



## **GENERAL PURCHASE CONDITIONS**

### **For supplies/services to companies of Kraftanlagen Group**

Version of January 2013

#### **1.0 General**

Orders will only be placed by us on the basis of these General Purchase Conditions. However Special Purchase Conditions for certain supplies and/or services shall have overriding priority, inasmuch as they are referred to in the written purchase order concerned. The acceptance of our order by you shall be considered an acknowledgement of own General Purchase Conditions and a waiver of any contradictory terms of sale or delivery. This shall also apply should we not expressly contradict any terms and conditions which may differ from ours. Alternative terms and conditions shall only be binding if accepted by us in writing. In such cases, our terms and conditions shall retain supplementary validity. Inasmuch as these General Purchase Conditions or other elements of any contract require the written form, electronic transmission is sufficient, unless we have explicitly requested an extended electronic signature under the terms of the Law no. 455/2001 regarding the electronic signature.

#### **2.0 Quotations**

Quotations shall be submitted free of charge. As a general rule no remuneration shall be granted for visits, cost estimates, submission of planning documents and similar services.

#### **3.0 Purchase Orders**

3.1 Purchase orders and other requests, agreements as well as subsequent modifications and supplementary agreements are only binding if placed or confirmed by us in writing.

3.2 Should we place an order by telephone in advance of the written order you are obliged upon receipt of the written order to verify all details already communicated by either of us and to inform us of any discrepancies without delay.

3.3 The subcontracting of entire orders for goods or services is subject to our prior authorization even if you intend to subcontract an entire order in many parts.

3.4 All correspondence in connection with a purchase order shall be directed to the address indicated on the written purchase order and must include all details required for the processing of the order (purchase order number and date, sales order number and item number).

#### **4.0 Dispatch Instructions**

4.1. Unless otherwise instructed by us, dispatch shall be to the address given in the purchase order or order acknowledgement except for, before dispatch was communicated other address. Proof of dispatch shall be by means of a delivery note signed in two copies by the recipient and

containing the following details:

purchase order number and date, commission number and item number,  
type, quantity, net weight and gross weight of the goods,  
the delivery address given in the purchase order, as well as additional requests specified in our  
purchase order.

One copy of the delivery note shall be enclosed with the goods, the other copy must be submitted to us by  
post.

4.2 We decline all responsibility for any delays in payment due to non-compliance with these  
instructions. Any additional costs resulting from not respecting of the correct dispatch address shall be  
supported by you. If by agreement we are to support the transport costs, you are to choose the most  
favorably-priced means of dispatch unless we have expressly required a certain means of dispatch.  
Additional costs which can appear due to the bad choice of a more expensive means of dispatch shall be  
supported by you.

4.3 Dispatch shall be carried out on your risk. You shall bear any risk of deterioration, including the  
risk of accidental loss, until handover to the delivery address and destinations point desired by us.

4.4 You are obliged to pick up on your own expensive the transport packages, only if we don't agree  
otherwise in particular cases. In the case of regular deliveries, packaging material can be collected during  
a subsequent delivery.

## 5.0 **Provision of material**

5.1 Material provided by us may only be used for and in compliance with our order. All such material  
shall remain our property. It is to be stored separately and marked as our property. Wherever necessary  
you are obliged to clarify with third parties that material is our property. You shall bear the risk of  
accidental loss with regard to any material provided by us. You are obliged to take out appropriate  
insurance cover.

5.2 Prior to the delivery of goods or services you are required to check whether the material provided  
by us was delivered in proper form and on time. If this is not the case you are required to grant an  
extension and describe again the required material to be provided by us. Clarification is to be provided at  
the same time as to the consequences arising - particularly for, but not limited to, time schedules - should  
the extended deadline not be met by us. Should you fail to provide such clarification or if the required  
material to be provided by us is not described in an adequate manner, you shall not be entitled to a time  
extension. All our rights remain unaffected.

5.3 If we provide material our liability is limited to willful intent, gross negligence and fraudulent  
behavior, as well as to claims based on product liability law and to claims for damages resulting from  
injury to life, body and health. Cases of gross negligence imply that the usual diligence is seriously  
disrespected, the simplest and most accessible deliberations are not executed and if for each and every  
one clear evidence is not taken into consideration. All further liability is excluded.

## 6.0 **Remuneration**

6.1 Agreed prices are fixed prices. \_\_\_\_\_

6.2 Unless otherwise agreed, all prices include costs of insurance, custom and freight until the place

indicated in the order as delivery address/ place of use.

6.2 As soon as the delivery/service has been carried out, the invoice is to be submitted in three copies each indicating both the order and commission numbers. VAT is to be shown separately in the invoice.

## 7.0 **Terms of payment**

7.1 Invoices are issued given the particular case, with or without VAT, in accordance with the applicable provisions at the particular operation date.

