



## General terms and conditions of purchase (GPC)

### §1 Scope of Application

- (1) For all contracts concluded by us with a supplier as well as for pre-contractual obligations relating to them, only these General Terms and Conditions for Purchase (GTCP) shall apply in business transactions unless something else has been expressly agreed in writing. Other terms and conditions shall not be part of the contract, even if we do not expressly object to them. This shall apply even if we constructively accept deliveries while aware of contradicting or deviating terms and conditions or if reference is made to such terms in individual pieces of correspondence. Our silence on contrary terms and conditions, including in order acceptance confirmations, shall not count as recognition.
- (2) Even if no reference is made to them when contracts of the same type are entered into in ongoing business relationships, our GTCP in the version accessible at [www.k2-systems.de](http://www.k2-systems.de) at the time the supplier is tasked shall apply exclusively unless the parties to the contract agree otherwise in writing. The supplier shall be sent the respective current version of the GTCP free of charge, including in printed form, if it so requests.
- (3) All agreements reached between us and the supplier in connection with the contracts shall be set down in writing in the contracts, these GTCP or our offers.
- (4) We reserve the right to demand that the supplier enter into a quality assurance agreement. This quality assurance agreement shall then be a component of these GTCP.
- (5) These GTCP shall apply only with respect to entrepreneurs, corporate bodies under public law or special funds under public law [öffentlich-rechtliche Sondervermögen] in the sense of Section 310 Para. 1 of the German Civil Code [BGB].

### §2 Conclusion of Contract

- (1) Only the content of our written orders shall be valid. Orders awarded verbally or side agreements shall not become valid unless we confirm them in writing. Delivery contracts (ordering and acceptance) and delivery schedules as well as their alteration and supplementation must be in writing.
- (2) Should the supplier not accept our order within five working days of arrival, we shall no longer be bound to our order. If the supplier cannot or will not accept our order, it shall be obliged to inform us thereof without undue delay/immediately.
- (3) The supplier shall confirm orders to us through a written order confirmation. The order confirmation must include price, discount, binding delivery dates and all further details of the order. Deviations from our order, in particular the prices, discounts and delivery dates established therein, shall only become components of the contract if they are confirmed by us in writing.
- (4) Drawings, plans and other documents which are part of the order shall remain our property. We reserve all copyrights to these documents. Should the supplier not accept our orders within the period indicated in Paragraph 2, these documents shall be sent back to us immediately.
- (5) We may demand changes to the delivery item in terms of structure and execution within the bounds of what is reasonable for suppliers. If we do, the effects, in particular with regard to higher and lower costs as well as delivery dates, shall be governed by mutual consent as appropriate.



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### §3 Prices, Payment, Offsetting

- (1) The price established by us in the order shall be binding. It shall be understood to be for delivery free domicile, including applicable value added tax as well as including the costs of packaging, unless the parties have expressly agreed otherwise in writing.
- (2) Supplier's offers, designs, samples and prototypes shall be free of charge to us unless expressly agreed otherwise. Remuneration or compensation for visits or the working out of offers, projects etc. shall not be made unless expressly agreed otherwise.
- (3) Invoices shall be sent to our business address in single copy upon shipment of the goods, but separately from them. Invoices must also contain the following information in addition to the mandatory statutory requirements contained in § 14 para. 4 of the German Value Added Tax Act (UStG): supplier number, number and date of the order, unloading points, number and date of the delivery note, quantity of the invoiced goods or services and country of origin of the delivered goods. (Note: Clause 3 remains as before:) Incorrectly generated invoices shall be regarded as not having been issued.
- (4) Payment shall be made within 14 days from proper invoicing with 3% discount or within 45 days from proper invoicing net unless otherwise agreed. If premature deliveries are accepted, the due date shall be determined according to the agreed delivery date.
- (5) If delivery is faulty, we shall be entitled to keep back payment proportionally to value until proper fulfilment. In addition, neither a recognition of proper performance nor a waiver of the liability of the supplier for defects shall be associated with (unreserved) payment.
- (6) We shall be entitled to the statutory offsetting and retention rights in full measure. The supplier may only offset claims that are undisputed by us or determined without further legal recourse. Except as covered in Section 354 a of the German Commercial Code [HGB], the supplier may assign entitlements derived from this contract to third parties only with our prior written consent, which may not be unreasonably refused. The supplier shall be entitled to a right of retention or the plea of non-fulfilment of contract only within the contractual relationship in question.

### §4 Time of Performance, Delays

- (1) All delivery dates and deadlines named in the order or otherwise agreed shall be binding. The delivery of the goods to us shall determine whether the delivery date or delivery deadline was met.
- (2) The supplier shall be obliged to immediately inform us of any impending or occurring non-compliance with a delivery date or delivery deadline, its causes and the foreseeable period of the delay. Doing so shall not affect the onset of delay in delivery.
- (3) In the event of a delay in delivery, all statutory claims shall be due and we shall be entitled to a contractual penalty of 1% of the order value – up to a maximum of 5% – as of the third day. Furthermore, we reserve the right to assert further statutory claims.



