

## Terms and Conditions of Purchase

### Article 1 Decisive Terms of Business

- (1) KDK orders are made exclusively on the basis of the purchasing conditions of KDK. The General Terms of delivery of the supplier or other deviating agreements apply only if they are used by KDK as an addition. The terms and conditions of purchase of KDK in writing.
- (2) Purchase orders placed by KDK shall be satisfied solely in compliance with KDK's terms and conditions of purchase. The supplier's general terms of supply or other different arrangements shall apply only if KDK confirms them in writing in the form of an annex to its terms and conditions of purchase.
- (3) KDK's terms and conditions of purchase shall apply to all future transactions with the supplier.

### Article 2 Purchase Orders

- (1) Only KDK's purchase orders in the written form are valid. The purchase orders need not be signed by KDK. The written form shall be understood to include also purchase orders sent electronically (by EDI, WebEDI, e-mail) or by fax.
- (2) The supplier shall confirm the receipt of the purchase order without undue delay following its receipt; however no later than within 3 business days. If KDK does not receive a notice of rejection concerning the purchase order from the supplier within 3 business days from its receipt, the purchase order shall be deemed to have been accepted.
- (3) At KDK's request, the supplier shall be obligated, as long as it can be reasonably required from him, to change the subject of the supply in terms of its design or workmanlike finish. In this connection, the Parties shall adequately reflect the impact of these changes, in particular as regards the increase or reduction of the costs and delivery dates.

### Article 3 Prices

- (1) Unless something else has been agreed upon, the prices stated in the purchase order and confirmed by the purchaser shall be binding.
- (2) If no special written agreement has been concluded, the prices for the supply shall be understood to include the packaging fee, insurance and customs duty as applicable to DDP under Incoterms 2010 with delivery to the place of unloading specified by KDK, and, if the place of delivery is not specified, to the address specified by KDK, i.e. the supplier shall bear and assume all the costs and risks connected with the transportation until the delivery of the goods to KDK.

### Article 4 Invoices and the Supplier's Declaration

- (1) Invoices shall be addressed to the mailing address specified by KDK in the purchase order and must not be attached to the supplied consignment. Invoices must include all the information prescribed by KDK (supplier no., no. and date of the purchase order or contract and/or delivery request, additional information concerning the purchase, place of unloading, no. and date of the delivery note and quantity of the invoiced goods) and must be delivered to KDK in one copy immediately after the delivery of the goods, however, no later than within 5 days. The invoice must be issued for one delivery note only. The invoice shall not be deemed due upon its delivery.
- (2) At the request, and not later than with the supply, the supplier shall make a supplier's declaration in accordance with Regulation (EC) No 1207/2001 and/or a declaration on the non-preferential origin of goods in accordance with Articles 22-26 of Regulation (EC) No 2913/92.
- (3) The invoice shall not be deemed valid if it does not meet the formal criteria set out in Articles 4 (1) and (2) above.

### Article 5 Terms of Payment and Rescission

- (1) The purchase price shall be paid by KDK at its discretion by wire transfer, by cheque or by other methods of payment.
- (2) Unless something else has been agreed upon, if the invoice is paid within 14 days from its delivery, KDK shall be entitled to a discount of 3% of its net price. If the invoice is paid later than its delivery, KDK shall be entitled to a discount of 2%. For payments by wire transfer, the date when KDK places the payment order shall be decisive.
- (3) The invoice shall be payable within 30 days from the delivery of the goods, however, no later than 60 days from the delivery of the invoice to KDK and no earlier than upon the fulfillment of the formal criteria set out in Articles 4 (1) and (2) above.
- (4) The purchase price shall be paid only on the basis of a valid invoice that meets the criteria set out in Article 4 above.
- (5) If supplies are accepted at an earlier date, the maturity shall be determined with respect to the agreed date of delivery.
- (6) Late payment interest for an unpaid invoice shall be subject to an annual limit at the maximum level of 5 percentage points above the statutory interest rate. If the supplier grants a loan, then the interest rate applicable to the loan shall be decisive. For asserting claims for late payment interest, the supplier shall present KDK with a proof of the interest rate applicable to the loan that is paid by the supplier.
- (7) Retention of ownership title is hereby excluded.
- (8) In cases of defective supplies, KDK shall be entitled, without prejudice to its other rights, to retain an adequate portion of the payment, until the supplier appropriately completes the supply.
- (9) Without the prior consent of KDK, which may not be withheld without a serious reason, the supplier must not assign its receivables due from KDK or engage a third party to collect them.

