

TERMS & CONDITIONS OF PURCHASE

of KLEIN Anlagenbau AG, D-57258 Freudenberg ("Purchaser")

I Quotation

1. In the quotation the supplier must adhere strictly to the request regarding all details such as quantity and properties and, in the event of differences, expressly point these out. A quotation must be given free of charge for the Purchaser. All drawings and other documents provided with the request are to be returned with the quotation.
2. The supplier shall be bound to the specifications of the quotation on the basis of the present terms and conditions of purchase for a period of 8 weeks from receipt by the Purchaser. Within this period the Purchaser may accept this quotation by unilateral written declaration. The supplier may not derive any claims for reimbursement or damages from non-acceptance.
3. The supplier shall declare its agreement with these terms and conditions of purchase no later than on submission of the quotation without a declaration to that effect being expressly required. The general terms and conditions of supply of the supplier shall only be valid if they have been confirmed by the Purchaser in writing.

II Order

1. Only written purchase orders are valid. Oral and telephone agreements require written confirmation to become binding.
2. Every order must be confirmed in writing by the supplier within two weeks of the order date without reservation.
3. If orders are not confirmed, we are released from taking delivery after the expiry of 7 days without further notice. All costs arising shall be borne by the sender.

III Execution and place of installation

1. The delivery is only considered to have been performed if the supplier has attached to the delivery all requested and/or necessary documents, certificates, descriptions as well as installation, operating and maintenance instructions.
2. Where goods and services supplied are not listed in the purchase order but are necessary for achieving the complete functionality of the part, they shall be included in the supply on schedule and free of charge.
3. The place of deployment of the delivery will not be at the Purchaser's premises. The place of fulfilment of the delivery is our works in Freudenberg unless something different is agreed in the purchase order.

IV Delivery Period

The delivery period starts from the order date. The supplier is required to adhere to the delivery period unless it is unable to do so because of force majeure. Before the occurrence of force majeure the supplier must supply the Purchaser no later than one week after the occurrence of the event with proof by an attestation of the Chamber of Commerce and Industry responsible. At the same time the supplier must inform the Purchaser of the expected overrun of the delivery time. The delivery period will then be appropriately extended by mutual agreement. If the supplier fails to give this information, it cannot invoke the hindrance towards the Purchaser. If the delivery time is delayed for reasons other than force majeure, the supplier must notify the Purchaser in writing as soon as it becomes evident.

V Penalty for Breach of Contract

1. If the supplier falls into arrears by exceeding the deadlines given in the order letter, the Purchaser is entitled to demand a penalty for breach of contract of 1 % of the total order value max. 10% for each week over schedule commenced. Section 341 (3) German Civil Code applies with the provision that the reserve of assertion of the penalty for breach of contract may be declared up to three months after receipt of the last partial delivery / performance and corresponding final invoice.
2. If penalised deadlines are postponed by mutual agreement, the new deadlines are penalised in the same way as the original deadlines.

VI Insurance

1. The transport insurance shall be covered ex works by the Purchaser. Within the scope of the general terms and conditions of transport insurance (AST) the supplier shall however be liable in all cases for proper loading and packing, where this is part of its scope of delivery.
2. The supplier shall obtain appropriate insurance cover for its general liability risk. The supplier must on request provide the Purchaser with proof of this insurance cover.

VII Inspections

1. The Purchaser, its customer or its representative are entitled to conduct inspections at the manufacturer's works at each stage of production and carry out a test of the delivery items. The supplier is required on request to issue factory certificates on the delivery items and to obtain them for the material supplies. These factory certificates are to be sent to the Purchaser without delay. The tests are to be conducted under the conditions usual in the industrial sector in question. The costs of these tests, with the exception of the costs for deploying the Purchaser's representative, shall be charged to the supplier. The Purchaser is to be notified of the test date, which is binding, no later than two weeks in advance. If, for reasons that do not lie within the domain of the Purchaser, the delivery item cannot be subjected to the required testing on the date stated or if a repeat of the testing is necessary because of faults identified, all costs for this deployment shall be charged to the supplier if necessary several times.
2. The testing does not release the supplier from its warranty obligations and its responsibility for meeting officially prescribed safety and acceptance conditions.

VIII Transfer of Risk

The warrant period starts with the acceptance of the delivery and/or performance under the preconditions of Section IX 3. At the same time the risk is transferred to the Purchaser or the end customer.

IX Warranty

1. The supplier shall warrant that the delivery item does not display any faults impairing its value or its fitness for purpose and that it has the assured characteristics. The responsibility of the supplier shall not be affected by the inspection or approval of the plans, drawings, documents etc. by the Purchaser.
2. The supplier warrants in particular
 - that it has used the materials contractually specified and, apart from that, most suitable and has met the safety precautions of the authorities and trade associations,
 - has used design and production tried and tested as flawless, in line with the most up-to-date technology and corresponding to the particular use,
 - that the delivery and performance are complete, even if the Purchaser does not specify this in detail.