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### §5 Packaging, Dispatch, Partial Deliveries, Passing of Risk

- (1) Delivery and dispatch shall be at the risk of the supplier free domicile to our business address or the delivery place stated by us. The costs of packaging, freight and insurance shall be borne by the supplier. All deliveries shall be packed by the supplier according to technical and commercial custom so that the packaging ensures that the items delivered are protected up to the delivery address, unless we have issued packaging instructions. Packaging may be returned by us. The place of performance for the supplier's take-back obligation under Section 4 of the Packaging Ordinance [Verpackungsordnung] shall be the place where the goods are handed over.  
If in individual cases delivery is agreed ex works, the supplier shall arrange for the shipping most advantageous to us and for the right declaration (on the value of the goods). In this case as well, the supplier shall be liable for transport damages.
- (2) The goods shall be accompanied by a delivery note in a single copy, which, besides the precise designation according to the scope of the delivery, contains, but is not restricted to, the order number, article number, type and quantity. Should the supplier fail to do so, delays in processing are unavoidable for which we shall not be responsible.
- (3) Partial deliveries shall be accepted only by express agreement. For partial deliveries, the remaining amount to be delivered must be provided in every case.
- (4) Passing of risk shall be at the delivery address stated by us.

### §6 Defects of Material and Title, Inspection and Complaint Obligations, Claims for Defects

- (1) Unless otherwise agreed, the supplier shall ensure that all goods delivered are based on the latest technology, the relevant statutory provisions of the place of delivery and, if the supplier is aware, of the place of use of the goods/our end product, insofar as this is reasonable for them in individual cases, and comply with the regulations and guidelines of authorities, trade associations and professional associations. Insofar as deviations from these regulations are necessary in individual cases, the supplier must obtain the express written consent of the purchaser. If the supplier has any doubts about the manner of execution requested by us, they must inform us immediately.
- (2) The supplier shall guarantee that the goods are delivered free of third-party rights and that the delivery does not infringe any third-party rights. The supplier shall indemnify us in this respect from any claims made by third parties at first request.
- (3) In the area of application of Section 377 of the German Commercial Code (commercial transactions, if they are reciprocal commercial deals) the inspection and complaint obligation stated there is modified as follows:

We shall within one week of receipt of the goods notify the supplier of defects in the goods delivered insofar as they can be ascertained on inspection as part of the orderly course of business. We shall within a period of a week after they become known give notice of defects that were not recognisable on such an inspection. Timely dispatch of the notice of defects to the supplier shall suffice to comply with the time limit. The goods inwards inspection shall only include inspection of the goods with regard to externally recognisable deviations from identity and quantity as well as externally obviously recognisable transport damage. A quality inspection shall be carried out in the goods inwards department on a random sample basis. To this extent the supplier shall waive the defence of delayed notice of defects and unconditional acceptance. That is without prejudice to our right to carry out a further goods inwards inspection.



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- (4) Section 377 of the German Commercial Code shall have neither direct nor analogous application to pure service contracts, nor shall any inspection and complaint obligation affect us with regard to other contracts not covered by Section 377 of the German Commercial Code.
- (5) The statutory warranty rights shall be due to us without restriction.
- (6) In extension of the statutory warranty rights, even where a contract for services exists, we shall have the right to demand the elimination of defects or delivery of a defect-free thing at our discretion as part of supplementary performance.  
Furthermore, even where a purchase contract exists, we shall be entitled to self-help in urgent cases or in the context of our duty of mitigation if the conditions in Section 637 of the German Civil Code apply (mutandis mutatis) after consultation with the supplier.
- (7) The limitation period for claims for defects shall be 36 months from the transfer of risk, unless an express deviating written agreement has been reached or longer periods of limitation are provided for by law. 634 a para. 3-5 of the German Civil Code (BGB) in the case of a contract for work or § 438 para. 3-5 of the BGB in the event of a purchase contract and § 479 para. 2 and 3 of the BGB shall remain unaffected.
- (8) Our written notice of defects shall toll the warranty period. The warranty period shall not resume until two months after the supplementary performance has been successfully concluded or the supplier has rejected the warranty in writing. In the case of substitute delivery, the warranty period shall resume when the substitute goods are delivered.