### Article 6 Delivery Dates and Periods

- (1) The dates, quantities and periods stated in the purchase order and/or the distribution of supplies shall be binding and must be observed/complied with to the full extent. KDK shall not be obligated to accept any partial performance. In cases of partial performances by the supplier, KDK shall be authorised to refuse such performance after the lapse in vain of a reasonable period for the supply of the entire amount. The delivery of the goods to the place of unloading specified by KDK or, if not specified, to the address specified by KDK shall be decisive for compliance with the delivery dates and periods.
- (2) If, contrary to Article 3 (2) of these terms and conditions, it has been agreed that the goods shall be collected by KDK at its own expense, the supplier shall inform the purchaser on the availability of the goods no later than two business days before the lapse of the delivery period and to prepare the goods including its packaging.

### Article 7 Dispatch, Place of Performance and Passage of the Risk of Damage to the Goods

- (1) The supplies shall be transported to the place of unloading specified in the purchase order and, if the place of unloading is not specified in the purchase order, then to the address specified by KDK. A delivery note shall be attached to the goods in two copies. The delivery note shall contain all the information required by KDK (supplier no., no. and date of the purchase order or contract, and/or delivery prompt, quantity, weight (gross/weight of the packaging) and the supplier's address).
- (2) If the transport is not effectuated by KDK, and/or if KDK does not determine a stopper, the place of performance shall be in all cases located at the address specified in the purchase order.
- (3) The supplier shall bear the risk of damage caused to the goods until the moment of delivery of the goods to the place of performance.

### Article 8 Delayed Delivery

- (1) The supplier assumes the acquisition risk with respect to the subjects of supplies ordered by KDK.
- (2) The supplier shall compensate KDK for any damage caused by a delayed delivery.
- (3) The dates that are decisive for the delivery dates are the dates specified in the written purchase orders or in other declarations of KDK related to the purchase orders. The dates specified by the supplier are irrelevant for the date of performance by the supplier unless they correspond with the dates specified by KDK.
- (4) The supplier shall immediately inform KDK of any expected complications in supplies of materials or in the production etc. which could pose a threat to the completion of the supply in a timely manner but primarily in accordance with the agreement. This fact shall have no effect on the supplier's duty to supply the goods within the agreed period or on his duty to assume the acquisition risk.
- (5) If there is a threat that the delivery dates will not be adhered to, KDK shall be authorised to determine the method of transport as it may find purposeful. The increased transport costs related thereto shall be paid by the supplier.
- (6) By accepting a delayed supply or service KDK does not waive its claims vis-à-vis the supplier that KDK has incurred due to the delayed supply. In all instances, KDK shall be authorised to refuse a partial performance as the supplier's failure to supply the goods.
- (7) If the supplier is obligated to supply the goods to KDK on several dates and if the performance of two supplies/partial performances is delayed, the delay on the part of the supplier shall be regarded as a substantial breach of the framework supply agreement if such an agreement has been concluded between the Parties. A reprimand notice concerning the delay in the first supply/partial performance given by KDK to the supplier shall be regarded as the first KDK's request for payment that was futile due to the further failure to adhere to the delivery date. This shall not prejudice KDK's right to

exercise all the rights that it possesses due to the supplier's delay in the respective supplies/partial performances. If no framework agreement is concluded between KDK and the supplier, in cases of delay in two supplies, KDK shall be authorised to withdraw from the remaining supplies/partial performances even if the delay was not caused by the supplier. Any other KDK's rights shall remain unprejudiced despite the declaration on rescission.

### Article 9 Force Majeure

- (1) Unforeseeable or unavoidable events, force majeure, strikes and lockouts within KDK or within the establishments of its subcontractors that cause a stoppage or limitation of KDK's production and cannot be avoided with regard to the existing circumstances despite reasonable efforts being made shall authorise KDK to postpone the acceptance of goods and the payment by a period corresponding to the duration of the limitation and by an adequate period necessary for the production start-up.
- (2) If in the aforementioned cases the date of acceptance of the goods is postponed and the maturity period is extended, the supplier shall not be entitled to any potential damages. However, KDK may refer to the application of this provision only if it informs the supplier within a period that is adequate to some of these circumstances.
- (3) If the limitation lasts for a period shorter than two months, the supplier shall not be authorised to rescind the agreement, if KDK takes over the items of the supplied items after the expiry of this two-months period. If the limitation lasts for a period longer than two months, the supplier shall be authorised to rescind the agreement after the expiry of a reasonably determined period with respect to the yet uncompleted and by KDK yet unpaid part of the supply.

