



K+S Aktiengesellschaft, K+S KALI GmbH, esco – european salt GmbH and Co. KG, K+S Entsorgung GmbH, K+S Transport GmbH, K+S Consulting GmbH, Ickenroth GmbH, Chemische Fabrik Kalk GmbH, MSW Chemie GmbH, Frisia Zout B.V. ("K+S")

Important notice: The following text is a translation of the "Einkaufs- und Lieferbedingungen" of the above-mentioned companies. It is issued solely for the purpose of informing business partners and shall neither have any legal effect on the contractual relationship nor form a basis for interpretation or construction of the contractual regulations. The German version shall be the only legally binding version and – if necessary – basis for interpretation or construction of contractual regulations.

1. Scope

The following terms and conditions for purchase and delivery ("Terms and Conditions") shall be deemed to be incorporated in, and form part of, any business contact of K+S with any affiliates, for example vendors or distributors ("Contractor"), concerning contracts of sales of movable items and/or performance of services.

K+S rejects the applicability of any general terms and conditions of the Contractor. They shall only be incorporated into a contract, if K+S approves the incorporation in writing before a contract is concluded. Such an approval shall be required for every and any contract separately, even if K+S had knowledge of the general terms and conditions of the Contractor beforehand and goods and/or services have already been accepted by K+S.

These Terms and Conditions shall apply to all business contacts as stated above, except and to the extent that K+S has deviated from them in writing (e.g. in a written contract).

2. Contract Conclusion and Written Form

Contracts and contract alterations shall only be binding if they were proposed or approved by K+S in written form. A waiver of written form shall also be prepared in written form to have effect.

If K+S remains silent in regard to offers, requests or declarations of the Contractor, this silence cannot be regarded as an approval, unless such a procedure has been agreed upon in writing beforehand.

Contracts and contract alterations that are computer generated by K+S satisfy the requirement of written form if they state that they bear no signature due to the fact that they are computer generated.

3. Execution and Period of Delivery

The period of delivery as stated in the contract shall be binding for the Contractor. The Contractor shall inform K+S promptly and in written form about any delay as well as the cause and expected duration of such delays. If the Contractor does not meet this obligation or does not do so in the agreed upon period of delivery or is to be deemed in default, K+S rights, in

particularly its rights to withdraw from the contract and/or claim damages, shall be governed by the statutory regulations.

The Contractor shall have the obligation to inform K+S upon request about the stage of completion and his plans and measures relevant to quality assurance and a timely delivery even before the delivery is due. The Contractor shall substantiate these statements. K+S shall have the right to audit the Contractor's site of operations upon request to check the Contractor's claims in regard to quality assurance and timely delivery.

If goods are discernible as faulty before the delivery is due or after a partial delivery has occurred or if it is foreseeable that the delivery will not take place in a timely manner, K+S shall have the right to withdraw from the contract. K+S shall only exercise this right if the Contractor was given notice and reasonable time to perform his obligations.

K+S shall still be entitled to the delivery of goods or performance of services as stated in the contract until the Contractor has fulfilled damage claims made by K+S in full extent as required by law. An acceptance of a late delivery or performance shall not be seen as a waiver of any damage claims under any circumstances.

4. Documents

If K+S and the Contractor have agreed upon the delivery of workshop drawings (Ausführungszeichnungen), the Contractor shall have to deliver these on paper as well as in electronic form in common file formats which can easily be further processed. The Contractor shall not be entitled to further compensation for these obligations. All documents shall be made accessible at an early enough time that they may be approved and – if needed – changes can be made without jeopardizing the delivery date. In the event of a late delivery, the Contractor shall compensate K+S for any damages arising from the tardiness of delivery. All and any documents crafted by the Contractor within the scope of his contractual obligations, such as technical documentations, schematics, drawings, or other documents, may they be in paper, electronic or any other form, shall become the property of K+S at the time they are surrendered. The Contractor shall receive no further compensation for this as it is already included in the contractual agreed upon price for the delivery of goods or other services rendered.

With delivery, the Contractor has to surrender a documentation that at least covers the following elements:

- Drawings that document the final form of execution (as-built).
- All documents needed by personnel in order to operate, repair, procure spare parts and inspect the subject matter of the contract. Furthermore, documents needed to check extensions or alterations of the subject matter of



the contract. All documents have to be provided in paper and electronic form, using common file formats.

