

General Terms and Conditions of Purchasing of Kraemer AG, Bassersdorf

5th October 2009

1. General

1.1 The following purchasing conditions apply to purchase contracts (purchase, work, work performance and other open-end contracts) entered into by Kraemer AG, 8303 Bassersdorf, (hereinafter called KAG) unless the order explicitly states something to the contrary. The general terms and conditions of business of the supplier will not apply even where they have not been explicitly repudiated, unless they have been explicitly accepted by KAG in writing.

1.2 Agreements, side agreements, assurances to the contrary and modifications of these purchasing conditions must always be in writing and can be agreed only for a particular case.

1.3 All offers made to KAG shall be binding on the offering party / supplier for a minimum period of 60 days from receipt by KAG but do not constitute a claim to order placement or to payment.

1.4 The supplier must quote KAG's order and item number in all correspondence. Supplies, communications, invoices etc not showing this information will be regarded as undelivered because they cannot be processed.

1.5 Should individual provisions in these purchasing terms and conditions be void for any reason, the remaining provisions will continue to be fully effective.

2. Order placement

2.1 Orders shall only be legally binding on KAG if they have been set out on the KAG pre-printed order forms and have been properly signed. Verbal agreements or telephone orders will only apply if they have been made by personnel authorised by KAG. Once a supplier accepts an order from KAG, the supplier shall be subject to these purchasing terms and conditions in their entirety.

2.2 If the supplier does not reject in writing and within 3 days an order placed by KAG, the order will be regarded as having been accepted without reservation by the supplier.

3. Call-off contracts

3.1 Call-off contracts are relate to specific services in terms of volume, price and call-off lot sizes. The term of such contracts is generally 18 months.

3.5 No expenses incurred by the supplier in connection with the supply because of the supplier's failure to comply with written agreements may be recharged to KAG nor claimed from KAG.

4. Order confirmation

4.1 Where orders are made by post, fax or EDI, the supplier is requested to mark the order as confirmed and promptly return a copy to KAG. See point 2.2 in this connection.

4.2 If the supplier raises objections to details in the order, KAG reserves the right to cancel the order.

5. Supply, acceptance, receipt and consequences of delays

5.1 The supply is due for delivery on the agreed date at the place of destination. Should the supplier recognise that he will not be able to supply on time or fully, he must notify the purchaser of this fact immediately and indicate how long the delay will last.

5.2 If supply is made late or incompletely, KAG will be entitled to withdraw from the contract or to insist upon delivery without granting the supplier a further period. If the delay in making the supply is unauthorised, KAG will be entitled to seek an alternative remedy at the expense of the supplier. This is without prejudice to the purchaser's right to claim damages.

5.3 The goods must be supplied properly packed and with the appropriate accompanying paperwork, with the order number in full and the material codes clearly marked. The goods are not accepted for legal purposes until they have been inspected by KAG goods inwards control and passed as in order. Transfer of risk takes place after delivery to the place of destination.

5.4 Part deliveries and early deliveries are only allowable by prior agreement. Payment periods do not begin until the agreed delivery date.

6. Fixed prices, invoices

6.1 Provided nothing to the contrary has been agreed, the specified prices are fixed prices. They include all incidental costs, such as packaging, transportation costs, etc.

6.2 Invoices displaying the order number should be sent separate from the delivery to KAG.

7. Payment conditions

7.1 The payment deadline is '30 days 3% discount' and/or '60 days net' after receipt of invoice unless some other agreement has been made, at the earliest however after acceptance of the supply. Payment does not however constitute acknowledgement that the supply conforms to order. All rights to offset claims due with counterclaims are reserved with regard to contract fulfilment.

7.2 If prepayments are to be made, the supplier must if required provide some adequate security (e.g. bank guarantee) and pay interest.

7.3 The supplier is prohibited from assigning his claims against KAG unless KAG has given its explicit consent.

8. Warranty, liability

8.1 The supplier as specialist gives a warranty that the goods to be supplied have no defects which reduce their value or impair their fitness for purpose for the intended use, that the goods have the assured characteristics and conform to the specified services and specifications. The goods to be supplied must conform to the public law regulations at the place of destination (e.g. SEV, SVDB, SUVA, CE conformity, UL conformity, CSA conformity ... [Swiss Electrotechnical Association, Swiss Association of Pressure Vessel Owners, Swiss Accident Insurance Organisation]).

