

# General Purchasing Terms

## 1 Scope of Application

1.1 The following terms apply to natural or legal persons or registered corporations who at the time of concluding this Agreement act in an independent commercial or professional capacity (merchant) as well as legal entities under public law and separate estate of public law. Our Purchasing Terms apply to the exclusion of any other. Contrary terms of the respective Contract Partner deviating from our Purchasing Terms are not recognized; this also applies if we do not explicitly refute the general terms of sale or other contract terms of the respective Contract Partner. Our Purchasing Terms also apply to all future businesses with the respective Contract Partner. By accepting the order, the supplier acknowledges our Purchasing Terms without limitation.

1.2 Departures from our Purchasing Terms are valid only if quoted in writing in the respective contract and confirmed by us in writing by mail or fax. The same applies to the application and incorporation of the delivery terms of the Contract Partner.

## 2 Contract Conclusion

2.1 All offers are free of charge and without obligation to us. Offers submitted by the respective Contract Partner following an inquiry from Krohne must scrupulously comply with the specifications quoted in our inquiry and explicitly point out possible discrepancies.

2.2 Orders, agreements, amendments and verbal undertakings are binding only if they have been issued by mail or fax in writing or other text form, e.g. via email or electronic fax, or confirmed by us in writing or other text form.

2.3 If the respective Contract Partner fails to accept the order of Krohne within 10 working days from its receipt in writing, we are entitled to revoke the order. An order of Krohne is considered issued at the latest 3 working days after its dispatch. If Krohne can prove by submitting a fax transmission report that Krohne has sent a notice by fax or data transmission (including e-mail), the notice is considered served to the respective Contract Partner on the date reported.

2.4 Krohne is entitled to demand modifications to the product also after contract conclusion if this is reasonable for the respective Contract Partner, in particular when matched by possible price increases or decreases and by delivery dates.

2.5 The respective Contract Partner must treat the contract conclusion confidential. The Supplier may quote Krohne as a reference to a third party only with our explicit written consent. This also applies to possible advertising claims.

## 3 Prices, Transport and Packaging

3.1 The price quoted in the order is binding and considered fixed. The price plus currently applicable value-added tax is understood to include freight up to the point of use and includes packing and freight costs. In the absence of an explicit written agreement to the contrary, this shall also apply to shipments by rail basis "Freight Paid Duisburg Station" and for all other shipments "Freight Paid Duisburg Plant". When an "ex Factory" or "ex Warehouse" price is agreed, the freight forwarder designated by Krohne must be commissioned. All costs (including loading but excluding cartage) incurred up to the handover to the freight forwarder are for account of the respective Contract Partner. If no prices are quoted in the order, the current list prices of the respective Contract Partner plus the customary trade discounts apply. The type of pricing has no effect on the agreed place of performance.

3.2 Delivery notes, freight bills, invoices and all correspondence must quote the order no. of Krohne. Offers of the respective Contract Partner must carry our inquiry no.

3.3 We reserve the right to accept over- or under-deliveries.

3.4 Shipment is made at the risk of the respective Contract Partner. The risk of fortuitous loss and accidental deterioration remains with the respective Contract Partner up to the delivery to the shipping address or point of use specified by Krohne.

3.5 The goods must be packed in such a way that damage in transit is avoided. Packing materials must be environmentally friendly and used only to the extent necessary. The proper disposal of packing materials is the responsibility of the respective Contract Partner and for his account; in all other matters, the retrieval obligation for packing materials is subject to the relevant statutory provisions. If exceptionally packing material is billed to Krohne, we are entitled to return packing materials in good state and free of freight charges to the respective Contract Partner against reimbursement of 2/3 of the quoted invoice amount.

## 4 Payment Terms

4.1 Invoices must be submitted in 2-fold and in full, i.e. with all pertaining records and stating the order number with Krohne and after shipment has been made in the agreed manner. Basis for payment are the actual quantities, weights or other units underlying the shipment as well as the agreed prices.

4.2 If not agreed otherwise in writing, Krohne will make payments at a cash discount of 3 % within 14 days from delivery and presentation of invoice, or pay the net invoice amount after 30 days.

4.3 Agreed material testing certifications form an integral part of the shipment and must be included in the shipment to Krohne together with it. They must be received by Krohne at the latest 5 days from presentation of the invoice. The payment term begins to run only from receipt of the agreed certification.

4.4 Payments do not constitute an acknowledgement of the accuracy of the invoice and/or of contractual compliance by the shipment. In the event of a defective delivery, Krohne is entitled to withhold payment on a prorated basis up to complete contract performance. Further claims are reserved.

4.5 When advance or on-account payments on orders are made by Krohne, we are entitled at any time to demand the supply by the respective Contract Partner of an adequate bond in the form of a bank guarantee (made out to our wording).

