

GENERAL TERMS AND CONDITIONS OF PURCHASE

As at: 2016/01

1. Area of application

1. Our General Terms and Conditions of Purchase apply exclusively; we do not recognise any conditions of the supplier that are contrary to or differ from our General Terms and Conditions of Purchase unless we have expressly agreed to their validity in writing. Our General Terms and Conditions of Purchase also apply if we accept the delivery of the supplier without reservation even though we are aware that the conditions of the supplier are contrary to or differ from our General Terms and Conditions of Purchase.
2. Unless otherwise specified by us, the offer is to be binding for at least 2 months. If the supplier provides us with a cost estimate, this is to be valid with "an express guarantee for its accuracy" in accordance with section 1170a paragraph 1. If an order confirmation from a supplier differs from our order, this is to be pointed out and all changes are to be marked clearly.
3. All agreements made between ourselves and the supplier regarding the execution of the contract require our written confirmation and corporate signature to be valid. The written form is deemed to have been met if the order is sent by fax or email.
4. Our General Terms and Conditions of Purchase also apply to all future business with the supplier.

2. Deliveries

1. The delivery date (date of receipt) given in the order is binding. Adherence to delivery dates: The supplier undertakes to immediately inform us in writing if circumstances arise or it becomes apparent to him that the agreed delivery date cannot be complied with.
2. If the delivery is made earlier than agreed, we reserve the right to return the goods at the expense of the contractor. If the goods are not returned in the case of an early delivery, the delivery item will be stored in our warehouse until the agreed delivery date at the expense and risk of the supplier. Even in the case of an early delivery, we will not make the payment until the agreed due date. The indivisible total performance of the delivery is agreed. Partial deliveries are only accepted by prior agreement.
3. In the case of a delay in delivery, in addition to legal claims we are entitled to claim an appropriate price reduction. If the supplier is responsible for a delay in delivery, we are entitled to charge a price reduction regardless of fault amounting to 0.5% per day of the total value of the order excluding VAT for every commenced day of the delivery delay, up to a maximum however of 10% of the total order value excluding VAT. We are also entitled to request compensation for damages in addition to the price reduction.
4. Unless otherwise agreed, all deliveries are to be made "DDP Incoterms 2010" to the Kraiburg plant Webersdorf 11, 5132 Geretsberg, Austria or direct to the given destination.
5. For production facilities, the following applies: Following delivery, installation or successful completion of all the necessary installation tests, training and when complete documentation has been made available and a written notification has been received from the supplier that the goods delivered are ready for acceptance (completion notice), we shall carry out an acceptance test. A date for the acceptance test is to be made within four weeks of the announcement of completion by the supplier unless otherwise agreed in the contract.

If the delivery or performance owed is part of a complete facility, the delivery or performance is only considered accepted when the complete facility has been accepted, regardless of any commissioning or payment already made by us. An on-site inspection by us or the operational use of the production facility before the acceptance has been carried out does not replace the acceptance in any circumstances and is not a conclusive declaration of acceptance. The acceptance is to take place at the agreed place of delivery or at the plant location at Webersdorf 11, 5132 Geretsberg, Austria.

After the acceptance test has been successfully carried out and has been confirmed by us in the form of a written declaration of acceptance with corporate signature, the production facility is regarded as accepted (day of delivery in accordance with section 4.5). The warranty or warranty periods begin to run from this day.

6. The supplier will provide information about the activities he is carrying out to a reasonable extent and at regular intervals and upon request will provide reports on the status of the projects and his activities at any time.

