

KIS Antriebstechnik GmbH & Co. KG – General Terms and Conditions of Purchase – GTCP

1. General – Scope

- 1.1 The General Terms and Conditions of Purchase of KIS Antriebstechnik GmbH & Co. KG (hereinafter referred to as the GTCP KIS) shall apply to all contracts in which the company KIS Antriebstechnik GmbH & Co. KG as principal (hereinafter referred to as KIS) makes use of deliveries or services of contractors (hereinafter referred to as supplier).
- 1.2 The GTCP KIS shall apply exclusively in legal transactions with entrepreneurs within the meaning of § 310 (1) of the German Civil Code (*Bürgerliches Gesetzbuch - BGB*). We do not recognise any terms and conditions of business of the supplier that deviate from the GTCP KIS unless we have expressly agreed to their validity in text form (*Textform*).
- 1.3 Changes to the content of the contract must be made in writing (*Schriftform*).
- 1.4 The preparation of offers is free of charge and non-binding for us.
- 1.5 The INCOTERMS® 2020 are decisive for the interpretation of trade terms.

2. Offer - Offer documents

- 2.1 We shall be bound by our offer for 14 days.
- 2.2 Orders from us must be confirmed by the supplier in text form within 2 weeks of receipt, unless otherwise stipulated in individual contracts.
- 2.3 If the order confirmation deviates from the order, the supplier must clearly indicate this in the order confirmation and describe the respective deviations. We shall only be bound by a deviation if we have expressly agreed to it in text form.

3. Prices, Freight Costs and Arbitrator

- 3.1 The price stated in the order is binding and is valid for the term of the contract stated therein. It includes all services and ancillary services required for the complete production of the service to be provided, unless these are remunerated separately as agreed. This includes in particular costs for auxiliaries, freight, customs duties, packaging material and transport to the place of use specified by us as well as taxes and other duties.
- 3.2 The prices shall be shown as net prices.
- 3.3 In the case of pricing DAP [specified destination], the price includes freight and packaging costs. In the case of carriage forward delivery, we shall only pay the most favourable freight costs unless we have prescribed a special type of shipment.
- 3.4 If the order does not contain a price specification or if agreement on the price fails for other reasons, a reasonable price shall be deemed to have been agreed. In order to determine the appropriateness of the price, the usual market price at the time of the order shall be taken as the primary basis.
- 3.5 If the parties cannot agree on a reasonable price, the reasonableness shall be determined by an independent arbitrator to be appointed by the parties in accordance with § 317 BGB. If no agreement is reached within 14 days, the expert shall be appointed by the Dortmund Chamber of Industry and Commerce (*Industrie- und Handelskammer Dortmund*) in a manner binding on both parties upon request in text form by one of the parties. The costs of the arbitrator shall be borne by the parties proportionately to the extent to which the price determined by the arbitrator differs from the price assessed as reasonable by the respective party. The parties shall be jointly and severally (*Gesamtschuldnerisch*) liable to the arbitrator.

4. Terms of Payment

- 4.1 Subject to other individual contractual provisions or provisions in the supplier's terms and conditions of sale which are more favourable to us, payments shall be due within 14 days less 3% discount or within 60 days net

after proper invoicing and receipt of invoice by us. If the invoice is received prior to complete delivery and complete performance of any other services owed, such as assembly services, the payment period shall, by way of derogation, not commence until the day following the complete delivery or performance of the service.

- 4.2 In the case of partial deliveries which have not been agreed, the payment period for the entire delivery shall commence on the day following the last partial delivery. In the event of acceptance of early deliveries, the maturity shall be based on the agreed delivery date.
- 4.3 In the event of defective delivery or performance, we shall be entitled to withhold payment until proper fulfilment or elimination of the defect. We are also entitled to retention if we are entitled to rights against the supplier which are not based on the same legal relationship or are not yet due.
- 4.4 The timeliness of the payment shall be determined by the performance of the act of fulfilment, e.g. the issuing of the transfer order to the banking institution or the dispatch of the cheque by the post office.
- 4.5 Payments exceeding the agreed price shall be made expressly subject to the reservation that they may be reclaimed at any time, unless otherwise agreed in text form. Neither of the parties can refer to a different actual exercise.
- 4.6 The supplier is not entitled to assign its claims or have them collected by third parties without prior consent in text form, which may not be unreasonably withheld.