4.6 Krohne is not liable for due date interest (Fälligkeitszinsen). If not agreed otherwise, in the case of late payment, interest of 5% per annum above the base rate as per Sec. 247 BGB will be charged. Payment is made at our option by bank remittance or check. Payment is considered made on time if we can prove to have dispatched the remittance order or check by the payment date.

4.7 We are entitled to offset any payment claims of the respective Contract Partner with any payment claims that Krohne, or domestic companies in which Krohne directly or indirectly holds a majority stake, may have against the respective Contract Partner.

4.8 The assignment by the respective Contract Partner to a third party of contractual claims against us requires our written consent. Our consent is automatically granted for assignments made under an extended reservation of title.

4.9 Contract Partner shall only have rights of off-set and retention if its counter-claims have the authority of a final decision or are undisputed.

## 5 Delivery Dates, Late Deliveries, Force Majeure

5.1 The delivery dates quoted in our order are binding. If a delivery period is not agreed, it amounts to four weeks. Failure to meet a fixed delivery date puts the respective Contract Partner in default without requiring a notice on our part. For purposes of contract performance by the supplier, the receipt of the goods at the point of delivery or use quoted by Krohne is relevant for the observation of the delivery date. When acceptance is required, the respective Contract Partner is in default automatically if he has made delivery by the agreed date but in a manner in which acceptance cannot be performed (Sec. 640 Subsec. 1 Cl. 2 BGB).

5.2 If the respective Contract Partner recognizes that the agreed delivery dates cannot be observed regardless of the reason, we must be promptly notified verbally or in writing of the non-observation of the delivery date and the estimated duration of the delay.

5.3 In the event of a delay by the respective Contract Partner, we are entitled after the fruitless expiry of a grace period set to the Contract Partner to withdraw from the Contract and to demand compensation in place of performance. Further claims under law are reserved.

5.4 If the respective Contract Partner is in arrears with a delivery, we are entitled to charge a contract penalty of 0.1 % of the total order amount for each working day by which the delivery date is exceeded but not more than 5% of the total order amount in addition to the fulfillment of the order. Krohne is entitled to invoke the contract penalty up to the payment of the final invoice; Sec. 341 Subsec. 3 BGB is agreed to be inapplicable. The contract penalty may be offset from a compensation claim for late delivery. The contract penalty is merely the minimum amount of the compensation claim.

5.5 The respective Contract Partner may cite the non-supply by Krohne of required records only if he has requested these records in writing and not received them within a reasonable period of time.

5.6 All events of force majeure entitle either Contract Party to postpone the performance of the contractual obligations for the duration of the prevention depending on force majeure or if the performance of the contract becomes unreasonable in whole or in part, to withdraw from the Contract without entitling the opposite Contract Partner to a claim for compensation. All events occurring unexpectedly and not culpably produced by either party shall be considered force majeure, in particular natural disasters, fire, lighting strike, explosions, release of poison or gas, flooding, general energy supply breakdowns, acts of war, terror or comparable effects, labor unrest in own or third-party plants as well as acts of authority. Also shall be considered force majeure any serious operating breakdowns which result in a restriction or suspension of operation and any other circumstances which substantially render the fulfillment of contractual obligations difficult or impossible irrespective of whether they occur at a Contract Partner or a third party provided that these are not caused by the Contract Partner or the third party.

5.7 Shipments made before the agreed date may be returned by Krohne at its option for account of the respective Contract Partner or the goods may be stored up to the agreed delivery date for account and at the risk of the respective Contract Partner. An early delivery has no effect on possible maturity dates.

5.8 Partial shipments are accepted by Krohne only on explicit written agreement. When partial shipments are agreed, the remaining quantities of the goods must be listed by the respective Contract Partner.

## 6 Liability

The respective Contract Partner is responsible for any form of breach of contract under the statutory provisions except when provided for otherwise in these Purchasing Terms.

## 7 Warranty

7.1 The respective Contract Partner assures that the delivery or shipment meets the latest state of technology, regulations on technical safety, labor and environmental protection requirements under relevant laws, ordinances and

orders of authorities and trade associations as well as relevant contractual obligations. If departures from these regulations are necessary in individual cases, the respective Contract Partner must obtain our written consent; possible claims by Krohne remain unaffected. If the respective Contract Partner has objections to the type of manufacture desired by Krohne, he must notify Krohne promptly in writing.

7.2 Contract specifications of a technical or other manner regarding deliveries to be made or services to be performed represent an agreed quality; this also applies to the description of the scope of delivery and to drawings. Changes to agreed specifications require agreement and must be given in writing or other text form, e.g. via email or electronic fax.