### Article 10 Quality and Documentation

- (1) As regards its supplies, the supplier shall comply with the generally accepted technical standards, safety rules and the agreed technical parameters. Any changes to the subject of supply or to the previously approved manufacturing process or the removal of this process shall be subject to the prior written consent of KDK.
- (2) The supplier shall not be authorised to subcontract any supplies based on a purchase order from KDK from any third party without the written consent of the purchaser. Any breach of this provision shall authorise KDK to rescind in full or partly from the agreement and to seek damages.
- (3) If KDK requests tests of the first samples, the batch manufacture may be started only after the samples have been approved in writing. The appropriate document must be submitted in German or in English. The tests of the first samples shall be carried out in accordance with VDA, volume 2, and/or in accordance with PPAP (QS 9000), if KDK has no other more stringent requirements. For testing the first samples, the data concerning the materials shall be additionally entered in the material database IMDS and provided to KDK. Regardless of these tests, the supplier shall control the quality of the subject of supply on a continuous basis and to set up its quality management system so as to comply with the latest technology, in particular with DIN ISO 9000:2000, TS 16949 and/or QS 9000 and a VDA 6.1 standards. The supplier shall bind its subcontractors to the same extent as legally practicable. In addition, the Parties shall inform each other of the possibilities of quality improvements.
- (4) The type and scope of these tests including the testing devices and methodology shall be determined by the supplier subject to the consent of KDK. This applies in particular to products with parameters that are important and/or critical for the quality.
- (5) If the supplier receives drawings, templates or other procedures from KDK, the supplier agrees to adhere to the information specified therein regarding the type, properties and workmanlike finish of the subject of supply. The supplier may not refer to documents, advertising slogans or drawings that contain information concerning the properties of the subject of supply if the requirements specified therein do not meet KDK's requirements contained in the aforementioned documents. However, in other cases the supplier shall be bound by such information, if it exceeds the scope of KDK's requirements for the properties of the goods. For automotive parts designated in particular with the letter "D" in technical documentation or upon a special agreement, the supplier shall further specify in special reports who checked the properties of these subjects of supply and how these properties for which a special documentation must be in place were checked as well as the results of the required quality test. The test documentation must be archived for a period of 30 years and submitted to KDK if necessary. If the supplier terminates its business activity prior to the lapse of the 30 year period, it shall be obliged to code this documentation to KDK free of charge. The supplier shall bind its subcontractors to the same extent as legally practicable. We recommend using the VDA guidelines entitled "Automotive parts supplied by manufacturers and their subcontractors that are subject to the documentation duty and the creation of documentation" (in German: "Dokumentationspflichtige Teile bei Automobilherstellern und deren Zulieferanten, Durchführung der Dokumentation"), Frankfurt am Main, as amended, whereas the decisive archiving period is 30 years.
- (6) If for performing a test of certain parameters the authorities or the customers of KDK request the inspection of KDK's process and manufacturing documentation, the supplier shall provide them with the same rights to be exercised within its establishment and with the adequate support. In addition, the supplier shall secure that its subcontractors provide the same rights to the authorities and to KDK or its customers.
- (7) For the materials whose packing, transport, storage, handling and/or liquidation require special treatment under the laws, decrees and other legal regulations or with respect to their composition or environmental impact, KDK's supplier shall submit, along with its offer, a fully completed safety sheet and a technical data sheet necessary for any further potential international distribution as well as instructions concerning accidents (during the transport). In cases of changes in the composition of materials or in the legislation, the supplier shall submit the updated safety sheets, technical data sheets and instructions to KDK.

