

## Terms and Conditions of Purchase of the Koenig & Bauer Group

### 1. General, applicable law

All orders placed and transactions conducted by Customer within the framework of its purchasing activities as well as any other legal relationships between vendor and Customer shall be exclusively subject to the following Terms and Conditions of Purchase. Any and all modifications thereto or conditions of sale of contractor which deviate from these Terms and Conditions of Purchase shall only have validity if expressly agreed to in writing by Customer. The acceptance or payment of deliveries or services shall not imply Customer's acceptance of Contractor's conditions of sale. Oral agreements shall only be binding upon Customer if confirmed in writing. These Terms and Conditions of Purchase shall also apply for all future transactions with Contractor.

The statutory provisions of the Federal Republic of Germany shall apply in addition to the following terms and conditions. This shall also apply to and for legal relationships with Contractors not based in Germany. Application of the CISG is herewith excluded.

### 2. Placement and confirmation of orders

2.1 Any and all orders, transactions and release orders and modifications and supplements thereto must be made in writing in order to be legally valid. Orders, release orders and modifications and supplements thereto may also be made by data transmission or by way of machine-readable data carriers.

2.2 Customer may cancel an order within two weeks, even if such order has already been accepted and confirmed by Contractor.

2.3 Should the confirmation of order deviate from the original order, Customer will only be bound if it has consented to such deviation in writing.

2.4 Contractor shall deliver the complete contractual item containing all components that are necessary for problem-free operation of said contractual item in compliance with the guaranteed characteristics, even if such necessary individual components of the contractual item are not itemized in the order.

### 3. Time of delivery

3.1 The punctuality of deliveries shall be assessed on the basis of the time of their arrival at the place of receipt specified by Customer or, where deliveries involving installation or assembly and/or the provision of services are concerned, the time of their acceptance.

3.2 In the event of foreseeable delay in delivery or performance, Contractor shall give Customer immediate notification thereof in writing, providing details as to the reasons for and the anticipated duration of such delay. Should the delay be for reasons beyond Contractor's control, Contractor may only invoke such reasons for delay subject to its compliance with said obligation to provide immediate notification.

3.3 Should Contractor fail to adhere to the agreed dates/deadlines, Customer shall, without prejudice to further statutory rights, have entitlement to claim any additional costs and damages arising from delayed delivery or performance. Having set a reasonable period of grace with which Contractor fails to comply, Customer may at its discretion withdraw from the contract, obtain replacement from a third party and claim damages for non-performance.

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3.4 Acceptance of delayed delivery or performance shall not imply any waiver of claims for compensation.

3.5 Customer shall also have entitlement to the aforementioned rights even if the lead times/delivery dates were stated as "non-binding" or similar by Contractor.

3.6 Customer may withdraw from the contract in respect of the unfulfilled part thereof in the event of a longer-term hindrance to delivery on the part of Contractor, the institution of insolvency proceedings or the dismissal of such proceedings for lack of assets, or the institution of comparable proceedings against the assets of Contractor.

## **4. Delivery quality / CE mark / Safety regulations**

4.1 All products delivered by Contractor must comply with the safety regulations prescribed by law or the authorities or which are contractually agreed and which apply at the site of usage.

4.2 Contractor shall in particular comply with the laws and regulations applicable at the place of usage, in particular those on the prevention of accidents, environmental protection, machine safety, etc. Contractor shall indicate whether the goods to be delivered require a declaration of incorporation or a declaration of conformity in accordance with EU directives (above all 'Machinery') and, in such case if necessary, submit said declaration with the respective consignment. In addition, Contractor shall in principle provide instructions for storage, assembly, maintenance and operation, free of charge – also for use at the end customer's premises.

4.3 Furthermore, the products delivered or services provided by Contractor must comply with the quality requirements and technical specifications agreed with Customer, including any and all supplements/attachments and cross-references referred to therein. Necessary and requested documentation forms an integral part of the delivery, and shall comply with the relevant statutory

regulations and with the regulations and standards customary in the trade/industry.

4.4 Contractor shall guarantee the conformity of the delivered products with the applicable laws and EU directives, in particular the RoHS (Restriction of Hazardous Substances) Directive. Contractor shall indemnify Customer from any claims and demands on the part of third parties based on the non-fulfilment of the applicable laws and regulations.

