer's request, SCHNELL Motoren AG renders modified and/or changed deliveries and services, if these become necessary for the execution of the deliveries and/or services ordered. This does not apply if the plant of SCHNELL Motoren AG is not equipped for it. Payment is based on the price calculation for the contractual services, taking into account the extra cost of the service required.
- (2) SCHNELL Motoren AG informs the Customer of its additional claim for remuneration before execution of the deliveries and/or services. The agreement regarding remuneration for the modified or additional service is to be reached before execution.

§ 5 Cooperation Duties and Services of the Customer

- (1) Before the conclusion of the contract, the Customer has to inform in writing on all circumstances known to him, which have not been taken into account and included in the cost estimate, or of which knowledge is essential for the deliveries and services of SCHNELL Motoren AG.
- (2) The Customer generally undertakes to transmit, in due time, the documents relevant for contractual performance, such as planning documents, applications and notifications of permission, and immediately to check and release plans and other documentation prepared by SCHNELL Motoren AG, which are relevant for execution of the order.
- (3) The Customer duly supports SCHNELL Motoren AG regarding the performance of its obligations under this contract.

§ 6 Performance Period, Terms for Execution, Delay

- (1) The term of the agreed delivery or performance periods starts, in the absence of any other agreement, on the date of the written order confirmation issued by SCHNELL Motoren AG, in the event of agreed down payments, however, on the date when the down payment is received (value date) at the earliest.
- (2) The observance of delivery periods requires timely receipt of any documentation to be supplied by the Customer, of required permissions and clearances and particularly of plans, as well as the observance of agreed payment terms and other obligations by the Customer. If these conditions are not met in time, periods are extended correspondingly; this does not apply if SCHNELL Motoren AG is responsible for the delay.
- (3) If SCHNELL Motoren AG has stated and determined the delivery, performance or completion periods as the basis for the placement of the order, such periods are extended by the time of the delay in the event of strike or force majeure.
- (4) If the scope of services is changed or expanded with regard to the original order, and therefore execution of the order is delayed, the agreed periods are extended correspondingly. Any resulting costs thereof are at the expense of the Customer, if the Customer is responsible for changing or expanding the scope of services. It is the equivalent of an instruction, if the Customer is responsible for changing or expanding the scope of the services. In such case, SCHNELL Motoren AG sets a new completion date for the Customer at its request.
- (5) If the assembly work changes or increases, due to circumstances or particularities of which SCHNELL Motoren AG had no knowledge at the time when the order was placed, and delay occurs as a result, the periods are extended by the time required for the additional work. Any costs resulting thereof are at the expense of the Customer, if the Customer is responsible for not having informed SCHNELL Motoren AG of the aforementioned circumstances or particularities. In such cases, SCHNELL Motoren AG sets a new completion date for the Customer at its request.
- (6) Observance of the agreed delivery or performance periods is subject to receiving correct and punctual delivery. SCHNELL Motoren AG notifies of looming delays after it has gained knowledge of them.
- (7) The agreed delivery period is met if, by the time the deadline expires, the delivery item has left the works or the readiness for shipment has been reported. The agreed delivery period is met if, by the time the deadline expires, the service has been performed and – depending on the agreement – the commissioning of operation or readiness for acceptance have been reported.
- (8) Partial deliveries are permitted if these are reasonable for the Customer.

- (9) If SCHNELL Motoren AG defaults, the Customer may – if he can substantiate that damage has arisen to him – claim compensation of 0.5 % for each completed week of delay, which is, added together, not more than a maximum of 5 % of the price of that part of the delivery, which could not be put in useful operation due to the default.
- (10) Any claims for compensation of the Customer due to a delay of delivery as well as claims for compensation instead of the services, for which the claims exceed the boundaries stated in the foregoing paragraph (9), are excluded in any case of delivery delay, even after expiry of a delivery period that may have been set by SCHNELL Motoren AG. This does not apply insofar as mandatory liability applies for cases of intent, gross negligence or due to the injury to life, limb or health. Under the statutory regulations the Customer can only withdraw from the contract, if SCHNELL Motoren AG is responsible for the delivery delay. Any change of the burden of proof to the detriment of the Customer is not related to the foregoing provisions.
- (11) If dispatch of the delivery object or acceptance of the service rendered by SCHNELL Motoren AG is delayed for reasons for which the Customer is responsible, the costs arising thereof can be charged to him.

