

# General terms and conditions of purchase of Kraftwerk Obernburg GmbH (Status 01.06.2015)

## 1. Exclusive validity of our general terms and conditions of purchase; supplementary validity of the law

In the absence of written agreements to the contrary, only the following general terms and conditions of purchase have binding force for our orders. General terms and conditions of sale and delivery of the suppliers do not have binding force, including if we have not expressly rejected these. The statutory provisions of the Federal Republic of Germany supplement the validity of our general terms and conditions of purchase.

## 2. Binding nature of orders and agreements; statutory value added tax

Orders and agreements shall only have binding force if we have issued or entered into them in writing. All prices stated in the order are to be understood plus the respective, valid statutory value added tax.

## 3. Order confirmation

The order confirmation must state the precise prices, delivery time and, where applicable, all details not stated in the order.

## 4. Content of our order; doubt

We shall do our utmost to describe the contractual performance precisely by way of details of the quality and measurements etc. If the Supplier has doubts about details of the contractual performance, it shall contact us without undue delay. Variations from our details shall only be permitted insofar as we have authorised them in writing.

## 5. Loyalty to deadlines and legal consequences of delayed delivery

The agreed delivery dates have binding force, excluding force majeure. The delivery time shall commence at the time the order is placed. If the Supplier defaults in its performance, we shall be entitled, at our discretion, to request subsequent delivery and claim for damages regarding default in delivery or claim for damages instead of the performance in line with the statutory provisions, and withdraw from the contract. The Supplier is to inform us without undue delay of delivery delays of which it becomes aware.

## 6. Defects and warranty

The statutory provisions apply to warranty claims. In the case of replacement deliveries or rectification of defects, the warranty period for replaced parts shall start afresh. We do not waive warranty claims by way of accepting or approving submitted drawings. Our obligation to inspect shall only commence in any case when possession of the delivery item is taken at our plant, and proper notification of shipping is presented.

## 7. Product liability – exemption– third party liability insurance protection

Insofar as the Supplier is responsible for product damage, it undertakes to render us exempt from third party claims for damages at the first request insofar as the cause lies in its sphere of dominance and organisation, and it is liable in dealings with outside parties.

As part of its own liability for cases of damage within the meaning of sub-section (1), the Supplier also undertakes to reimburse us for potential expenses in accordance with Sections 683, 670 BGB (German Civil Code) in conjunction with a re-call campaign conducted by us in good time. We shall give the Supplier appropriate prior notice of the content and scope of such a re-call measure - where possible and acceptable - and give the Supplier the opportunity to comment.

Following consultation with the Supplier, we shall notify the respective, relevant authority in accordance with the requirements of ProdSiG (German Product Safety Act).

The Supplier undertakes to maintain a product liability insurance policy with an amount covered of EUR 10 million for each case of personal/material damage - on a flat-rate basis. This shall not be affected if we are entitled to further-reaching claims for damages.

## 8. Third-party proprietary rights

The Supplier is to ensure that use of the contractual performance does not violate third party proprietary rights (e.g. patents, patent registrations, utility models, registered designs and copyrights) as well as third party business and company secrets.

## 9. Delivery item requirement

The delivery item is to correspond to the latest scientific and technological developments and comply with the statutory, trade association and other relevant safety and accident prevention, environmental protection and occupational medicine requirements and regulations - including if it is manufactured to customer's specifications.

## 10. Executing orders in line with the DIN standards

In the absence of agreements to the contrary, orders for materials as well as parts or elements of machines and systems are to be executed in accordance with the German Industry Standards (DIN).

## 11. Shipping and writing out invoices, payment

By way of executing the contract in good time on our part, in particular issuing payment instructions, it is taken for granted that we shall be provided without undue delay with the requested shipping notification and invoice copies.

In the absence of provisions to the contrary, consignments for which delivery free receiving plant or free station of destination is not agreed are to be shipped via the most cost-effective routes. We may only be charged premiums for transport and breakage insurance if this is expressly agreed upon.

Payment shall be made subject to acknowledgement of the performance as per agreement.

## 12. Secrecy

The Supplier is to maintain strict secrecy in dealings with third parties regarding all experience, know-how and documents of our company of which it gains knowledge in conjunction with the order. Without our approval, drawings may neither be duplicated nor otherwise used. The manufacture of items based on our drawings beyond an

awarded order is not permitted. This also applies to the own purposes of the Supplier.