7.2 We are entitled to deduct a cash discount of 3% from all invoice sums due to you (advance, part payments and final payments) following the deduction of agreed retentions for security purposes, retentions for defects as well as for invoice adjustments providing if we pay within a period of 15 working days from receipt of your invoice. Within this period no interest for late payment can be charged. The payment period starts on receipt of the invoice, but not before receipt of the goods or performance of the services, and -if documentation or certificates are required together with the goods/services - this period shall not start until those documents have been submitted completely and in accordance with the contract. We are nevertheless entitled to deduct discounts in the case of late payments which are due to the required documents/certificates not being in proper form or due to incomplete invoicing.

7.3 We reserve the right to make payments by bank transfer, in cash or by checks.

7.4 The assignment of claims against us is subject to our prior explicit authorization. Exceptions are only possible following agreement in each case.

7.5 Any prolonged or extended retention of title by you is excluded.

7.6 When the legally applicable stipulations provide that some taxes, fees etc. will be deducted at source, that particular deduction will be done by the company out of the paid amounts.

## 8.0 **Offsetting, settlement within the group, the retention right**

8.1 You agree that we may in all cases set off our claims against your claims, no matter on which legal grounds they are based, even if the mutual claims fall due on different dates. If the claims fall due on different dates, our respective claims shall fall due on the date of maturity of our liabilities at the latest and they shall be settled taking into account the debt entry date of the account. This shall also apply if one party has agreed to pay in cash and the other party is to pay by bill of exchange or by other means. If so agreed, such offsetting of claims shall only refer to the balance of accounts.

8.2 You agree that we may set off our uncontested or legally ascertained claims against all the claims you have on whatever legal grounds against companies belonging to our group of companies. In this respect, you are bound to sign the corresponding assignments of debts for each particular case.

8.3 Companies belonging to our group as per 8.2 above are:

- Alpiq Anlagentechnik GmbH

---

- Caliqua Anlagentechnik GmbH (Austria)
- ECM Ingenieur-Untemehmen fur Energie- und Umwelttechnik GmbH
- FINOW Rohrsysteme GmbH
- GA Austria GmbH (Austria)
- GAH Pensions GmbH
- IA Tech GmbH
- Ingenieurburo Kiefer & VoB GmbH



- Kraftanlagen Hamburg GmbH
- Kraftanlagen Heidelberg GmbH
- Kraftanlagen Middle East L.L.C. (The United Arab Emirates)
- Kraftanlagen Munchen GmbH
- Kraftanlagen Power Plants GmbH -  
KRAFTANLAGEN ROMANIA S.R.L. (Romania)
- Kraftszer Vallalkozasi Kft. (Hungary)
- Martin Bohsung GmbH

8.4 Your right of retention in respect of any goods, documents and data made available to you by us to assist you in the performance of your obligations for delivery/ services is excluded. The same applies for your right of retention in connection with your disputed and not yet legally ascertained counterclaims.

## **9.0 Deadlines, Delays in Delivery, Force Majeure**

9.1 Deadlines agreed in writing are binding. Compliance with a date of delivery or a deadline is determined by the date of receipt of the goods or the date on which the service is carried out at the delivery address or point of use indicated by us, or by successful acceptance of the goods/services on time.

9.2 Should you become aware that - for whatever reason - an agreed deadline cannot be met, you are required to inform us in writing without delay, indicating the reasons for and the duration of the expected delay.

9.3 There is no default of acceptance if the non-acceptance of the ordered goods/services is clearly the result of a military call up, war, revolt, strike, lock-out or the occurrence of some other unforeseeable hindrance (force majeure) which is beyond our sphere of influence. If for the above- mentioned reasons we are also not able to accept the goods or services following a reasonable extension of the deadline, both parties are entitled to withdraw from the contract; claims for compensation by the supplier are in this case excluded.

9.4 Should a delivery be carried out earlier than agreed, we reserve the right to return the goods at your expense. Alternatively, the goods shall be stored by us at your expense and risk until the due delivery date. In the case of an early delivery we reserve the right not to make payment before the agreed delivery date.

## **10.0 Fulfillment of a contract**

10.1 You hereby guarantee and warrant that all goods supplied and all services rendered by you comply with the most up-to-date state of technology - in as much as this does not contradict generally acknowledged rules of technology - with applicable legal regulations, with specifications and directives of the authorities and with technical rules of government authorities, employers' liability insurance associations and professional associations. You guarantee the type, quality and durability of the goods/services as described in our purchase order or the contract and its appendices. You are required to consult us should expected quality and service features not be described unequivocally in the purchase order or the contract and its appendices, or if it will not be possible to fulfill the guaranteed features required by us on the agreed dates of delivery.



10.2 Should you have any reservations about the requested method of carrying out our contract, you are required to inform us in writing immediately. In the case of deliveries/services carried out on the basis of drawings, the dimensions indicated on these drawings must be checked by you before starting. Errors of dimension on the drawings which lead to a need for alterations in production already in progress will not entitle you to any additional claims.