4.5 Contractor guarantees that, to the extent that he falls under the REACH Regulation in respect of the delivered products, he is registered in line with the regulations or will do so, and will fulfil the other relevant obligations. Contractor shall here and now indemnify Customer from any claims and demands on the part of third parties based on non-compliance with the stipulations set down in said regulation.

## **5. Contractual penalty**

5.1 Should the agreed dates/deadlines not be adhered for reasons for which Contractor can be held responsible, Contractor shall pay a contractual penalty of 0.5% of the purchase price for each commenced week of delay, but no more than a maximum total of 5%.

5.2 Without prejudice to no. 5.1, Customer shall be free to claim higher compensation; Contractor shall have the opportunity to substantiate that the contractual penalty is in excess of the actual damage.

5.3 In the event that the delay in delivery for which Contractor is responsible should exceed 10 weeks, the payments already made by Customer shall then be subject to payment by Contractor of interest at a rate of 1% above the base rate valid at the time but no less than 5%.

## **6. Embargo list / Intrastat**

6.1 Contractor shall notify Customer whether the goods to be delivered are currently included in the respective Export Control List pertaining to

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Germany's Foreign Trade Act or one of the foreign trade ordinances or the EU Dual-Use Regulation (Council Regulation (EC) No. 428/2009) at the time of delivery. Contractor shall also provide details of the country of origin, preference indicator and hazardous materials. Contractor shall provide Customer with the aforementioned information without requiring any separate request on the part of Customer to do so.

6.2 Contractor shall indicate its sales tax identification number on the invoice for the purposes of Intrastat reporting.

6.3 Contractor shall on request state the customs tariff number of the respective contractual item and submit supplier declarations in accordance with Directive (EU) No. 1207/2001.

## **7. Passing of risk, dispatch**

7.1 Risk shall pass on arrival of the goods at the place of receipt specified by Customer or, where deliveries or services involving installation or assembly are concerned, not until actual physical acceptance.

7.2 Forwarding costs shall in principle be borne by Contractor. If the price is ex works or ex warehouse of Contractor, delivery shall be made at the lowest possible cost unless Customer has specified a particular mode of dispatch. Any additional costs for express delivery required to enable compliance with a due delivery date shall be borne by Contractor.

7.3 Each delivery shall be accompanied by a packing list or a delivery note with information on the contents as well as the complete order ID (order number and item). Different items shall be packed and identified separately. Notification of dispatch shall be given immediately with the same details.

7.4 Deliveries by way of cross-border trade shall be delivered duty unpaid to Customer. Such deliveries shall be notified to Customer in good time in order to ensure proper customs treatment. In

particular all relevant transport data are to be notified in good time before arrival of the goods and all documents required for customs clearance, such as EORI number, consignment notes, commercial in-voices, packing lists, original bills of lading, etc. shall be provided in due time.

7.5 Should the goods be forwarded directly by Contractor to clients of Customer, Customer is in all cases to be notified accordingly before their dispatch. All relevant transport data, such as mode of dispatch, type of packaging, markings, number of packages, gross and net weight, etc., as well as the customs invoices enclosed with the consignment shall be sent by fax at the latest one week prior to the date of dispatch.

7.6 The relevant German packaging regulations shall apply.

## **8. Invoices**

Invoices shall contain the aforementioned order identification. In-voices lacking this information shall be deemed non-payable. In-voices are to be sent in their original form. Copies of invoices shall be marked as such.

## **9. Payments**

9.1 Subject to verification of the invoice and unless agreed otherwise, payments shall be made within 30 days less 4% cash discount or net within 60 days.

9.2 The term of payment shall commence as soon as the delivery or performance has been provided in due time, in full and free of defects and a correctly issued invoice has been received.

9.3 Cash discount shall also be permissible if Customer makes offsets against claims or withholds payments in reasonable amounts due to defects.

9.4 Accounts receivable (including those not yet due and future claims) of Customer and of companies affiliated thereto within the meaning of Article 15 of the German Stock Corporation Act (AktG) may be offset against counterclaims at

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any time. The names of such companies affiliated to Customer within the meaning of Article 15 AktG shall be disclosed on request.