5. Delivery Time

- 5.1 The delivery time stated in the order is binding.
- 5.2 The supplier is obliged to inform us immediately by means of a declaration in text form if circumstances occur or become apparent to him from which it emerges that the stipulated delivery time cannot be complied with. The delivery must correspond to the order or our delivery schedule in terms of execution, scope and classification; for quantities, dimensions and weights, the values determined by us during the incoming inspection are decisive. EN/DIN standards (*EN/DIN-Normen*) apply for compliance with specified dimensions.
- 5.3 We are not obliged to accept partial deliveries and excess or short deliveries that have not been agreed.
- 5.4 The receipt of the goods by us or at the respective agreed location shall be decisive for compliance with the delivery date or the delivery period. Impending delays in delivery must be notified to us immediately in text form. In this context, it shall be indicated how the consequences of the delivery delays can be averted.
- 5.5 In the event of a delay in delivery, we shall be entitled to the statutory claims. In particular, we are entitled to claim damages instead of performance (*Schadenersatz statt der Leistung*) - in particular also the costs of the cover purchase or penalties of our customers - after the unsuccessful expiry of a reasonable period. If we claim damages, the supplier shall be entitled to prove to us that he is not responsible for the breach of duty. In the event of repeated failure to meet the deadline, we shall be entitled to withdraw from the contract after prior warning.
- 5.6 The supplier may only invoke the absence of necessary documents to be provided by us if he has not received the documents even after a reminder in text form.
- 5.7 All shipping documents, operating instructions and other certificates (such as test certificates) which are part of the fulfilment of the supplier's delivery shall be sent to us on the day of dispatch. If the delivery contains goods that are to be classified as dangerous goods, the supplier must inform us of this immediately.
- 5.8 In the case of deliveries made directly to third parties, copies of the consignment note received by the recipient must be handed over to us together with the invoice for the goods.
- 5.9 In the case of delivery on call or in the case of interim storage at our request, proper storage and insurance must be ensured.