- All administrative registrations and permits.
- A dossier of all wearing parts as well as codification documents allowing the procurement of spare parts and identification of major wearing parts of standard and supplier parts.
- Material certificates and test records, if requested by K+S and if applicable to the subject matter of the contract.

5. Retention of Title

The assignment of goods to K+S shall be unconditional and with no regard to the payment of the purchase price. If K+S accepts a conditional offer for the assignment of goods by the Contractor, a retention of title shall expire with the payment of the purchase price at the latest. Lengthened or extended retention of title shall be excluded.

6. Assurance of Quality

The Contractor shall establish and maintain a system to assure quality and shall have to prove these measures to K+S, if requested. Furthermore, if so requested by K+S, the Contractor will establish a system to assure quality pursuant or equivalent to ISO 9001 et seq. K+S shall have the right to audit the quality assurance system in person or using a third party.

7. Delivery / Packaging / Transfer of Risk / Weight

Delivery to K+S takes place as "DAP" or – if across borders – "DDP" according to the respectively valid INCOTERMS and to the location specified in the contract. This location shall be the place of performance (Erfüllungsort).

All risks associated with the accidental destruction as well as the accidental deterioration of goods delivered shall pass to K+S at the time the goods are surrendered at the place of performance. If K+S and the Contractor agree upon a weighing that the Contractor neglects to perform, the weight as determined by K+S shall be binding.

The Contractor shall be required to package goods in a way that is safe for transport and appropriate for the goods in question. Any damage in transit resulting from inadequate packaging, which therefore would not be covered by a transit insurance, shall be compensated by the Contractor. Transit insurance shall only be taken out after consulting K+S.

8. Claims for Defect

In the case of material defects and/or defects of title or any other violation of duty by the Contractor, K+S shall be entitled to its statutory rights under the BGB (German Civil Code) unless otherwise stipulated below.

The Contractor shall be liable under the statutory regulations that the goods exhibit the agreed upon quality and condition when surrendered to K+S. The agreed upon quality and

condition of goods shall be the product descriptions that are the subject matter of the contract.

Contrary to the statutory regulation of § 442 Section 1 Sentence 2 BGB, K+S shall have any and all claims for defects, even if a defect was not discovered at the time of contract conclusion due to gross negligence.

The commercial duty to examine and give notice of defects shall be governed by the statutory regulations provided that K+S duty to examine is limited to defects that are evident through sampling shipment checks using external inspection also including sampling of provided documents, such as externally visible damage in transit or incorrect delivery as well as a shortfall of the delivery. If the Parties agreed upon an approval, K+S shall have no duty to examine and give notice at the time of delivery.

In any case, a notice of defect by K+S shall be deemed prompt if it has been delivered to the Contractor within 14 calendar days after the delivery of the goods or provision of service.

Expenses necessary for inspection of a supplementary performance of the Contractor (including costs of dis- and reassembly) shall be paid by the Contractor even if it is later discovered that the goods were not defective. K+S' liability for damages caused by a faulty request to remedy a defect shall remain unaffected, provided K+S recognized or did not recognize through gross negligence that no defect existed.

If the Contractor should fail to perform its duty of a supplementary performance within a reasonable period of time set by K+S, K+S may remedy the defect itself and request reimbursement of the resulting costs and expenses. If the supplementary performance failed or if it is unreasonable due to urgency or disproportional imminent damages, the setting of a time period as mentioned above is not required.

Otherwise, in the case of material defects and/or defects of title, K+S shall have the right to withdraw from the contract or reduce the price according to statutory regulations. Furthermore, K+S shall have claims for damages and expenditures according to statutory regulations as well.

9. Statute of Limitations

The statute of limitations shall be governed by the statutory regulations unless otherwise stipulated below.

Contrary to the statutory regulation of § 438 Section 1 No. 3 BGB (German Civil Code) the statute of limitations for claims due to material defects shall be 3 years after the date of transfer of risk. This statute of limitations shall also apply to defects of title with the exception of in rem claims according to § 438 Section 1 No. 1 BGB (German Civil Code) for which the statutory regulation remains unchanged.

The statute of limitations applying under the law governing the sale of goods, including the above extension, shall apply to all contractual claims for defect within the scope of the statutory regulations. If K+S has non-contractual claims for damages, the regular statutory statute of limitations in accordance with §§ 195, 199 BGB (German Civil Code) shall apply, unless the



application of the statute of limitations under the law governing the sale of goods results in a longer statute of limitations on a case-by-case-basis.

