

General Purchase Conditions of Franz Kiel GmbH

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1. Relevant Conditions

These purchase conditions are valid for any business relations with the supplier or other contractors (further on called „supplier“). They will also remain valid if the supplier refers to his own business conditions, especially on acceptance of order or within the order confirmation.

Deviations from our purchase conditions, mainly supply conditions of the supplier will be refused in advance. Should they become effective, KIEL's prior written approval will be obligatory.

Contractual conditions of the supplier deviating from KIEL's purchase conditions, will not be included into the contract, even if KIEL fully accepts the supplier's delivery in the knowledge of the deviations.

Even if not mentioned in future contracts, KIEL's purchase conditions are still valid for future business with the supplier.

All contracts are exclusively based on German law, the standardised purchase right of CISG cannot be applied to KIEL contracts. This is also valid for contracts with suppliers from foreign countries.

2. Order

An order can only be regarded as valid, when forwarded to the supplier in written and with signature. Verbal or phone-orders are only compulsory when subsequently confirmed by a written order.

The supplier shall confirm or refuse orders as described above within 3 days after reception. Confirmations of order shall be made by returning the order copy with supplier's signature within the given time limit.

3. Delivery time

The stated delivery time of the order or call-off shall be binding for the supplier. The delivery time is counted from the date of order or call-off.

The relevant deadline for the adherence to delivery dates is the reception of the ordered goods at KIEL's works or the place stated by KIEL.

The supplier shall immediately inform KIEL in written in case circumstances will arise, indicating that stated delivery dates cannot be fulfilled. Furthermore, in this case, he shall await KIEL's decision if the order will remain valid or not.

In case of a delivery delay KIEL is in the position to charge a contractual penalty of 0,5% of the net order value per day, or maximum 0,5% of the total net order value. Additionally KIEL can either insist on delivery or withdraw from the contract. The supplier has the right to proof that, as a consequence of the delay, KIEL has only had small damage or no damage at all. Following this condition, KIEL can assert contractual penalties, even when proviso has not been made use of on acceptance.

Further claims, especially for compensation, will stay untouched. The paid contractual penalty will be deducted from a claim for compensation.

Before expiry of the delivery date KIEL is not committed to take delivery.

4. Prices and Terms of Payment

Unless the supplier will generally reduce his prices, the price stated in the order is a fixed price.

Should KIEL, in comparison to other customers, offer same or similar basic requirements, the supplier shall grant KIEL an equal price level and conditions.

The price will include free delivery to KIEL or a stated place in case nothing else has been fixed in written. Should KIEL pay for delivery in exceptional cases, the supplier must choose the means of transport stated by KIEL, or a cost-saving way of transport and delivery.

Packaging is also included in the price. Should there be an exceptional other agreement, packaging shall be charged at prime cost. The supplier shall use the packaging mentioned by KIEL and must take care that the packaging protects the goods from damages.

VAT at its legal level is not included in the stated prices.

Invoices shall be prepared for each order separately. Payment will only be made after full reception of defect-free goods, respectively full defect-free performance and after reception of the invoice. This is applicable also for partial deliveries. Delays as a consequence of incorrect or incomplete invoices will not influence discount limits.

Provided that the above conditions are fulfilled and nothing else has been agreed, KIEL will pay the purchase price net within 30 days from reception of invoice.

The right for compensation and detention can be used within legal possibilities.

Claims of the supplier to KIEL can only be forwarded to third parties with KIEL agreement. Payments shall only be made to the supplier.

5. Delivery Type and Size, Risk Responsibility

KIEL will only take over risk after acceptance through the stated destiny place.

The delivery must correspond to the quality requirements as specified in the order.

In case the delivery will deviate from the quality requirements of Franz Kiel GmbH, the supplier must pay a contractual penalty of 20% of the net order value. The supplier has the right to proof that, as a consequence of the deviation, KIEL has only had small damage or no damage at all.

The supplier can only refuse payment of the contractual penalty, in case the deviation to the quality requirements is not within his responsibility. Following this condition, we can assert contractual penalties, even when proviso has not be made use of on acceptance. Further claims will stay untouched. The paid contractual penalty will be deducted from such further claims.

The supplier must indicate KIEL order and article number, as well as quantity, unit of quantity and remaining quantity of partial deliveries on all shipment papers, invoices and delivery notes; any consequences resulting from the non-adherence of this obligation will be in the

supplier's responsibility, as long as he cannot prove that the non-adherence is not his responsibility.