8.2 The warranty period is 12 months from successful commissioning, use etc. and not longer than 24 months from the time of delivery.

8.3 If it becomes apparent during the warranty period that the supply or parts thereof do not conform to the warranty as set out in point 7.1, the supplier shall eliminate the faults at his own expense *in situ* or arrange for them to be eliminated. If complete reparation cannot be expected within a period suitable to the purchaser, the supplier shall supply and assemble a defect-free replacement. If the supplier is not materially capable of eliminating the faults immediately, the purchaser will be entitled to eliminate the faults himself or to have them eliminated at the expense of the supplier or to procure a replacement. The supplier will be liable for transportation costs and any travel expenses in connection with work under the warranty.

8.4 The supplier is liable for his own work and for that of his sub-suppliers.

8.5 The supplier must assure the availability of spare parts and improvement services for a period of twelve months.

8.6 The supplier is also liable for the completeness and accuracy of information and statements shown on certificates or test warrants.

8.7 This is without prejudice to the purchaser's right to claim damages if poor quality supplies or services by the supplier cause delays in making supplies to third parties.

8.8 The supplier is responsible for ensuring that the delivery and use of the goods do not cause personal injury. He must indemnify the purchaser if necessary.

9. Right of inspection

The purchaser is entitled to monitor the progress of the work. This neither alters nor restricts the obligation of the supplier to fulfil the contract.

10. Assembly

If the supplier is required to assemble items, this will be covered in the supply price, unless some specific remuneration has been agreed for this.

11. Work on the purchaser's premises

If the supplier is to carry out work on the purchaser's premises, the supplier must comply with the purchaser's safety instructions as well as these general terms and conditions of business.

12. Drawings and operating instructions

12.1 If the purchaser so requires it, the supplier must supply the purchaser with workshop drawings for his approval before production begins. Approval from the purchaser does not exempt the supplier from his responsibility to ensure functional fitness for purpose and feasibility. The definitive workshop plans,

maintenance and operating instructions and spare parts lists for the proper maintenance of the goods to be supplied must be provided to the purchaser without charge at the time of delivery.

13. Confidentiality

13.1 None of the details, drawings etc, provided by the purchaser to the supplier for the manufacture of the object to be supplied may be used for other purposes, nor may they be duplicated, nor disclosed to third parties and they will remain the intellectual and material property of KAG. Any copyrights will be the property of the purchaser. If required to do so, the supplier will immediately furnish the purchaser with all copies or duplications that have been made. If supply does not take place, the supplier will furnish the purchaser with the documents unprompted.

13.2 The supplier must treat the order and the associated work or supplies in confidence and must take all conceivable action to satisfy the confidentiality provisions.

13.3 Technical documentation of the supplier or his sub-suppliers will be treated in confidence by the purchaser. Such documentation will remain the intellectual property of the supplier or of the sub-supplier.

14. Industrial property rights

14.1 The supplier must fully indemnify KAG against any and all patent right disputes in connection with the supply and any other disputes associated with industrial property rights and, irrespective of whether fault is involved or not, reimburse to KAG all costs incurred as a result of any restrictions on the use of the goods supplied.

15. Force majeure

15.1 The contractual partners shall have no liability in respect of non-fulfilment of contractual obligations as a result of force majeure. 'Force majeure' is to be understood as objectively unavoidable and unforeseeable circumstances occurring after contract conclusion.

15.2 The contractual partner who invokes causes related to force majeure is obliged to notify the other party immediately of the occurrence and of the probable duration. Failure to do this will invalidate the claim of force majeure.

15.3 If required to do so, the supplier will supply the purchaser with a certified statement confirming the circumstances which he regards as constituting force majeure.

16. Applicable law and place of jurisdiction

16.1 Applicable law: the individual contract, these purchasing terms and conditions and the relevant Swiss legislation.

16.2 Place of fulfilment and place of jurisdiction: CH-8303 Bassersdorf