

## **General Terms and Conditions of Purchasing**

### **1. APPLICATION OF THE GENERAL TERMS AND CONDITIONS OF PURCHASING**

- 1.1.** These General Terms and Condition of Purchasing (the **General Terms**) are applicable to purchasing agreements entered into by KERN-LIEBERS EESTI osäühing (the **Purchaser**), a limited liability company registered in Estonia under registry code 10474265, whose registered office is at Lille 20, Võru, Estonia, and any of its suppliers (the **Supplier**). The Purchaser and the Supplier are individually referred to as a Party and jointly referred to as the Parties in these General Terms.
- 1.2.** The General Terms apply to all purchasing orders that the Purchaser submits to the Supplier and all purchasing agreements in any other form that the Parties have concluded. The General Terms form a part of all agreements, which the Parties conclude for the purpose or supplying products or providing services to the Purchaser. In addition, the General Terms apply to the pre-contractual negotiations between the Parties, even if such negotiations do not result in the conclusion of the agreement.
- 1.3.** Any Terms and Conditions provided by the Supplier or any third party shall not apply, even if the Purchaser does not expressly object to their validity in any individual case. When the Purchaser receives or responds to a letter which contains or refers to such Terms and Conditions provided by the Supplier or a third party, such receipt or response does not constitute that the Purchaser agrees to be bound by these. The same applies to the receipt of or payment for products or services by the Purchaser.

### **2. ORDERS**

- 2.1.** All notifications, including the Purchaser's orders and delivery schedules, between the Parties must be made in written or electronic form. If this form requirement is not followed, then the notification is considered as void.
- 2.2.** The Purchaser considers the submitted order as accepted by the Supplier if the Supplier does not decline the Purchaser's order within 7 working days since the submission of the order. The Supplier must confirm the receipt of the order without delay.
- 2.3.** The delivery schedules agreed between the Supplier and the Purchaser are legally binding.
- 2.4.** The Purchaser has the right to request a change of time and place of delivery and the type of packaging by submitting a notice to the Supplier within a reasonable time before the agreed delivery date. The same applies to changes of product specifications, to the extent that these changes can be implemented without significant additional effort of the Supplier. The Purchaser will reimburse to the Supplier the proven and reasonable extra cost that was caused by any such changes, if this was agreed by the Supplier and the Purchaser prior to making the changes. If such changes result in delays in delivery that cannot be avoided in the regular production and business operation of the Supplier with reasonable effort, the originally agreed delivery date shall be postponed accordingly. The Supplier will make a notification to the Purchaser estimating the extra costs or delay in delivery.
- 2.5.** Changes regarding quantity, construction, execution, production process, production place, and the use or the change of subcontractors by the Supplier requires the prior written consent of the Purchaser.

- 2.6. The price of the product or service, including any extra costs, is legally binding unless expressly agreed otherwise between the Supplier and the Purchaser.

### **3. PRICES, TERMS OF PAYMENT, INVOICING**

- 3.1. The agreed prices are binding and in the currency of EURO. The price includes the delivery and transport to the address specified in the order, including packing, taxes, duties and other deliveries, unless expressly agreed otherwise between the Supplier and the Purchaser.
- 3.2. If it has been expressly agreed between the Supplier and the Purchaser that the price does not include the packing or transport and the compensation has not been expressly agreed on, the amount of compensation should be the market value of the service.
- 3.3. The Purchaser shall make all payments within 30 days with the discount of 3% or within 60 days in each case starting from receipt of the product/the service or the invoice, whichever happens later.

### **4. TIME OF DELIVERY, TRANSFER OF RISK**

- 4.1. The delivery time indicated in the order (delivery date or period) is legally binding. Early deliveries require the Purchaser's prior approval.
- 4.2. The Supplier shall inform the Purchaser immediately if circumstances appear due to which the agreed delivery time cannot be met. The Supplier is considered as being in delay if the delivery has not taken place by close of business of the agreed delivery date.
- 4.3. In case of delay in delivery, the Purchaser may invoke all remedies provided by applicable law, including the right to cancel the order and to claim damages without advanced notice.
- 4.4. The Purchaser has the right to claim a contractual penalty in the amount of 5% of the price of the respective order for every week of delay.
- 4.5. The Supplier has no right to make partial deliveries without the Purchaser's prior written consent.
- 4.6. The risk of loss and damage and the title of the products ordered from the Supplier is transferred to the Purchaser when the products are received by the Purchaser.
- 4.7. The Purchaser shall inspect the products ordered, their type, quantity and visible defects, i.e transport damages. The Purchaser shall notify the Supplier immediately in case of visible defects. Defects that are detected later shall be reported without delay and within reasonable time.

