



K+S Aktiengesellschaft

Important notice: The following text is solely a translation of the “Allgemeine Einkaufsbedingungen (Import)” of the above-mentioned company. This translation is issued for the information of the Contractor only and shall neither have any legal effect on the contractual relationship nor form the basis for interpretation or construction of the contractual regulations. Legally binding and – if necessary – basis for interpretation or construction shall be only the German version.

“General Conditions of Purchase (Import)

(Valid from 1st January 2008)

1. Order Content. For this contract, only these General Conditions of Purchase shall apply; other terms & conditions will not be part of the contract, even if we do not explicitly object to them. Sentence 1 does not preclude the incorporation of other General Terms & Conditions used by us, for example the Conditions for Construction and Assembly Services.

2. Written Form. Orders, amendments to orders and other agreements will only be binding if they are issued by us in writing. Exceptions from the requirement for the written form also require the written form. Printed electronically prepared orders satisfy the requirement for the written form, even without a manual signature.

3. Drawings, Other Documents. Agreed construction drawings are to be issued to us in the form of a printout (DIN format, Series A) free of charge as our property. If this requirement is not fulfilled in good time before the start of the order completion, all additional costs which result from subsequent changes to the design or execution shall be borne by the Contractor. In the case of changes to design or execution, the Contractor shall amend the drawings accordingly, free of charge. The Contractor shall issue us with the following, free of charge, as our own property, at the end of the order completion at the latest:

3.1. One printout/plot (DIN A4 format) plus one copy in a standard file format each of the final construction drawings including all the documents required for operation, in particular those which enable us to instruct the supervising and operating personnel and carry out repairs, procure spare parts, add extensions and make changes shall be made available.

3.2. All documents required for any official permits or approvals which may be required;

3.3. Furthermore, on request, a detailed list of working parts as well as suitable coding documents for materials procured for the first time, which enable the ordering of spare parts as well as the identification of major working parts, standard and vendor parts and include a constant update service;

3.4. and on demand material and test certificates.

4. Order Completion. If completion of the order is delayed due to events which the parties are unable to prevent (in particular unavoidable disruptions to operations, strikes and lock outs, fire damage, official orders and all cases of force majeure), we shall be entitled to withdraw from the contract following the expiry of a reasonable period of time.

5. Quality Assurance. The Contractor shall carry out or maintain effective quality assurance respectively and shall prove this to us on request. We are entitled to audit this quality assurance system or to have it audited by third parties.

6. Weight. If the Contractor fails to fulfil an agreed weighing, the weight determined by us shall apply.

7. Dispatch/Packaging. The Contractor is responsible for the dispatch and to this end shall select the most favourable and suitable mode of transport and manner of packing. Transport insurance shall only be taken out following prior consultation with us.

8. Warranty/Guarantee. The Contractor guarantees that the supplies/services comply with generally recognised rules of sound engineering practice, the statutory, official and employers' liability insurance associations' regulations and the occupational health and safety provisions valid at the time the order is completed, and the goods/services to be supplied have the agreed performance capability – in particular with respect to the agreed performance data.

9. Warranty Claims

9.1 If we withdraw from the contract, we shall be entitled to use the goods/services to be supplied until the replacement of the goods/services.

9.2 Notwithstanding any longer statutory periods the period of limitation for warranty claims shall be 36 months, for buildings and construction materials under Art. 438 Para. 1 No. 2b BGB¹ the period is 5 years. The period shall be extended by the time between receipt of the delivery or acceptance and the actual initial use/operation of the goods/services to be supplied, this extension, however, not exceeding 6 months.

9.3 Legal provisions on restraint or new beginning of the limitation period shall be unaffected by Item 9.2.

9.4 If the Contractor fulfils his obligation of supplementary performance by replacement, the limitation period for this replacement shall begin by delivery, unless the Contractor has explicitly reserved the right to carry out the replacement only in goodwill, for the prevention of a conflict, or on behalf of continuance of the supply relationship.

10. Product Liability. The Contractor shall release us from any product liability, insofar as the Contractor is responsible for the fault causing the liability.

11. Remuneration/Payment.

11.1. We shall only pay remunerations and reimburse expenses in the explicitly agreed extent.

11.2. We shall make payments for invoices presented in accordance with Art. 14 Para.1 US²G² with separate verification of sales tax, which are sent to us by post, unless the credit memo procedure is used. No subsequent demands for payment shall be accepted after the final invoice has been issued.

11.3. We will make all payments in EURO. The payment will be made within 30 days following receipt of checkable invoices and proper fulfilment of the order.

12. Proprietary Rights, Know How, Non-Disclosure.

12.1. The Contractor engages to assure that the delivery supplies/services are free of third party proprietary rights and that by his supplies/services or use thereof by us no proprietary rights of third parties will be infringed. In case one of the parties is sued due to infringement of proprietary rights of third parties, the parties will notify each other immediately. If the use agreed upon of the supplies/services is affected by third party proprietary rights, the Contractor will, without prejudice to his contractual and statutory rights, after consulting us, be obliged, at his own expense, either to effect the right that the supplies/services can be used as agreed upon, unrestricted, and without additional cost for us by the holder of the proprietary rights or to change the relevant parts of products/services so that they do not infringe third party proprietary rights any more but completely comply with the use agreed upon.

12.2. The Contractor shall use our know how and all information, which Contractor gains knowledge of for the purposes of or incidentally during negotiation or performance of the order (especially any documents issued by us) neither for their own purposes nor make these accessible to third parties, without our prior consent. Documents issued by us shall not be duplicated without our consent and shall be returned to us immediately following completion of the order. The Contractor will also subject their employees and any sub-contractors to these obligations.

13. Incoterms. Standard trade clauses shall be construed according to the valid version of the Incoterms applicable at the time the contract is concluded.

14. Place of Performance. The place of performance for both sides is the ultimate destination given in the order.

15. Applicable Law, Jurisdictional Venue. The contractual relationship is governed by the laws of the Federal Republic of Germany, ousting the application of the Convention on Contracts for the International Sale of Goods (CISG). This shall also apply to court procedure laws. Any dispute arising out of or in connection with this contract shall be heard at the court having jurisdiction over our principal place of business.”

¹ BGB = German Civil Code

² US²G = Sales Tax Act