3. Prices and terms of payment

1. The price quoted in the order is binding and in the case of domestic suppliers, does not contain the statutory VAT. Unless there is a written agreement to the contrary, the price includes "DDP Incoterms 2010" to the Kraiburg plant Webersdorf 11, 5132 Geretsberg, Austria or directly to the destination, including packaging, transport and insurance.
2. Claims based on additional deliveries and/or performances can only be asserted if the additional deliveries and/or performances have been agreed and ordered in advance by the contracting parties. Otherwise additional charges exceeding the agreed price are excluded.
3. The supplier undertakes to create an invoice for every order within 5 days of delivering the ordered goods. We can only process invoices if they - in line with the statements in our order - indicate the specified order number and are addressed to the correct recipient; the supplier shall be responsible for all consequences arising from non-compliance with this obligation.
4. Payment of the invoice does not mean a waiver of claims for defects in connection with the delivered goods and does not exclude a later notice of defects.
5. Unless agreed otherwise, we will pay invoices within 14 days of delivery and receipt of the invoice with a 3% cash discount or net within 30 days of receipt of the invoice.

4. Claims for defects

1. The supplier guarantees that the delivered goods correspond to the agreed specifications and product data sheets and/or the data in the purchase order, that they are made from the agreed material, are free of material, production and/or construction defects in accordance with state-of-the-art technology and are free from defects which would destroy or reduce the suitability for the common or contractually agreed use or would destroy or reduce the value of the delivered goods and the supplier also guarantees that the delivered goods comply with all applicable standards and statutory provisions at the destination. Changes to the product data are only permitted if expressly agreed with KRAIBURG in writing.
2. Section 377 of the Austrian Commercial Code (UGB) does not apply.
3. In the case of warranty, we are entitled to determine the type of warranty ourselves, (improvement, replacement, price reduction or conversion). We are also entitled to remove the defect ourselves at any time at the expense of the supplier.
4. Claims for defects - for whatever legal reason - shall become statute-barred 36 months after the actual delivery. Longer statutory periods of limitation shall remain unaffected.
5. The supplier undertakes to keep available suitable spare parts for a period of 10 years from the date of delivery and to carry out repairs at reasonable prices.

5. Product liability and product safety

1. If a claim is made against us for a product defect, the supplier undertakes to indemnify our company from such claims if and in so far as the damage was caused by a defect in the delivered goods forming the subject matter of this contract. The onus of proof for this lies with the supplier. In such cases, the supplier shall reimburse any expenditures including the costs of a possible prosecution or call-back campaign. Should we be entitled to other statutory claims, these shall remain unaffected.
2. The supplier undertakes to ensure sufficient cover by taking out and maintaining a lump-sum product liability insurance policy with an insured sum of at least 10 million euros for any personal/material damage so that any liabilities for damages can be settled in accordance with product liability legislation. Should we be entitled to other statutory claims, these shall remain unaffected.
3. The supplier is obliged to take out a suitable business liability insurance to cover any claims for damages. The minimum cover must amount to at least 1.5 million euros.

6. Industrial property rights/secretcy

1. Once the offer has been made, the supplier undertakes to keep secret received illustrations, drawings, calculations and other documents and information for a period of 3 years from the receipt of such items or from the termination of the respective contract or project, whichever is later. They may only be disclosed to third parties with the express approval of our company. The duty of secrecy also covers personal data. The obligation of confidentiality expires if and as soon as the production know-how provided with the illustrations, drawings, calculations and other documents has become generally known. Subcontractors must be placed under a similar obligation.

2. The supplier guarantees that in connection with his delivery, there shall be no infringement of brands, patents, copyrights or other industrial property rights of third parties. If a third party holds us liable because of the infringement of industrial property rights, the supplier shall be obliged to indemnify us from these claims upon the first written request.
3. The supplier's duty to indemnify applies to all the expenditures necessarily arising from or connected with the claims of a third party.