### Article 11 Claiming Defects

- (1) Apparent defects shall be claimed by KDK no later than 7 days after the takeover of the goods.
- (2) KDK shall not be obligated to perform receiving checks of the delivered goods. KDK performs random checks and checks of apparent defects. The values ascertained by KDK shall be relevant as regards the number of supplied items, their dimensions and weight.
- (3) For goods where defects may be detected only during the processing by KDK and/or during the assembly performed by its customers, any defects shall be deemed to be claimed in time if KDK does so within one week from detecting the defects or after receiving a claim from its customer.
- (4) If KDK's customer claims a defect at KDK, but fails to adhere to the provisions of the return rules, the claim shall be deemed to be made in due time if KDK does so within 7 days from the delivery of the notice of defect from its customer.
- (5) If KDK's customer claims a defect at KDK that was caused by the supplier's s and/or its subcontractor's providing the KDK's customer with false information concerning the properties of the subject of supply, the claim shall be deemed to be made in due time if KDK claims the defect at the supplier within 10 days from the delivery of the notice of defect from its customer.
- (6) If the circumstances set out in Articles 11 (2) through (4) restrict the supplier's rights under Article 427 of Act No. 513/1991 Coll., the Commercial Code, as amended (the "Commercial Code"), the supplier shall waive the objection that KDK failed to fulfil its obligation to give notice of defects in the goods in due time under Article 428 (2) of the Commercial Code.
- (7) Any payment that is made before the defect is detected shall not be deemed as an acceptance of the goods being supplied free of defects and in compliance with the regulations.

### Article 12 Material Defects

- (1) Unless something else has been agreed upon contrary to these terms and conditions of purchase, the legislation that is in force at the moment of the delivery of the supply from the supplier shall apply.
- (2) If the supplier fails to fulfil its obligation to supply additional performance within a reasonable period of time granted by KDK, then KDK shall be authorised to secure, whether alone or through a third party, such additional performance at the cost of the supplier.
- (3) Article 8 (7) hereof shall apply *mutatis mutandis* to any defective requests for the takeover of goods.
- (4) Unless something else is provided for in the text below, material defects in the goods that do not relate to structures and that are not items typically used for structures, may be claimed within a period of 24 months from the moment when KDK performs further processing of the subject of supply, however, no later than 30 months from the delivery of the subject of supply to KDK. If the supply contains parts that are fitted in vehicles, the time-limit for the assertion of claims arising from defects shall start upon the first registration of the vehicle. However, this time-limit shall expire no later than 36 months after the delivery of the subject of supply to KDK.

### Article 13 Manufacturer's Liability for Defects

- (1) Unless something else is provided for, the materials and parts supplied to KDK shall be intended for fitting in motor vehicles, namely special and rail vehicles. These products are distributed throughout the whole world.
- (2) Irrespective of any potential receiving checks by KDK, the supplier shall carry out all checks of the products manufactured and/or supplied by the supplier and shall be liable for the flawless condition of the subject of the supply. Any potential checks carried out by KDK shall not release the supplier from this duty.
- (3) The relevant provisions of the law shall apply in cases of claims asserted by KDK vis-à-vis the supplier that arise from the manufacturer's liability for defects. If the legal provisions do not regulate situations where claims may be made against KDK on the basis of the manufacturer's liability for defects or due to the breach of safety regulations or regulations concerning industrial or intellectual property rights or other similar rights under German or any foreign law, the supplier shall compensate KDK for any incurred damage including the law enforcement costs, if the supply delivered by the supplier contains defective parts or parts that caused the situation. The supplier's liability shall be applicable also to cases that are not caused by fault of the supplier, if claims for damages are asserted vis-à-vis KDK under German or any foreign law in connection with the defective parts irrespective of fault. If KDK and/or its customer are obligated to withdraw their products due to fault caused by the subject of the supplier's supply or if such withdrawal of the goods is at least reasonable and/or if KDK is obligated to assume the costs associated with the withdrawal of the goods, the supplier shall compensate KDK for the costs incurred as a consequence of the withdrawal. The supplier agrees to take out the relevant insurance policy covering liability for products including the costs for the withdrawal of the products. At KDK's request, the supplier shall immediately produce evidence of the existence of such insurance.

### Article 14 Industrial or Intellectual Property Rights and Other Similar Rights

The supplier's liability for legal defects in the goods and for the assertion of claims arising therefrom shall be governed by the Commercial Code.

### Article 15 Spare Part Supplies

The supplier agrees to supply spare parts for the determined life-time of end-products in which the supplied products are fitted. The end-products include mainly passenger cars and lorries. The minimum life-time of these products is 20 years.