## 10. Warranty and liability

10.1 Since the contractual item is part of an overall system and, as such, constitutes a capital good of the end customer, the parties are agreed that the warranty period shall be 36 months as from the end customer's acceptance unless a longer period of limitation is required by law.

10.2 The delivered goods will be inspected for defects in accordance with the practices applied by Customer. An incoming goods inspection will be performed by Customer only for externally detectable defects and for externally detectable deviations in terms of identity and quantity. Customer will then submit a corresponding complaint about such defects within a reasonable period of time. Subsequently, Customer will submit complaints about defects as soon as these are detected in the ordinary course of business. In such instance, Contractor shall waive the objection to delayed notification of a defect.

10.3 Defects determined prior to/at the time of passing of risk or arising during the warranty period shall, at Customer's discretion, be either rectified or replaced by Contractor with a non-defective delivery and/or performance at the place of use. Installation and de-installation costs arising within the framework of rectifying a defect or the provision of a new delivery or performance as well as the costs of the establishment of the defect itself shall be borne by contractor. This shall also apply to deliveries of which only random samples have been tested.

10.4 Should Contractor fail to rectify defects or effect new delivery or performance free of defects within a reasonable period set by Customer, this shall entitle Customer to

- Withdraw from the contract in whole or in part without compensation, or
- Demand a reduction of the price, or

- Undertake repair work or replacement itself or have such work or replacement performed by third parties,
- And claim damages for non-performance.

The same shall apply if Contractor declares himself unable to rectify the defects or arrange replacement delivery or performance within a reasonable period of time.

10.5 The above provisions shall apply correspondingly for and to the delivery of replacement parts and repair work performed.

10.6 Should Contractor repeatedly deliver defective goods or repeatedly provide defective services, Customer shall be entitled to withdraw from the contract or, where contracts provide for delivery by instalments, to terminate the contract immediately. If, as a result of defective deliveries, it becomes necessary to carry out a complete inspection of incoming goods above and beyond the level of the normal inspection, Contractor shall bear the cost thereof.

10.7 The aforementioned claims shall become statute-barred after a period of one year as from notification of the defects in question but at the earliest on expiry of the period stipulated in section 10.1 above, however. Such limitation period shall be suspended for as long as Contractor has not definitively rejected customer's duly submitted claim.

10.8 Should contractor employ the services of third parties in the execution of the contractual performance, contractor shall be liable for such third parties and for vicarious agents thereof.

10.9 Contractor guarantees that the goods are free from the rights of third parties and, in the event of infringement for which Contractor is responsible, shall indemnify Customer against any and all liability.

10.10 Should the end customer and/or third party assert claims based on a service or performance

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of Contractor, Contractor shall indemnify Customer against liability in this respect if and insofar Contractor is responsible for the cause of such claim.

10.11 The statutory provisions shall apply in other respects

## 11. Availability of spare parts

11.1 Contractor shall guarantee the availability of spare parts for the delivered item as follows: for mechanical parts for a period of 20 years, for electrical parts for 10 years and for electronic parts for 5 years, whereby similar and/or compatible solutions shall be admissible. Any conversion costs necessary in this connection shall be borne by the Contractor.

11.2 Price increases shall be solely subject to the price increase rates determined by the Federal Statistical Office.

## 12. Subcontracting to third parties

Contractor may only subcontract to third parties with the prior written consent of Customer.

## 13. Provision of materials

13.1 Materials provided by Customer shall remain the property of Customer and shall be stored separately, identified and managed free of charge. Such materials shall only be used for orders placed by Customer. All risks shall be borne by Contractor.

13.2 Contractor shall have no right of retention for whatever reason in respect of such provided goods.

13.3 Processing or restructuring of the material shall be carried out on behalf of Customer. The latter shall immediately acquire ownership of the new or restructured goods. Should this not be possible for legal reasons, Customer and the Contractor agree that Customer shall acquire ownership of the new goods at all times during processing or restructuring. Contractor shall store the new goods with due care, free of charge and at its own risk on behalf of Customer.