3. Where nothing different has been agreed, the Purchaser is entitled to claims under the warranty until the expiry of 16,000 hours in service but no longer than 2 years, in each case from the acceptance of the installation by the Purchaser's customer into whose installation the supplier's goods and services are integrated. However the warranty period ends no later than 5 years from receipt of the goods and services by the Purchaser. In the event of the wrong use of materials, the above periods are doubled.
4. Notice of defects within the meaning of Section 377 German Commercial Code is considered to have been received in time if it is given within 6 months of the delivery of the goods or receipt of the service by the Purchaser.
5. The supplier shall repair or replace free of charge at the choice of the Purchaser goods and services supplied that have become defective, unusable or damaged within the warranty period. In the latter case the Purchaser or its customer has the right to use free of charge the goods or services already supplied up to their replacement. Further statutory claims for damages remain unaffected.
6. The warranty period for the whole scope of goods and services supplied will be extended by the duration of the interruption of operation necessitated by repair work or the installation of replacement items.
7. For parts or replacement items affected by repair work the warranty period starts again. The same applies to the whole scope of goods and services supplied where a significant defect is present.
8. In urgent cases, if a defect is not rectified without delay or proof of performance at the place of deployment is not provided within an appropriate period, the Purchaser is entitled to establish itself or have established the state as under the contract.
9. The claims for damages asserted towards the supplier within the warranty period shall lapse 3 years after the end of the warranty period.

X Invoice, payment, suspension of payment, insolvency

1. Invoices must be dispatched separately from the goods by post/courier service. Invoices must comply with the purchase order as well as the statutory regulations with regard to content, sequence, prices, payment terms etc. The date of the performance of service must be clear from the invoice.
2. The prices agreed are fixed prices.
3. Unless something different has been agreed in writing, the requirement for payment is receipt of the invoice and contractual performance of service including delivery of the contractual documentation.
4. If this requirement for payment has been met, payment shall be made within 14 days with % cash discount or within 30 days due net.
The payment target is considered to have been met if payment is made on the Friday of the week in which the invoice is due.
5. If the supplier suspends payments, a provisional insolvency administrator is appointed, insolvency proceedings on the assets of the supplier opened or if bills of exchange or cheques are protested against the supplier, the Purchaser is entitled to rescind the order or to cancel the order wholly or partially with immediate effect without any claims against the Purchaser being able to be derived from this. If the order is cancelled by the Purchaser, the services performed will only be settled at contract prices to the extent that they can be used by the Purchaser for the intended purpose. Damage incurred by the Purchaser will be taken into account in the settlement.

XI Confidentiality

1. All information, drawings etc. that have been provided to the supplier by the Purchaser for the manufacture of the delivery item, likewise the drawings etc. prepared by the supplier in accordance with the particular details given by the Purchaser may only be used, reproduced or made accessible to third parties for this contract. On request they are to be returned without delay to the Purchaser together with all copies or reproductions.
2. The supplier must also regard the order and work or deliveries in this respect as business secrets and consequently treat them as confidential.
3. The supplier is only allowed to refer to the business relationship existing with the Purchaser as well as individual orders in its advertising with the prior consent of the Purchaser.

XII Transfer of the Order and Assignment

1. Completely or partially transferring this order to third parties is only permitted with the prior written approval of the Purchaser.
2. The supplier is not entitled to assign its claims to third parties without the prior written consent of the Purchaser.

XIII Dispatch

1. A delivery note with details of the material description, quantity, order data of the Purchaser as well as, where available, the details of the assembly, drawing no. and parts no. is to be attached to the consignment.
2. The individual materials are to be labelled with the order no., material/item no, drawing no. and system no. of the Purchaser. It is essential to show materials supplied loose separately on the delivery note. If the material supplied is not or is inadequately labelled, the Purchaser is entitled to return the materials to the supplier. Costs associated with the return shall be borne by the supplier.
3. Special shipping instructions are to be requested from the Purchaser by the supplier, whereby the supplier must give the weight, number and type of delivery items. The order may only be dispatched to the place of dispatch given by the Purchaser. Risks and costs arising from non-compliance with this rule shall be charged to the supplier.

XIV Severability

If one of the provisions of these terms and conditions of purchase or other essential parts of the contract is or becomes or null and void and/or not enforced, this does not affect the validity of the remaining provisions and the null and void part shall be replaced by a provision that comes closest to the null and void part.

XV Place of performance/jurisdiction and applicable law

1. Place of fulfilment for the supply of goods and services is the destination specified by the Purchaser. If no destination is given, the Purchaser's registered office is the place of fulfilment.
2. The place of jurisdiction is Siegen, subject to a differing exclusive jurisdiction. The Purchaser is however also entitled to sue the supplier at another competent court.
3. The law of the Federal Republic of Germany applies. The validity of the UN Sales Convention is excluded.