§ 7 Transfer of Risk, Acceptance

- (1) The risk, also for carriage paid, is transferred to the Customer as follows:
 - a) for deliveries without installation, integration or assembly, when they have been taken to be shipped or picked up. On the request and at the expense of the Customer, deliveries are insured by the supplier against common transport risks;
 - b) for deliveries with installation, integration or assembly after completion of the assembly work or, if agreed, after putting them into operation, without formal acceptance being required.
- (2) If the shipment, the delivery, the commencement, the process of installation, the integration or assembly, the adaptation for its own operations or trial run are delayed for reasons for which the Customer is responsible, or the Customer is in default of acceptance for other reasons, the risk is transferred to the Customer.
- (3) If SCHNELL Motoren AG requires the acceptance of shipment after the assembly work has been completed, the Customer has to approve of it within two weeks. If this does not happen, acceptance is considered to have been issued. It is also considered as accepted, if the delivery – possibly after an agreed period of commissioning – has been put into use.

§ 8 Invoicing and Terms of Payment

- (1) Unless otherwise agreed, the invoices of SCHNELL Motoren AG are to be settled without deduction 10 days after invoicing.
- (2) For orders above Euro 4,000.00 the following terms of payment apply, unless otherwise agreed:

30%	of the order amount within 10 days after receipt of order confirmation
60%	within 10 days after notification of readiness for dispatch
10%	within 10 days after transfer of risk pursuant to § 7,

at any time cashless, via remittance and without deduction.
- (3) The deduction of a discount is only permitted, if a discount has been duly agreed. The deduction of a discount is excluded, if previous claims of SCHNELL Motoren AG are still unsettled and due. If a discount has been duly agreed, the discount period is deemed to have been kept, if the payment has been credited to the account of SCHNELL Motoren AG (value date!) within this period. Any unauthorised deductions of a discount can be reclaimed by SCHNELL Motoren AG.
- (4) The prices agreed in the contract are applicable. Price rises are possible if, after the contract was concluded, certain difficulties for assembly arise, of which no written information was provided before the offer was submitted. Such difficulties may be due to particularities related to age or construction.
- (5) If the Customer defaults in payment, SCHNELL Motoren AG is entitled to charge interest for delay according to the statutory regulations.
- (6) Any invoices, statements of account or balance confirmations of SCHNELL Motoren AG are considered to have been recognised by the Customer, if no written objection is made within 10 days after receipt. The receipt of the objection at SCHNELL Motoren AG shall apply.
- (7) Given justified doubts concerning the solvency of the Customer, in particular when in arrears, SCHNELL Motoren AG is entitled to revoke granted credit periods and to make claims immediately payable, subject to further claims. Moreover, the carrying out of further deliveries or services can be made subject to advance payment or security payments.

- (8) The Customer is only entitled to offsetting rights if its counter-claims have been legally and undisputedly established or have been recognised by SCHNELL Motoren AG.
- (9) A retention of goods right is excluded unless the counter-claim of the Customer stems from the same contractual relationship and is undisputed or has been legally established.

§ 9 Reservation of Title

- (1) The deliverables (reserved goods) remain the property of the Supplier until all claims due, which SCHNELL Motoren AG owns or acquires in the course of the business relationship with the Customer, have been settled. During the existence of the reservation of title, the Customer must not pledge or transfer the title by way of security or assign the claim without the consent of SCHNELL Motoren AG. SCHNELL Motoren AG has to be notified immediately in the case of distraint by a third party.
- (2) If the reserved goods are processed to a new product by the Customer, the processing is carried out for SCHNELL Motoren AG. The acquisition of property by the Customer pursuant to § 950 German Civil Code is excluded. In the case of any processing, mixing or transformation of reserved goods with products, which do not belong to SCHNELL Motoren AG, the latter acquires co-ownership of the new product in the proportion of the invoice amount of the products delivered by it to the other products at the point in time of processing. The Customer stores the new product for SCHNELL Motoren AG with the diligence of a prudent businessman.
- (3) The new product is deemed to be a reserved good in the meaning of these Terms. Now the Customer assigns to SCHNELL Motoren AG its claims from a resale of these new reserved goods in the amount of the value which corresponds to the value percentage of the reserved goods of the new product in the proportion of the invoice amount of the reserved goods to the products provided by the other party. If, at a total price, resale is effected in combination with other products, which do not belong to SCHNELL Motoren AG, the Customer assigns now to SCHNELL Motoren AG its claims from a resale to the amount of such value percentage which corresponds to the value of the reserved goods regarding the complete delivery.
- (4) The Customer also assigns, for security purposes, such claims to SCHNELL Motoren AG which arise against third parties from the connection of the reserved goods with a piece of land.
- (5) The Customer is revocably entitled to collect the claims arising from a resale in the course of a routine transaction. Regardless of this, SCHNELL Motoren AG is entitled to collect the claims itself if the Customer has infringed its duties under this contract, particularly in the case of delayed payment. The Customer has to name the debtors of the assigned claim, if requested, and notify them of the assignment.
- (6) In the event of any infringements of duties by the Customer, in particular, in cases of payment arrears, SCHNELL Motoren AG is entitled, after the unsuccessful expiry of an appropriate deadline set for the Customer for the performance of the payment, to the return as well as to the withdrawal; the statutory provisions concerning the dispensability of the setting of a deadline remain unaffected. The Customer is obliged to handover. In the return or the assertion of the reservation of title or the distraint of the reserved goods by SCHNELL Motoren AG, no withdrawal from the contract is involved unless SCHNELL Motoren AG expressly declared this.
- (7) SCHNELL Motoren AG undertakes, at its own discretion, to release the securities owed to it on the request of the purchaser to the extent that the realisable value of these securities exceeds the claims to be secured by more than 10%.