### **5. PRODUCTS WITH DEFECTS**

- 5.1. The Supplier ensures that products have no defects and that they meet the quality criteria that parties have agreed upon and that the products meet the legal requirements of Estonia and the destination country, if the Purchaser has notified the Supplier of the destination country of the products, as well as the industry standards.
- 5.2. In case of delivering products with defects the Purchaser shall first give the Supplier the opportunity to remove defects or replace the products with defects, unless this cannot reasonably be expected from the Purchaser on an individual basis. If the Supplier does not answer immediately to the Purchaser's request to remove the defects or the Supplier cannot

be reached, in urgent cases, particularly for avoiding damaging other lawful interests or to prevent greater damage, the Purchaser has the right to remove the defects, or to purchase new products without defects from a third party, and to recover these expenses from the Supplier or to order these works from a third party. The Purchaser shall immediately notify the Supplier of the removal of a defect at the expense of the Supplier.

- 5.3. When the Purchaser submits its notice on defects to the Supplier, the limitation period for warranty claims is stopped. For replacing and removing the defects, the warranty period for replaced and repaired parts starts to run again.
- 5.4. The clauses of this section of the General Terms do not affect the Purchaser's right to invoke any remedies provided by the applicable law.
- 5.5. The Supplier shall keep record of deliveries made to the Purchaser.

## **6. LIABILITY**

- 6.1. The Supplier is liable to the Purchaser for any damages arising out or relating to the breach of its representations, warranties or obligations under the agreement between the Supplier and the Purchaser, to the extent permitted by applicable law.
- 6.2. The Supplier shall take measures on its behalf in order to prevent and reduce any damage arising of the breach of its representations, warranties or obligations under the agreement between the Supplier and the Purchaser.

## **7. FORCE MAJEURE**

- 7.1. The breach of its representations, warranties or obligations under the agreement between the Supplier and the Purchaser is excused only in the events of force majeure, as defined by applicable law. If the effect of force majeure is temporary, the breach of the Supplier's representations, warranties or obligations under the agreement between the Supplier and the Purchaser is excused only for the period during which force majeure impeded performance of the obligation.
- 7.2. In the event of force majeure, a Party shall provide the necessary information without delay to the other Party and shall take measures in order to overcome the event of force majeure and to mitigate its effects. If the event of force majeure lasts longer than 3 months, either Party may terminate the agreement.

## **8. TERMINATION**

- 8.1. The agreement between the Parties may be terminated upon submitting a notice without cause with 3 months notice.
- 8.2. The agreement between the Parties or some or all individual orders may be terminated immediately upon submitting a notice:
  - (a) by either Party, if the other Party is in fundamental breach of the agreement;
  - (b) by the Purchaser, if the Supplier is in breach of any of its obligations under the agreement and fails to remedy such breach within 14 days of receipt of a notice by the Purchaser which specifies the breach;

- (c) by the Purchaser, if liquidation, bankruptcy or insolvency proceeding has been initiated against the Supplier or if the Supplier itself has filed for liquidation, bankruptcy or insolvency.

## **9. INSURANCE**

- 9.1.** The Supplier shall provide at its own expense an appropriate insurance protection regarding the products and services delivered to the Purchaser. The Purchaser shall give its prior approval to the insurance policy if the insurance policy is suitable for the Purchaser. If the Purchaser does not approve of the insurance policy, it has the right to demand that the Supplier makes the requested changes to the insurance policy. If the Supplier does not comply with this request, this is considered as a fundamental breach of the agreement.
- 9.2.** This includes an extended product liability insurance (including covering for connection/mixture, subsequent treatment, further processing as well as removal and replacement) with an appropriate amount of coverage, including a worldwide coverage for motor vehicle recall costs if applicable. Upon the Purchaser's request, the Supplier has to provide proof of such insurance coverage.
- 9.3.** If the Supplier has an insurance protection, which goes beyond the guarantee and liability claims laid down in these General Terms (e.g. longer guarantee periods), the Purchaser is also to that extent entitled to make valid insurance claims against the Supplier.

## **10. SPARE PARTS**

- 10.1.** If the Supplier intends to stop the production of products or spare parts that it has been supplying to the Purchaser, the Supplier shall notify the Purchaser immediately after having made this decision. The Supplier shall give at least a 6 week notice to the Purchaser before stopping the production of products and such spare parts.