## 14. Tools, moulds, samples, confidentiality, etc.

14.1 Models, devices and tools provided by Customer or tools, samples, models, profiles, drawings, standard specification sheets, printed matter and software provided by Customer or manufactured by Contractor for the purpose of order execution for the account of Customer, as well as goods subsequently manufactured by using these items, shall remain the property of Customer and may not be passed on to third parties or used for purposes other than the performance of the contract without Customer's prior written consent. Such items shall be secured against unauthorized access or use and recognizably marked as property of Customer. Without prejudice to any further rights, Customer may demand the surrender of these items if the Contractor fails to comply with the aforementioned obligations.

14.2 The models, devices and tools provided by Customer to Contractor shall at all times be and be kept marked as property of Customer. Events affecting Customer's ownership of such models, devices and tools are to be promptly reported to Customer.

Without prejudice to any further rights, Customer may demand the immediate surrender thereof.

Contractor shall compensate Customer for lost or damaged models, devices and tools to the extent that Contractor is responsible for such loss or damage. Furthermore, Contractor warrants that such models, devices and tools are insured against fire, theft and damage caused by third parties. The costs thereof shall be borne by Contractor.

14.3 Contractor undertakes to treat any information obtained from Customer as confidential and shall not disclose it to third parties unless such information was already in the public domain or otherwise lawfully known to the Contractor

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## 15. Assignment of claims

The assignment of a claim shall only be permissible with Customer's prior written consent.

## 16. Execution of contractual work, insurance cover

When executing contractual work on the premises of Customer or of companies affiliated thereto within the meaning of Article 15 of the German Stock Corporation Act (AktG) or of third parties, it is essential to ensure compliance with all relevant company regulations as well as the applicable rules for entering and leaving the plant facilities. Liability for accidents involving Contractor's personnel on Customer's premises shall be excluded unless intent or gross negligence on the part of Customer is proven.

Contractor shall ensure sufficient insurance cover for the performance of all contractual work.

## 17. Copyrights

Insofar as the performance is subject to copyrights, Contractor shall grant Customer, free of charge, a non-exclusive, transferable license thereto with worldwide validity for the legal duration of such copyrights. Said license shall include the right to duplication, distribution, modification, adaptation, transfer and commercialization in any form.

## 18. Compliance

18.1 The Customer expects his contractors to observe and comply with all applicable laws and regulations, as well as international and industry standards.

18.2 In addition, the following principles must be accepted and complied with:

- UN guiding principles on business and human rights, including labor rights and the right to fair and equal treatment
  - Avoidance of any form of discrimination, in particular due to nationality, ethnic origin, gender, sexual orientation, religion, disability or political persuasions

- No toleration of child labor or other exploitation of children regardless of the country of business activity
- Compliance with statutory or collective regulations on minimum wage
- Self-commitment to fair competition in accordance with applicable law
  - No offering or promising of improper benefits
  - Avoidance of conflicts of interest
- Respect and safeguarding of the intellectual property of third parties
- Compliance with statutory and contractually agreed quality and safety standards
- Compliance with all applicable environmental requirements as well as requirements for the use and processing of hazardous substances and in respect of product safety

18.3 The Contractor undertakes to pass on the principles to current and future affiliates in Germany and abroad as well as to their own contracting partners, in particular the links in the upstream supply and production chain.

18.4 Upon request, the Contractor shall provide the Customer with information on its compliance with the above principles. The Customer reserves the right to check the correctness of the information and the conformity of the contractor's activities through its internal audit department or through correspondingly appointed external experts.

18.5 Should the Contractor fail to adhere to the basic principles set out above, the Customer shall have entitlement to termination of the business relationship for exceptional reason

## 19. Supplementary provisions

Should any provisions of the contract or of these Terms and Conditions be or become invalid, this shall not affect the validity of the contract or Terms and Conditions as a whole. In such case, the parties shall replace the ineffective provision with one that comes as close as legally possible to the economic sense and purpose of the original provision.

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## **20. Place of fulfilment, place of jurisdiction**

20.1 Place of fulfilment shall be the place of receipt specified by Customer; place of payment shall be the domicile of Customer.

20.2 Place of jurisdiction shall be Würzburg.