§ 10 Installation, Integration and Assembly

The following provisions apply for the installation, integration and assembly, insofar as nothing else has been agreed in writing:

- (1) The Customer has to provide at its expense and in good time:
 - a) all earth, construction and other supplementary tasks from other sectors including the required specialist and auxiliary staff, building materials and tools,
 - b) the requisites and materials necessary for assembly and commissioning, such as scaffolding, lifting equipment and other devices, fuels and lubricants,
 - c) energy and water at the place of use including the connections, heating and lighting,
 - d) at the assembly point for the safekeeping of machine parts, apparatus, materials, tools etc. sufficiently large, suitable, dry and lockable rooms and, for the assembly staff, commensurate work and leisure rooms including suitable sanitary facilities to meet the requirements; moreover, the Customer has to take the measures appropriate for the protection of the property of SCHNELL Motoren AG and the assembly staff on the site, which it would take to protect his own property,

- e) protective clothing and protective equipment required as a consequence of particular circumstances on the assembly site.
- (2) Before beginning the integration and installation tasks, the Customer has to provide the necessary information concerning the positioning of hidden power lines, gas, water pipes or other equipment and the required static details without having to be asked to do so.
- (3) Before the beginning of the installation and assembly work, the necessary provision of materials and objects for the installation or assembly site must be made for the commencing of work, and all preliminary tasks have made such progress before set up begins that the installation or assembly can begin as agreed and be carried out without interruption. Delivery routes and the installation or assembly sites must have been levelled, cleared and be open for heavy goods vehicles.
- (4) If the installation, assembly or commissioning are delayed by circumstances for which SCHNELL Motoren AG is not responsible, the Customer has to bear the costs in appropriate scope for waiting times and additionally necessary journeys made by SCHNELL Motoren AG staff or the assembly staff and all other costs caused by the delay.
- (5) The Customer has immediately to attest SCHNELL Motoren AG the duration of the working time of the assembly staff and the ending of the installation, integration and assembly or the commissioning.
- (6) If the site provision of helpers by the Customer for the assembly has been agreed and these are not provided or prove themselves to be unsuitable, SCHNELL Motoren AG can invoice the Customer the expenditure ensuing from this.

§ 11 Complaints

- (1) The Customer has to inspect the deliveries and services of SCHNELL Motoren AG immediately after receipt. Identifiable faults are to be notified in writing within 10 days after receipt. The fault is to be described sufficiently. If this does not occur, the delivery is taken to be accepted or the contract as fulfilled. Decisive for the observation of the deadline is the receipt of the complaint at SCHNELL Motoren AG.
- (2) The Customer has to inform in writing SCHNELL Motoren AG of all other faults immediately they become known.
- (3) The Customer will describe occurring faults sufficiently accurately, if possible with the notification of the fault. With respect to the burden of proof, the statutory regulation applies.
- (4) The Customer will immediately give the opportunity for the inspection of the faults and observe the indications of SCHNELL Motoren AG for the limitation of the costs caused by the fault and the damage.
- (5) For complaints, payments of the Customer may only be retained in a scope which is commensurate to the faults which have occurred; considered as appropriate is maximally double the costs required to eliminate the fault.
- (6) The Customer can only withhold payments if a complaint is asserted, for which the justification is beyond doubt. A right of retention of the Customer does not exist if its fault claims are statute-barred (§12). If the complaint was made erroneously, SCHNELL Motoren AG is entitled to demand compensation from the Customer for the expenses incurred.