7. Supplier's reservation of title

1. We do not accept any reservation of title.

8. Models, drawings, patterns, submitted parts etc.

1. Tools: Models, drawings, standard specification sheets, manuscripts, printed films, tools, gauges, profiles, patterns etc. (hereinafter "tools and patterns") submitted by our company shall remain our property. The supplier must store them with due care and keep them in safe custody, they are subject to confidentiality in accordance with section 6. The supplier is obliged to use the tools and patterns submitted by or made for our company exclusively for the production of the deliveries and performances ordered by our company. Furthermore, he is obliged to insure our tools against fire, water, theft and other damages (e.g. caused by employees) for the replacement value at his own expense.
2. Any tools and patterns submitted by or made for us must be returned to us by the supplier in good working order upon the first request, at the latest on the termination of the business relationship.
3. If the supplier has production difficulties, especially if he does not comply with his contractually agreed obligations or stops production, we shall be entitled to demand the return of the tools and patterns etc. that he paid for in full or partly in return for a reasonable remuneration. The destruction of tools and patterns which are no longer required is only permissible with our written approval.

9. Termination and withdrawal from contract in the case of continuing obligations

1. With regard to continuing obligations, we can terminate the contract subject to a term of 30 days, and the supplier subject to a term of 90 days with effect from the end of a month.
2. A possible waiver of the termination right on our part requires our express written confirmation.
3. We have the right to terminate the contract for an important reason without notice at any time. The following reasons are particularly considered good reasons,
 - a. if the supplier dies (in the case of natural persons), a legal person is liquidated or insolvency proceedings are opened concerning the supplier's assets or are dismissed as there are insufficient assets available to cover costs.
 - b. if the supplier violates statutory regulations or violates the provisions of these General Terms and Conditions of Purchase;
 - c. if the supplier has taken certain actions, in particular if he has made agreements with other companies that are to our detriment, that are morally objectionable or anti-competitive;
 - d. if the supplier has directly or indirectly promised or given benefits to employees of ours handling the conclusion or execution of the contract, or threatened or caused them disadvantages.
4. Should any of the above-mentioned reasons exist, either with respect to the entire contract prior to fulfilment or only with respect to individual parts of it, we are entitled to withdraw from the contract.
5. Should reasons exist which entitle us to withdraw from the contract, we have the right to arrange a substitute performance at the risk and at the expense of the supplier. All costs and damages incurred from arranging a substitute performance shall be borne by the supplier.

10. Miscellaneous

1. The supplier is not entitled to set off claims or to withhold property unless they are uncontested or have been determined by a court of law. We are entitled to offset any possible payment claims of the supplier.
2. Written form: Any changes or supplements to a contract or to these General Terms and Conditions of Purchase must be made in writing. This also applies to any change in the requirement for the written form. The written form is deemed to have been complied with if a change, supplement or other expression is made by fax or email and signed by an authorized officer of the company.
3. Delays or stoppage of work prohibited in the case of any legal disputes: In the case of any legal disputes between the parties, the supplier is not entitled to delay or stop completely or partially the

work taken on by him.

11. Place of Jurisdiction, place of performance, applicable law

1. Austrian law applies with the exclusion of all international and supranational (contractual) legal orders, in particular UN commercial law. If the supplier has his registered office in the European Union or in Switzerland, Liechtenstein, Norway, Turkey, Israel or Tunisia, the exclusive place of jurisdiction for enterprises is the locally competent court for our place of business.
2. If the supplier has his registered office outside the European Union or outside Switzerland, Liechtenstein, Norway, Turkey, Israel or Tunisia, the applicable law is the law of the state in which the supplier has his registered office, without excluding any applicable UN commercial law, and we are entitled to file a legal action at the general place of jurisdiction of the supplier.
3. If not provided for otherwise in the order, our place of business shall be the place of performance.
4. If one or several provisions of these contractually agreed terms or clauses should be invalid either fully or partly, this shall not affect the validity of the remaining provisions and clauses. The parties agree to replace the invalid clause by one which comes nearest to the commercial purpose of the invalid or missing provision and which is itself valid.

KRAIBURG Austria GmbH & Co. KG, Webersdorf 11, 5132 Geretsberg

January 2016