## 13. Ownership

If we make drawings available to the Supplier, or issue special technical instructions to the Supplier, for the manufacture of items, we shall acquire ownership of these items, including all parts and materials used in that respect, at the start of the manufacture (or upon the inclusion of the parts), and the Supplier is to store these items up until forwarding to us. Third parties may not be granted access to such items without our written approval, and these items may not be sold to such third parties.

Insofar as we provide the Supplier with parts, we shall retain ownership of such parts. Processing or transformation by the Supplier shall be deemed to have been performed on our behalf. If our reserved goods are processed using other items that we do not own, we shall acquire co-ownership of the new item in proportion of the value of our item (final invoice amount including value added tax) to that of the other processed items at the time of processing.

If the item made available by us is inseparably blended with items that we do not own, we shall acquire co-ownership of the new item in proportion of the value of the reserved item (final invoice amount including value added tax) to that of the other blended items at the time of blending. If the mixing is performed in such a manner that the Supplier's item is to be regarded as the primary item, it shall be deemed agreed upon that the Supplier shall assign proportionate co-ownership to us; the Supplier shall store the solely-owned or co-owned items on our behalf.

We reserve ownership to tools; the Supplier further undertakes to use the tools exclusively for the manufacture of the goods we have ordered. The Supplier undertakes to insure, at its own cost, the tools that we own at replacement value with cover for fire damage, water damage and damage caused by theft. At the same time, the Supplier assigns at this point in time to us all compensation claims resulting from such an insurance policy; we hereby accept the assignment. The Supplier undertakes to perform servicing and inspection work on our tools that may be required and to perform all maintenance and repair work at its own cost in good time. The Supplier is to notify us immediately of any malfunctions; if it culpably fails to do so, this shall not affect claims for damages.

Insofar as the security rights to which we are entitled in accordance with sub-section (1.) and/or sub-section (2.) exceed the purchase price of all our reserved goods, which have yet to be paid for, by more than 10 %, we undertake at the Supplier's request to release the security rights at our discretion.

## 14. Compliance with regulations upon rendering services at our company

If authorised representatives of suppliers render services at our company to execute the order, the Supplier is to place these persons under obligation to comply with the statutory and trade association accident prevention requirements - in particular those of the chemical industry - and the acknowledged safety and occupational medicine regulations as well as our general and special company regulations - in particular the bans on smoking and alcohol consumption. Our construction site and assembly regulations are additionally deemed an element of these general terms and conditions of purchase for construction and assembly orders.

## 15. Limitations on liability in the case of storage

If we store third party property that is located at our company in conjunction with the execution of orders, we shall only be liable for intent and gross negligence in the event of loss or damage.

## 16. Ban on using details for advertising

Our company name may only be mentioned for advertising purposes in business letters, customer lists, advertising brochures and other publications following our prior, written approval.

## 17. Prohibition of assignment

Rights and obligations resulting from the order and executing or honouring these may only be assigned following our approval insofar as supplies by subcontractors are not customary in the trade.

## 18. Establishing commercial contractual clauses in accordance with INCOTERMS

Forms that are customary in the trade such as "fob" and "cif" apply in accordance with the INCOTERMS of the International Chamber of Commerce as stated in the version valid at the time of entering into the contract.

## 19. Data processing

Upon accepting the order, the Supplier grants us its consent to the processing of the personal data, which arise in conjunction with the business relationship, at the computer centres of our Group in Germany and abroad.

## 20. Co-ordinator

The co-ordinator stated in the order is responsible for executing orders at our plant in accordance with BGV (German Trade Association Requirements) A 1, Section 6(1). If the co-ordinator is unavailable, enquiries are to be directed to his deputy.

## 21. Place of performance, place of payment and place of jurisdiction

The place of destination stated by us is deemed the place of performance for the contractual performance. Obernburg is deemed the place of payment and exclusive

place of jurisdiction.

## N.B.:

The ORDER NUMBER is to be stated in all correspondence, consignment notes and invoices. A consignment note is to be issued immediately for all consignments regarding the number of items and weight.

## Each delivery is to be settled upon shipping.

We will be forced to return invoices that are submitted incomplete. The appointed date for payment is the date of receipt of proper invoices. The conditions set out in the respective specification are also authoritative with regard to authorised representatives.