§ 12 Guarantee

SCHNELL Motoren AG provides within the scope of the following paragraphs a guarantee for a freedom of defects of the goods in accordance with the state of the art:

- (1) For possible defects, SCHNELL Motoren AG provides with its choice a guarantee by means of reworking or replacement. The Customer can in the case of serious and final fulfilment refusal, in the case of refusal of subsequent fulfilment as a result of disproportionately high costs, repeated failure to perform fulfilment or its unreasonableness, reduce the remuneration or withdraw from the contract. The Customer does not have the right of withdrawal then if only a slight contractual infringement exists or SCHNELL Motoren AG is not responsible for the breach of obligation involved in the fault.
- (2) SCHNELL Motoren AG can refuse the subsequent fulfilment as long as the Customer does not fulfil its payment obligations to an extent which matches the fault-free part of the deliverable and/or service.
- (3) If operational or maintenance instructions of SCHNELL Motoren AG are not followed, changes are made to the deliveries and services or parts of the aggregates are replaced, for which a release by SCHNELL Motoren AG was not issued, claims due to faults lapse, unless the Customer refutes a correspondingly substantiated assertion that one of these circumstances indeed caused the fault.
- (4) No guarantee for damages or faults is accepted resulting for the following reasons:

Erroneous integration or assembly of the aggregate by the Customer or third parties, erroneous or negligent treatment, poor gas quality, unsuitable machines and equipment, not approved by SCHNELL Motoren AG or fuels, omitted running oil control, inexpert maintenancing by the Customer or third parties not authorised by SCHNELL Motoren AG for these tasks.

- (5) As part of the fault elimination, replaced parts become owned by SCHNELL Motoren AG.
- (6) Only in urgent cases of risk to operating safety and to avert disproportionately large damage or if we are in arrears with the elimination of faults, does the Customer have the right, to rectify the fault himself or have it rectified by third parties and to demand from SCHNELL Motoren AG compensation for the necessary costs. In such a case we must be notified immediately. We are not liable for the consequences of incorrect reworking or other changes to the delivered object by the Customer or third parties not authorised by SCHNELL Motoren AG for those tasks.
- (7) Guarantees in the legal sense are not given to the Customer.
- (8) The guarantee period amounts to one year from the point in time of the transfer of risk (§ 7).
- (9) For claims for damages due to a fault, § 13 applies.

§13 Liability

- (1) SCHNELL Motoren AG provides damages or a replacement of futile expenses irrespective of the legal grounds (possibly for damages resulting from lack of skills, non-fulfilment, impossibility, guarantee, breach of secondary obligations, tortious acts) only in the following scope:
 - a) Liability in cases of intent is unrestricted.
 - b) In cases of gross negligence, SCHNELL Motoren AG is liable in the sum of the typical damage event which is foreseeable at the time of the conclusion of the contract.
 - c) In cases of negligent infringement of such an important obligation that the achievement of the contractual purpose is endangered (cardinal obligation), SCHNELL Motoren AG is liable in the amount of the typical damage instance foreseeable at the point in time of the conclusion of the contract, however at the most for EUR 10 000 per damage instance and EUR 25 000 for all damage events altogether. Moreover, the liability for slightly negligent breaches of obligations is excluded.
 - d) Insofar as the liability of SCHNELL Motoren AG is excluded or restricted, this also applies to the salaried staff, workers, representatives and subcontractors of SCHNELL Motoren AG:
 - e) SCHNELL Motoren AG remains open to the objection of co-responsibility. Statutory liability for personal injury and in accordance with the Product Liability Act remains unaffected.
- (2) SCHNELL Motoren AG is not liable for damages or impairments resulting from continued use of a delivered good or object in full knowledge of a fault. For the identified faults in a formal acceptance procedure, we are only liable insofar as these are listed in the acceptance protocol.
- (3) Insofar as a liability for damages, which are not based on injury to life, limb and health of the Customer, is not excluded for slight negligence, such claims are statute-barred within a year beginning with the generation of the claim or the claims for damages due to a fault, starting upon handover of the contractual object.

§ 14 Final Provisions, Place of Jurisdiction

- (1) For this contract, the Laws of the Federal Republic of Germany shall apply.
- (2) Should individual provisions in this contract with the Customer, including these General Terms and Conditions, be wholly or partially not legally valid or not practicable or lose their legal validity or practicability later, the validity of the remaining provisions is not affected by this. The same applies, insofar as it should become clear that the contract, including these General Terms and Conditions, contains a gap in the regulations. Instead of the ineffective or impracticable provisions or in order to close the gap, a commensurate regulation should be made, which, insofar as is possible legally, most closely approximates the ineffective or impracticable provision in terms of sense and purpose or which would have been included had the point been considered.
- (3) The exclusive place of jurisdiction for contracts with business people, juridical persons under public law or public law special assets is the court responsible for the place of business of SCHNELL Motoren AG.

SCHNELL Motoren AG

Corporate Headquarters:

Hugo Schrott-Straße, 88279 Amtzell

Administration:

Felix-Wankel-Straße 1, 88239 Wangen i. Allgäu