## §7 Product Liability, Indemnification, Liability Insurance Cover

- (1) Should we be sued by third parties due to a product defect for which the supplier is responsible, the supplier shall on first demand indemnify us from all claims of third parties including the necessary costs to defend against these claims if the supplier has placed the cause in its domain and organisational area.
- (2) Should we need to carry out a recall due to a case of damage indicated in Paragraph 1, the supplier shall be obliged to refund us all expenses arising from or in connection with the recall. If it is possible for us to do so and it can be done within a reasonable period of time, we shall inform the supplier of the content and extent of the recall and give it an opportunity to provide its point of view. This is without prejudice to any other entitlements we may have under the law.
- (3) The supplier shall be obliged to take out and maintain product liability insurance with coverage appropriate to the goods. This is without prejudice to any other entitlements we may have under the law; no limitation of liability is associated with this provision.

## §8 Other Duties of the Supplier

- (1) The supplier shall ensure that it can supply us with the items delivered or with parts thereof as replacement parts on appropriate terms even for a period of 10 years after the end of the supply relationship.
- (2) The supplier shall make efforts to ensure that it is aware of all the data and circumstances meaningful for the fulfilment of its contractual obligations as well as the use of its delivery intended by us in a timely manner. It guarantees that its deliveries encompass all the deliverables necessary for a correct, safe and economic use, that they are suitable for the intended use and are state of the art.
- (3) The supplier must explain to us the required official permits and registration obligations for the introduction and operation of the items delivered.



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- (4) The supplier must constantly monitor the quality of its deliveries and services. It shall be obliged to observe our quality assurance agreement for suppliers in the version valid at the time. To this end it shall set up and maintain a quality assurance system according to ISO 9001:2015 or another standard agreed with us. Changes to the delivered item shall require our prior consent. For all products delivered to us, the supplier must record in writing when, in what manner and by whom the defect-free manufacture of the delivery was assured. These records shall be kept for at least 10 years and presented to us on demand. Sub-suppliers must be obligated accordingly.
- (5) This is without prejudice to any other obligations of the supplier.

## §9 Items provided

- (1) Prototypes, models, drawings and other documents which we provide to the supplier or which the supplier executes for us with our funds shall be or remain our property. Should they remain in the possession of the supplier, an indirect possession relationship [Besitzmittlungsverhältnis] (Section 930 of the German Civil Code) is hereby agreed upon.
- (2) Materials or parts provided shall remain our property. They may only be used in the context of the order. The materials shall be processed and the parts assembled by the supplier on our behalf. If our materials and parts are combined, mixed or processed with other items not belonging to us, we shall acquire joint ownership of the new product in proportion of the value of the provided materials and parts to the other processed items at the time of combination, mixing or processing. If our product is to be regarded as the main product, it shall be deemed agreed that the supplier transfers joint ownership to us proportionately. Anything solely or jointly owned by us shall be stored by the supplier free of charge.

## §10 Reservation of Title

We recognise merely simple reservation of title; other forms of reservation of title shall require express written agreement.

## §11 Non-Disclosure

- (1) If and insofar as the supplier in the course of processing the order receives knowledge and information, in particular with regard to technical details, it shall pledge itself to non-disclosure of it.
- (2) The knowledge and information imparted may only be used in the context of the specific order and accordingly also only made accessible to those employees who are involved in the processing of the order and have likewise been pledged to non-disclosure. The knowledge imparted may only be made accessible to third parties after our written consent. In this case, these third parties shall have a corresponding non-disclosure obligation imposed on them.
- (3) The supplier undertakes to release all confidential documents already handed over if asked to do so, independently of whether these were handed over at the beginning of the collaboration or were created as a result of the processing of our order. This obligation shall apply in particular on termination of the collaboration. In this case, the supplier shall ensure that the handover of the confidential documents is complete and that no copies have been retained.
- (4) A right of retention with respect to confidential documents, regardless of the legal basis, is explicitly disclaimed.



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### §12 Written Form

All changes and supplementations of the contract shall require the written form to be effective. The parties to the contract may also meet this requirement through transmission of documents in text form, in particular by fax or email, unless something else has been established for individual declarations. The written form agreement itself may only be rescinded in writing.

### §13 Governing law

The Law of the Federal Republic of Germany shall apply to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

### §14 Place of Performance, Place of Jurisdiction

- (1) The place of performance for all obligations from this contract shall, unless otherwise expressly agreed in writing, be our domicile at the time of conclusion of the contract.
- (2) The place of jurisdiction for all disputes from and in connection with this contract is Stuttgart (Germany), provided that the supplier is a businessperson, a legal entity under public law or a separate estate under public law or is treated as such or if their place of business or registered office is in a foreign country. We are also entitled to take legal action at the supplier's place of business and at any other permissible place of jurisdiction.

### §15 Salvatorische Klausel

If a provision of these General Terms and Conditions of Purchase should be or become ineffective or if these General Terms and Conditions of Purchase are incomplete, the validity of the remaining provisions shall remain unaffected. The contractual partners shall replace the ineffective provision with a provision coming as close as possible to the legally effective meaning and purpose of the ineffective provision. The same shall apply to contractual loopholes.

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