In case of incomplete, delayed or defective delivery, the invoice will not be paid on reception. In addition to a delayed payment KIEL reserves the right to charge the resulting inconvenience and measurements that must be taken.

In case of consignment delivery, a shipping note shall be forwarded to KIEL at the day of shipment.

6. Investigation of Defects / Warranty

KIEL is committed to check and, if necessary, reject the goods within a sufficient time period with regard to obvious quality and quantity deviations. The complaint is well in time in case it is received by the supplier within a period of two weeks from the date of goods reception, or in case of non-obvious defects, from the date of their discovery.

KIEL can make unlimited use of the legal warranty claims. Furthermore, on delivery of defective goods, KIEL can insist on replacement delivery or repair of defective goods. In such a case, the supplier must pay all expenses including delivery costs for repair or replacement.

In case the repair of the goods is in delay, KIEL can repair the goods on their own or have them repaired by a third party at supplier's costs; this is also valid for urgent cases.

The warranty time for the product or the order delivered by the supplier, will end after a period of twelve months from date of delivery and acceptance.

7. Product Liability / Liability Insurance

As far as the supplier is responsible for a product defect and is or would be directly liable himself, he is obliged to release KIEL from damages claims of third parties.

The supplier will sign a liability insurance policy with an insurance amount of 3.000.000,- € per personal injury/material damage; if KIEL is entitled to claim for further damages, these will remain untouched and shall not be limited to the above amount.

8. Legal Protection Rights

The supplier will take care that no rights of third parties are touched with regard to his delivery.

Shall there be claims from a third party to KIEL or his customer, the supplier must – on written request – release KIEL or his customer from these claims. KIEL or his customer are not entitled to make arrangements or even come to terms with third parties without written approval of the supplier.

9. Quality, Documentation, and Environmental Protection

For his deliveries, the supplier must meet the generally accepted rules of techniques, safety instructions and the agreed technical data. Changes of the items to be delivered can only be made after written approval of the orderer.

As far as safety datasheets for hazardous material, working- and auxiliary material are needed, these must be enclosed free of charge by the supplier to the first order acknowledgement. In case of changes to the safety datasheets, the supplier must – without special request – immediately forward new revisions to the orderer.

For first sample testing, reference is made to the VDA-document „Quality Assurance of supplies within the automobile industries supplier valuation, first sample testing“, Frankfurt am Main 1975. In any case, the supplier must permanently check the quality of his products. The contract partners will inform each other about any possibility for quality improvement.

The supplier will guaranty that all offered and delivered items as well as their production will correspond to our specification and to the actual valid standards and laws of environmental protection.

10. Force Majeure

Force majeure, war, civil war, export or trade restrictions due to changes within the political area, as well as strike, lock-out, stoppage, cutting-downs and similar events, that will prevent KIEL from fulfilling the contract, are regarded as force majeure and will release KIEL - for the duration of the event - from the duty to take the goods in time. The contract partners are committed to inform each other about such a situation and shall, with regard to the changed situation, try to adhere to their obligations as best as possible.

11. Deposit / Property

Material and tools delivered at supplier's disposition will remain KIEL's property. They shall be stored separately and shall only be used for KIEL orders. The supplier is liable in any case for depreciation or loss. Items produced by means of disposed material are KIEL's property in any manufacturing step. The supplier will keep these items on stock for KIEL; expenses for storage of items, tools and materials are included in the purchase price.

12. Secrecy

Any commercial and technical details getting into the supplier's knowledge during their business relation with KIEL, shall be treated as company confidential.

Drawings, tools, samples, models, markings and designs, etc. as well as end products and semi-finished products, disposed by KIEL or produced for KIEL, will remain KIEL's property and shall only be supplied to third parties after reception of KIEL's written approval. The above mentioned items shall immediately be returned to KIEL after completion of the order; exceptional agreements shall be treated separately. Products manufactured or marked by those kind of production means, markings and designs shall only be supplied to third parties after reception of KIEL's written approval.

13. General Regulations

In case one of these regulations will become invalid, the other regulations shall remain valid.

Contract changes are only regarded as agreed, after KIEL's written approval.

Any litigation resulting from the contractual partnership will be handled – as per litigation value – by the Inferior Court Nördlingen or the Superior Court Augsburg. KIEL is anyhow entitled to take legal proceedings against the supplier at his local court.

As far as stated, the place of performance shall be the goods destination place, otherwise KIEL's registered seat of company.