### Article 16 Means of Production

- (1) The materials and spare parts produced by KDK shall remain the property of KDK and must be designated with the "KDK" mark. They may be used only for a specified purpose. The processing of materials and assembling of parts shall be carried out for KDK. The Parties agreed that KDK is the co-owner of the products manufactured with the use of its materials and parts and that the co-ownership title to the supplied material and/or spare parts shall be proportional to the value of the complete product. Until the agreed date of delivery to KDK, the products shall be held by the supplier and stored separately for KDK.
- (2) All the documents provided by KDK to the supplier such as samples, designs, models etc. must be sent by the supplier free of charge to KDK at KDK's request.
- (3) The supplier shall insure, at its own cost, all the provided materials and parts against all risks, in particular against fire and theft and produce evidence of the existence of the relevant insurance policy at request.
- (4) Forms, models, operational means etc. may be destroyed only with the KDK's written consent. The supplier shall be obligated to submit, on a regular basis and at every KDK's request a list of means of production that are owned or co-owned by KDK.
- (5) At KDK's request, the supplier shall issue immediately, however no later than within one day, all the materials, parts, forms, models, means of operation or other means of production that KDK provided to the supplier. Items co-owned by the supplier shall be issued in exchange for the payment of its co-ownership interest by KDK. If the amount of the co-ownership interest is disputed, KDK shall be authorised to provide the supplier with a guarantee in an amount equal to the disputed amount instead of a lien with respect to the supplier's co-ownership interest. In other cases, the supplier's lien with respect to the means of production shall be excluded, if the receivable from which the supplier's lien arises is disputed between the Parties or if a final and conclusive decision has not been issued with respect to such receivable.

### Article 17 Trade Secret

- (1) The supplier shall treat KDK's purchase orders and all the commercial and technical details related to the purchase order as a trade secret and bind its employees so as to comply with the same obligation. This obligation shall continue to exist also after the termination of the supply agreement unless the trade secret enters the public domain without fault of the supplier.
- (2) The products manufactured in accordance with the documents prepared by KDK such as drawings, models etc. or as per the confidential information disclosed by KDK or with the use of its tools manufactured on the basis on its designs shall not be used by the supplier for its own needs or offered or supplied by the supplier to any third party.
- (3) The supplier may supply parts developed or improved by KDK in cooperation with the supplier to third parties only with KDK's written consent.
- (4) If the supplier engages any subcontractor in order to fulfil its obligations vis-à-vis KDK, the supplier shall bind these subcontractors to maintain the confidentiality obligation to an extent defined under Articles 17 (1) and (2). At KDK's request, the supplier shall submit the relevant written agreement concluded with its subcontractor to KDK.

### Article 18 Special Supply Arrangements

- (1) The following provisions apply solely to those purchase orders that are to be fulfilled in several supplies. Unless something else has been agreed upon, these terms and conditions of purchase shall apply in these cases.
- (1) Any reported backlog must be immediately supplied on the basis of the previous distribution of supplies. In case of discrepancies as to the number of backlogs, the backlogs reported by KDK shall prevail.
- (2) Should any further supplies be dispatched to KDK in addition to the aforementioned last supply, the additional supplies shall be set-off against the nearest payable part of the purchase order.
- (3) Unsolicited goods delivered before the agreed delivery date shall be immediately returned.
- (4) A manufacturing authorisation shall be granted by KDK for the first calendar month following the date of the purchase order. After the lapse of the first month, the manufacturing authorisation shall be deemed to be automatically granted for the second month etc. The input material may be used for the next month. The projected figures stated in the prognosis shall not be binding. KDK shall be authorised to change the scope of the purchase order as necessary.

### Article 19 Final Provisions

- (1) These terms and conditions of purchase and all legal relations between KDK and the supplier shall be governed by German law. Application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be hereby excluded.
- (2) Any disputes arising from agreements to which these terms and conditions of purchase apply shall be resolved exclusively by German courts whose jurisdiction shall be determined according to the location of KDK's seat.
- (3) Any of the Parties stops fulfilling its monetary obligations or if an insolvency petition is filed against any of the Parties, the other Party shall be authorised to rescind the agreement with respect to the respective part of the agreement that has not been fulfilled yet. The other claims shall continue to exist.
- (4) Should any provision hereof become invalid or ineffective under these terms and conditions of purchase or under other arrangements, all the remaining provisions or agreements shall remain effective. If the ineffective provision is not a part of the general business conditions, the Parties shall replace such invalid or ineffective provision with an effective provision whose economic purpose is as close as possible to the economic purpose of the invalid or ineffective provision.

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