10.3 A visual inspection of your deliveries for obvious or easily detectable defects will be carried out by us as soon as possible during the normal processing of the relevant order and notice of the defect(s) detected will be issued. An inspection to determine full compliance with the requirements of the written purchase order can however only be carried out at a later date. Hidden defects must be discovered within 3 years from the reception/handing of goods or services. We will give notice of hidden defects in 2 working days from the reveal. Regarding the prescription of defects liability action, shall be applied a three years term from the reveal date under the above provisions.

### **11.0 Rights in the case of defects**

11.1 Our rights in the case of defects are based on the legal provisions in force.

11.2 You are required to implement quality assurance the scope and methods of which reflect the most modern state-of-the-art and to provide proof of such on request. If we consider this to be necessary, you shall conclude a corresponding quality assurance agreement with us. We are entitled to carry out - or to have carried out on our behalf - quality controls on your premises or those of your subcontractors at any time during the duration of the contract. No quality control however shall release you in any way from your contractual obligations and we shall not assume any additional responsibility. The material costs of the quality control shall be supported by you; we shall bear the personnel costs involved. However this shall no longer apply if considerable complaints lead to a repetition of the quality control. In this case you shall bear all personnel costs as well as any necessary expenses involved.

### **12.0 Liability**

12.1 Your liability is based on the legal provisions in force.

12.2 You shall be liable for all damages culpably caused by yourself or one of your employees or co-workers, regardless whether or not these persons are integrated into our company whilst carrying out work on your contract with us. Should a claim be made against us due to such damage, you are obliged to indemnify us from any liability claims or costs resulting from this damage.

12.3 You are liable for all damages caused by you, your employees, representatives or coworkers by any infringement of the legislation regarding environmental protection and labor security, in particular to the provisions of the 278/2013 Law in industrial emissions, of the Government Decision no. 235/2007 on the management of used oils, of the Water Law no. 107/1996, of the 211/2011 Law regarding the regime of waste, of the Government Decision no. 856/2002 on keeping records on waste generation and management, of the Government Decision no. 349/2005 on waste storage, of the Government Emergency Ordinance no. 68/2007 on the liability for environment with reference to the prevention and repair of the prejudices caused to the environment, as well as of orders, methodologies, norms and procedures based on the above legislation and of the corresponding European legal provisions. You are bound to indemnify us from all liability claims made by third parties due to such infringement of the above legislation.

### **13.0 Insurance**

You have the obligation to take out adequate third party liability insurance (and, if applicable, planning liability/ professional indemnity) which is able to cover possible claims resulting from each order and is to be maintained until the fulfillment of the contract. You will also take out adequate insurance against all risks arising from product liability and danger to environment. You are obliged to cover all risks in your company or within the framework of your activities which can lead to environmental prejudices in accordance with the Government Emergency Ordinance no. 68/2007 on the liability for environment, by means of insurance for prejudices caused to the environment. The insurance policies will be presented to us at our request.

### **14.0 Right of Termination**

For infringements of the essential contractual obligations, we have the right to terminate this contract by means of a written declaration, no notice of delay, court intervention or other formalities being necessary (*termination pact*). The termination pact can only be activated by us.

### **15.0 Miscellaneous**

15.1 Strict confidentiality shall be maintained over all commercial or technical details learned by you within the framework of your activities with us and which not common knowledge are as well as over all data documentation handed over to you by us. Such details may not be disclosed by you to third parties. You will bind your subcontractors accordingly.

15.2 Models, drawings etc. which have been made at our expense or handed over by us shall remain our property. They may not be used in any other way but for the purpose of our contract, may not be reproduced and may not be disclosed to third parties. You shall be liable for any damages resulting from an infringement of this obligation. Unless otherwise agreed, such models, drawings, etc shall be returned to us free of charge at the time of delivery of the ordered goods/services.

15.3 Without our written consent you are not authorized to use our inquiries, purchase orders or other correspondence for advertising purposes.

15.4 Should individual or several provisions of a contract between us become invalid, this shall not affect the validity of the other parts of the contract. The parties to the contract are obliged to replace any invalid provision as soon as possible by a valid one which approximates the invalid provision commercially as far as possible.

15.5 Should the place of performance and fulfillment of this contract not be indicated in our purchase order it shall be the point of use. If the point of use is not indicated in our purchase order, the delivery address shall be the place of performance and fulfillment. In all other cases, including payments, the registered office of the company placing the purchase order in question shall be the place of performance.

15.6 The court responsible for the locality where the purchasing company is incorporated shall have exclusive jurisdiction.

15.7 In addition to any contractual provisions, the relevant Romanian right is applied exclusively to the legal relationships between the parties located in Romania. The United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.