If the Contractor complies with its obligation for a supplementary performance by a replacement delivery, the statute of limitations for the so replaced goods shall begin anew at the point of time the replacement delivery is surrendered. The renewal shall not occur if the Contractor accurately states upon surrender that the replacement delivery is undertaken as a gesture of goodwill or to avoid a dispute.

10. Compensation / Rates / Payment / Set-off / Right of Retention

The price agreed upon by the Parties shall be binding. If in doubt, the price as stated by K+S in the purchase order shall be regarded as correct. If not otherwise agreed on a case-to-case-basis, the contractual price includes all services and ancillary services as well as all ancillary costs such as packaging, customs, import duties, transit costs including – if applicable – costs of transit insurance.

All prices exclude the statutory value-added tax (VAT).

Payments shall only be made to proper invoices that exhibit all statutory and contractual agreed upon contents, in particular comply with VAT regulations and have a separate VAT certificate. The K+S order number shall always be listed. Payment will be made within 30 days of receipt of an auditable invoice and proper order completion.

K+S does not owe interest on maturity. The annual default interest rate shall be 5 percentage points above the base rate. K+S shall be deemed to be in default according to the statutory regulations. However, K+S shall not be deemed to be in default in any case before receiving a written warning by the Contractor.

Set-offs by the Contractor shall only be valid insofar as they concern undisputed or legally established claims against K+S.

11. Product Liability / Product Liability Law

If claims are made against K+S in accordance with the law of product liability, the Contractor shall indemnify K+S from such claims if damages occurred because of a defect of goods delivered by the Contractor. This shall also apply in cases of strict liability insofar the Contractor acted culpably. If the cause of damage lies within the Contractor's area of responsibility, the burden of proof that it was not at fault shall fall upon the Contractor.

Further statutory claims shall remain unaffected.

For the duration of the contractual relationship the Contractor is required to take out and maintain sufficient insurance against claims arising from the law of product liability and provide proof of the existence of such insurance to K+S upon a written request.

12. Propriety Rights / Know-How / Non-Disclosure

The Contractor is obligated to ensure that the delivered goods or the application thereof or the services provided do not infringe on third-party propriety rights.

If the agreed upon use of the goods or the services provided is affected by third party propriety rights, the Contractor shall, without prejudice to its contractual and statutory obligations and after consultation of K+S, at his own expense, be obliged to obtain third-party propriety rights in a way that allows the use of the delivered goods or services provided in the contractual agreed upon way or to modify the affected parts of the delivered goods or services in a way that ensures that they do not infringe on third-party propriety rights but still meet the contractual specifications.

The Contractor shall neither be allowed to use know-how nor any information intentionally or incidentally obtained from K+S, may it be for the purpose of fulfilling the contract, during negotiations or the performance of the contract, for own purposes nor make them accessible to third parties without prior written consent by K+S. Furthermore, the Contractor shall not be allowed to duplicate documents surrendered by K+S without prior written consent. Such documents shall be returned to K+S immediately after completion of the contract. The Contractor shall also impose these obligations on his employees and sub-contractors.

13. Severability Clause / Applicable Law / Place of Jurisdiction

Should individual terms of these Terms and Conditions or parts thereof be ineffective, the legal effectiveness of the other provisions or the entirety of these Terms and Conditions is not affected.

These Terms and Conditions and any and all legal relationships between K+S and the Contractor shall be governed by the laws of the Federal Republic of Germany excluding collision laws as well as uniform international law, in particular UN sales law.

Prerequisites and effects of a retention of title shall be governed by the national law of the place where the respective item is stored if and only if the above choice of the laws of the Federal Republic of Germany was inadmissible or invalid according to that national law.

If the Contractor is deemed to be a merchant according to § 1 et seq. HGB (German Commercial Code), a legal entity under public law or special funds under public law, the exclusive place of jurisdiction for all and any disputes arising out of these Terms and Conditions or a contractual relationship between the Parties shall be Kassel, Germany. However, K+S shall be entitled to bring action by its own choosing at the place of performance according to these Terms and Conditions or respectively according to an individual agreement or the Contractor's general place of jurisdiction. Statutory regulations with higher priority, especially concerning exclusive jurisdiction, shall remain unaffected.