## **11. OWNERSHIP PROTECTION**

- 11.1.** The Purchaser retains all intellectual property rights of its submitted orders, agreements and designs, diagrams, calculations, descriptions and other documents. The Supplier may not copy these or to provide them to third parties without the prior written consent of the Purchaser.
- 11.2.** The supplier shall return all these documents upon the Purchaser's demand, if they are no more needed in the course of business or if negotiations have not lead to a conclusion of a agreement. Copies made by Suppliers must be destroyed, except for fulfilling the legal obligation of archiving and for the purpose of the storage of data for regular backup purposes.
- 11.3.** Tools, devices and models that the Purchaser makes available to the Supplier or that the Supplier has provided to the Purchaser in order to perform its obligations under the agreement between the Parties shall remain or become the property of the Purchaser. The Supplier shall identify such objects as the Purchaser's property and carefully store them, making sure that they are not damaged in any way and that they are used only for the purposes of the contract. The Supplier shall the cost of maintenance and repair of such objects. The Supplier shall notify the Purchaser immediately of any, and not only significant, damage to such objects. Upon the Purchaser's request, the Supplier shall return such objects in the proper condition if they are no longer needed for performing the obligations deriving from the agreement between the Parties. If the Supplier keeps such objects on a rented property, the Supplier shall notify the owner of the rented property of

the fact that such objects are owned by the Purchaser and provides proof of such notification to the Purchaser.

- 11.4. Models, stencils, templates, samples, tools and other objects, as well as confidential information provided by the Purchaser to the Supplier, may be used for the benefit of the Supplier or a third party only with the prior written consent of the Purchaser.
- 11.5. Parts and materials provided by the Purchaser shall remain its property. If the processing or assembly including such parts and materials is done for the account of the Purchaser as a manufacturer, the Purchaser acquires the ownership of the property created.
- 11.6. If the agreement between the Parties includes the retention of title, the retention of title of the Supplier is valid only to the extent that it relates to the Purchaser's obligation to pay for the products ordered. No expanded or extended retention of title is valid.
- 11.7. If the Supplier delivers as a contractual obligation to the Purchaser copyrighted results (e.g. drafts, designs, sketches, layouts, plans, design data), the Supplier shall grant to the Purchaser a non-exclusive, irrevocable, transferable, unlimited right to use and transfer free of extra charge such results as the Purchaser wishes, including the right to modify and edit such results.

## **12. PATENT RIGHTS**

- 12.1. The Supplier shall ensure that in connection with the performance of its obligations under the agreement between the Parties, no third party patent rights in the European Union, North America and other countries where it manufactures or where the products are manufactured, are being violated.
- 12.2. The Supplier shall indemnify to the Purchaser all claims by third parties that arise against the Purchaser due to the breach of clause 12.1 and shall reimburse to the Purchaser all the necessary expenses incurred in connection to such claims.

## **13. CONFIDENTIALITY**

- 14. Either Party is prohibited from benefitting from or disclosing to a third party any information related to the agreement between the Parties, their performance (inter alia disputes and their settlement), or any other information relating to the business activities of the other Party which has come to the knowledge of a Party or which it has otherwise obtained (inter alia from customers or cooperation partners) in the course of negotiation or performing of the agreement between the Parties (inter alia accidentally), unless the information:
  - (a) was public knowledge at the time of disclosure or was already known to the Supplier before such information was provided by the Purchaser; or
  - (b) subsequently has lawfully become into the possession of the Supplier from a third party; or
  - (c) has been explicitly specified as not being part of confidential information.
- 14.2. The Supplier may not, without the prior written consent of the Purchaser, refer to the business relation with the Purchaser in advertising materials, brochures or exhibit the objects produced for the Purchaser.

**15. SET-OFF, RETENTION, TRANSFER**

**15.1.** The Parties may invoke the rights of lien and set-off to the extent permitted by applicable law.

**15.2.** The Supplier shall not without the prior written consent of the Purchaser assign, transfer, any or all of its obligations under the agreement between the Parties.

**16. PLACE OF DELIVERY, JURISDICTION, APPLICABLE LAW**

**16.1.** Place of delivery is the place of business of the Purchaser, unless agreed differently in the individual order.

**16.2.** The laws of the Republic of Estonia shall apply to the implementation and interpretation of this Agreement. United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply to this Agreement.

**16.3.** All disputes arising out of or relating to this Agreement, or the breach, termination or invalidity hereof, which the Parties fail to resolve by means of negotiations, shall be referred to Harju County Court (Harju Maakohus) in Tallinn, Estonia.

**17. SAFEGUARDING CLAUSE**

**17.1.** A Party's failure to exercise any of its rights under the General Terms and the agreement between the Parties shall not constitute or be deemed a waiver or forfeiture of those rights.

**17.2.** If any term or provision of the General Terms or the agreement between the Parties is held to be illegal or unenforceable, the validity or enforceability of the remainder of the General Terms or the agreement between the Parties shall not be affected.