- 5.10** The supplier shall bear the risk of accidental loss and accidental deterioration of the goods until the goods are handed over at the place of destination.
- 5.11** Packaging costs shall be borne by the supplier unless otherwise agreed in text form. If we bear the costs of packaging in an individual case, this shall be charged to us appropriately. The take-back obligations are based on the Packaging Law (*Verpackungsgesetz – VerpackG*) of 01.07.2022 as amended from time to time. The supplier shall ensure that its goods are packed in such a way that they can be used by us in the agreed specification and quality. The applicable national and international dangerous goods regulations (*Gefahrgutverordnungen*) must be complied with.
- 6. Reservation of Title**
- 6.1** Extended and expanded reservation of title by the supplier is excluded. Ownership of the goods shall pass to us upon payment thereof. Any forms of extension of the simple reservation of title, in particular a current account reservation, shall not apply.
- 6.2** On the basis of the reservation of title, the supplier can only demand the return of the goods if he has effectively withdrawn from the contract.
- 7. No Passing on of Orders to Third Parties**
Without prior consent in text form, the supplier may not transfer the execution of the contract in whole or in part to third parties. Even if consent is given, he remains fully responsible for the performance of the contract. The commissioning of subcontractors by the supplier may also only take place with prior consent in text form.
- 8. Code of Conduct for Suppliers, Supply Chain Security**
- 8.1** The supplier is obliged to comply with the laws of the applicable legal system(s). In particular, it will not participate actively or passively, directly or indirectly, in any form of bribery, violation of the fundamental rights of its employees or child labour. It will also assume responsibility for the health and safety of its employees in the workplace, observe environmental protection laws and promote and demand compliance with this Code of Conduct from its suppliers to the best of its ability.
- 8.2** The supplier undertakes to take all necessary organisational instructions and measures, in particular in the areas of property protection, business partner, personnel and information security, packaging and transport, in order to ensure security in the supply chain in accordance with the requirements of the German Supply Chain Law (*Lieferkettensorgfaltspflichtengesetz - LkSG*) and corresponding internationally recognised initiatives based on the WCO SAFE Framework of Standards (e.g. AEO, C-TPAT). At our request, the supplier shall provide us with any proof and evidence free of charge so that we can fully demonstrate the fulfilment of our obligations - as far as the supplier's product is concerned - in accordance with the aforementioned standards. The supplier shall protect its deliveries and services to us or to third parties designated by us against unauthorised access and manipulation. The Supplier shall use only reliable personnel for such deliveries and services and shall oblige any subcontractors to also take appropriate measures.
- 8.3** If the supplier culpably breaches the obligations under clause 8, we shall be entitled to withdraw from the contract or terminate the contract without prejudice to further claims. If it is possible to remedy the breach of duty, this right may only be exercised after the unsuccessful expiry of a reasonable period to remedy the breach of duty. The right to assert claims for damages and other claims remains reserved.
- 9. Export Controls and Custom Regulations**
- 9.1** The supplier is obligated to actively and fully inform us with the order confirmation about any goods-related licensing obligations and export restrictions of its goods in accordance with German, European and US export regulations and shall be liable in the event of a breach not only for damages and expenses, in particular a legal defence, but also for fees, customs duties and penalties, unless he is not responsible for the breach. We are entitled to demand exemption.
- 9.2** If preferential certificates prove to be insufficiently meaningful or faulty and we are therefore or for other reasons obliged by the customs authorities to submit an information sheet INF4 or comparable documents instead, the supplier shall be obliged upon request to provide us without delay with error-free, complete information sheets INF4 confirmed by the customs authorities or comparable documents instead.
- 9.3** The Supplier warrants that the personnel employed for the production, storage, handling and processing, loading, transport and acceptance of such goods are reliable and that it has checked them against the currently valid EU sanctions lists. The supplier further assures that all business partners acting on its behalf are informed that they must also take measures to secure the above-mentioned supply chain. The Supplier agrees that its data may be checked against the currently valid EU sanctions lists.
- 9.4** If we or our customers are subsequently charged by a customs authority due to our own incorrect proof of origin or if we or our customers suffer any other pecuniary loss as a result and the error is based on an incorrect declaration of origin by the supplier, the supplier shall be liable for this.
- 10. Declarations of Originating Status**
- 10.1** In the event that the supplier makes declarations regarding the originating status of the goods sold, the following shall apply:
- 10.2** The supplier undertakes to enable the verification of proofs of origin by the customs administration and to provide both the information required for this purpose and any necessary confirmations.
- 10.3** The supplier is obliged to compensate for the damage caused by the fact that the declared origin is not recognised by the competent authority as a result of faulty certification or the lack of the possibility of verification, unless he is not responsible for these consequences.
- 11. Liability for Defects and Limitation**
- 11.1** The supplier shall provide the goods and services free of material defects and defects of title. In particular, he shall be responsible to us for ensuring that his deliveries and services comply with the recognised rules of technology and the contractually agreed properties and standards.
- 11.2** The supplier is obliged to carry out a quality control during production and an outgoing goods inspection and must therefore comprehensively check the quality of the parts to be delivered. At our request, the supplier shall provide us with information in text form about which measures of quality control during production and outgoing goods inspection it has carried out and with what results.
- 11.3** We shall inspect the goods within a reasonable period of time for any deviations in quality or quantity, in particular for transport damage. We shall give notice of such defects within a reasonable period of time. We reserve the right to carry out a further incoming goods inspection. Furthermore, we shall give notice of defects as soon as they are discovered in the ordinary course of business. In this respect, the supplier waives the objection of delayed notice of defects (§ 377 of the German Commercial Code (*Handelsgesetzbuch – HGB*)).
- 11.4** The limitation period is 36 months, calculated from the transfer of risk (*Gefahrenübergang*), unless the mandatory provision of §§ 445b, 478 para. 2 BGB applies.
- 11.5** The supplier shall exempt us for the expenses required to remedy the defect in accordance with § 439 para. 2 BGB and, in the event of fault in advance, shall indemnify us both against third-party claims for the costs of

- remediating the defect and against third-party claims for damages which are based on a defective delivery by the supplier.
- 11.6** The costs of remediating the defect shall include in particular, but not be limited to, the costs of removing the defective goods and reinstalling them, as well as any necessary transport to a place other than the place of performance. The supplier shall exempt us from claims by third parties resulting from a defective delivery by the supplier, insofar as the supplier itself is liable to us.
- 11.7** In order to avert an imminent risk of considerable damage, we may remedy the defect ourselves, have it remedied or procure a replacement at the supplier's expense, even without issuing a reminder or setting a deadline, if it is no longer possible to inform the supplier of the defect and the imminent damage due to the particular urgency and to give him the opportunity to remedy the defect.
- 11.8** If a claim is made against us in respect of the warranty in the event of resale to third parties, the supplier shall indemnify us in the event of defective delivery against any damage incurred by us as a result, insofar as the supplier is responsible for the warranty claim.
- 11.9** The supplier hereby assigns to us - on account of performance - all claims to which it is entitled against its suppliers on account of and in connection with the delivery of defective goods or services. He shall hand over to us all documents required for the assertion of such claims.
- 11.10** In addition, the statutory provisions shall apply with regard to warranties.
- 12. Liability and Product Liability**
- 12.1** Any claims for damages - for whatever legal reason - can only be asserted against us in the event of intentional or grossly negligent breach of duty. This shall not apply in the event of a breach of essential contractual obligations, claims arising from product liability or culpably caused damage to life, limb or health.
- 12.2** Insofar as the supplier is responsible for product damage, it shall be obliged to indemnify us against claims for damages by third parties upon first request, insofar as the cause lies within its sphere of control and organisation and it is itself liable in relation to third parties.
- 12.3** Within the scope of its own liability for cases of damage within the meaning of 12.2, the supplier shall also be obliged to reimburse us for any expenses pursuant to §§ 683, 670 BGB or pursuant to §§ 830, 840, 426 BGB arising from or in connection with a recall action lawfully carried out by us. We shall inform the supplier in good time in advance of the content and scope of such a recall measure - insofar as this is possible and reasonable - and give him the opportunity to comment.
- 12.4** We shall undertake the necessary notification of the respective competent authority in accordance with the provisions of the German Product Safety Law (*Produktsicherheitsgesetz – ProdSG*) in coordination with the supplier.
- 12.5** The supplier undertakes to maintain a product liability insurance with a sum insured of EUR 10 million per personal injury/property damage - blanket - for the duration of this contract, i.e. until the respective expiry of the limitation period for defects (*Mängelverjährung*). This includes in particular property damage, personal injury and financial loss, e.g. processing, removal, installation, testing and sorting costs. If we are entitled to further claims for damages, these shall remain unaffected.
- 13. Force Majeure**
- In the event of force majeure and other unavoidable events, we may restrict delivery for the duration of the effects or withdraw from the contract in whole or in part. Such events of force majeure shall include, in particular, labour disputes, breakdowns, repairs that cannot be postponed at the manufacturer's plant, official measures of any kind - including pandemic-related measures such as plant closures. Furthermore, defective extraction or interrupted, delayed or restricted supply of raw and auxiliary materials, water - subject to the reservation of self-supply with the energy sources electricity, gas, oil and district heating - as well as a lack of means of transport, traffic difficulties, war, riot and the like, as well as any other unavoidable event.
- 14. Property Rights**
- 14.1** The supplier warrants that no rights of third parties within the Federal Republic of Germany are infringed in connection with or as a result of the delivery.
- 14.2** If a third party asserts a claim against us in this respect, the supplier shall be obliged to exempt us from this claim in text form upon first request.
- 14.3** In the event of claims for damages by the third party, the supplier reserves the right to prove that he is not responsible for the infringement of the third party's rights. We are not entitled to make any agreements with the third party - without the supplier's consent - in particular to conclude a settlement.
- 14.4** The indemnification obligation relates to all expenses necessarily incurred by us as a result of or in connection with the claim by a third party, unless the supplier proves that it is not responsible for the breach of duty underlying the infringement of the property right.
- 14.5** The limitation period for these claims is three years beginning with the transfer of risk.
- 15. Secrecy and Advertising**
- The supplier undertakes to treat as a trade secret all commercial or technical details in any form which are not in the public domain and which become known to him as a result of the business relationship with us. The supplier may only refer to its business relationship with us in its advertising if we have expressly agreed to this in text form.
- 16. Tools, Shapes and Patterns**
- Drawings and other documents, devices, models, tools and other means of production provided to the supplier shall remain our property. The aforementioned items may neither be scrapped nor made accessible to third parties, e.g. for the purpose of manufacturing, without our approval in text form. They may not be used for purposes other than those contractually agreed, e.g. delivery to third parties. We reserve all rights to certificates or products manufactured according to our specifications and to processes developed by us.
- 17. Place of Performance**
- The place of performance for the delivery is the registered office of our company.
- 18. Arbitration Clause**
- 18.1** All disputes arising out of or in connection with this contract or concerning its validity shall be finally settled in accordance with the Arbitration Rules of the German Arbitration Institute (*Deutsche Institution für Schiedsgerichtsbarkeit e.V. - DIS*), to the exclusion of the ordinary course of law.
- 18.2** The arbitral tribunal shall consist of three arbitrators.
- 18.3** The place of arbitration shall be Dortmund.
- 18.4** The language of the proceedings shall be German or English.
- 18.5** The applicable law in the matter is the law of the Federal Republic of Germany, excluding private international law and the UN Sales Convention.
- 19. Severability Clause**
- Should one or more of the above provisions be or become invalid, this shall not affect the validity of the remaining provisions. The ineffective condition shall be replaced by an effective one which largely fulfils the economic purpose pursued with it.

KIS Antriebstechnik GmbH & Co. KG, January 2023