7.3 The respective Contract Partner undertakes to use environmentally friendly products and processes for his deliveries/performance and for subcontracts or third-party services as far as economically and technically feasible. The respective Contract Partner is liable for the environmental compatibility of shipped products and packing materials and for all consequential damage resulting from a breach of his statutory disposal obligations. At the demand of Krohne, the respective Contract Partner must issue a quality certificate for the shipped goods.

7.4 To the extent we are required pursuant to Sec. 377 Subsec. 1 HGB to notify the inspection of a service and a defect claim, the inspection and defect claim is deemed to have been made in time if it is made within five (5) working days from date of shipment. Under Sec. 377 Subsec. 3 HGB, the notification of a defect that is detected later is deemed made in time if it is made five (5) working days from date of detection.

7.5 We are entitled to the full statutory warranty claims. We have the option as to the type of supplementary performance – repair or replacement – also in the case of a manufacturing contract except when the respective Contract Partner is entitled to deny supplementary performance or if meeting the supplementary performance request of Krohne is unreasonable for the respective Contract Partner in a given case.

7.6 If the respective Contract Partner fails to promptly commence supplementary performance within a reasonable period which is announced by us, Krohne – irrespective of the statutory provision on the right of auto-performance under Sec. 637 BGB – is entitled in urgent cases, in particular to avert the imminent risk of major damage, to perform these works itself for account of the respective Contract Partner or to have them performed by a third party. The shipment of a flawless product or the supply of flawless service by a third party is allowed in such a case only when this appears justified taking the interests of both parties into due account.

If the subsequent performance by Contract Partner has failed or is otherwise unreasonable for us to accept (e.g. because of particular urgency, a threat to the operating safety or impending occurrence of disproportionate damage) there shall be no need to set a deadline; Krohne will inform the Contract Partner of all such circumstances, if possible beforehand.

7.7 Warranty claims on account of defective shipments lapse 24 months from date of transfer of the risk. Warranty claims for defective spare parts and for commodities explicitly designated as such in the Contract lapse 24 months after their entry into operation or delivery to the customer or at the latest 3 years after their delivery to us. If it was necessary to inspect shipped goods for defects or repair defects in shipped products with the result that the use of delivered products had to be suspended, the warranty period shall be extended by the time of the suspension. The above warranty period for repaired or newly delivered parts begins to run anew from the end of the repair or date of re-delivery.

7.8 If the goods carry a legal vice at the time of their purchase by Krohne, the respective Contract Partner shall hold Krohne harmless from possible claims of third parties. Warranty claims on account of a legal vice lapse in 3 years starting from the end of the year in which the claim was created and in which Krohne has learned, or should have learnt without gross negligence on its parts, of the circumstances underlying the claim or of the identity of the originator, or in the absence of any knowledge or grossly negligent ignorance, 10 years from date of creation.

## 8 Product Liability

8.1 If Krohne is held liable on account of a breach of official safety regulations or on account of domestic or foreign product liability provisions for a defect in a product contained in goods supplied by the respective Contract Partner, Krohne is entitled to demand compensation if a possible damage was caused by the product supplied by the respective Contract Partner. This compensation includes also the costs of a possible recall action. If a defect occurs in a part supplied by the respective Contract Partner, it is assumed that the defect has occurred exclusively within the area of responsibility of the respective Contract Partner.

8.2 The respective Contract Partner must implement quality control that is suited to the type and scope and meets the latest state of technology and supply proof to Krohne on demand. When considered necessary by Krohne, the respective Contract Partner shall conclude a corresponding quality control agreement with Krohne.

8.3 The respective Contract Partner shall take out insurance with adequate coverage against all product liability risks including the risk of recall and submit the insurance policy to Krohne on demand.

## 9 Industrial Property Rights

9.1 The respective Contract Partner assures that all deliveries are free from industrial property rights of third parties and in particular that the delivery and use of the shipped products do not breach any patents, licenses or other property rights of third parties in Germany. If the respective Contract Partner is aware that these products are distributed by Krohne in countries outside Germany, then this also applies to these other countries.

9.2 The respective Contract Partner shall keep Krohne and Krohne customers harmless from claims of third parties on account of possible breaches of property rights and bear all costs incurred by Krohne in this connection.

9.3 Krohne is entitled applying the due diligence of a merchant to obtain the permission for the use of shipped products and supplied services from the rightful holder at the expense of the respective Contract Partner.

9.4 All work results – meaning all results created by Krohne and/or its Contract Partner in fulfillment of the contract – belong to Krohne. Krohne has the right to use and exploit the results in any kind. This is especially the case with inventions, which could be protected by Patents Act and/or Utility Model Act. Krohne furthermore has an exclusive right of use for work results, which could be protected by copyrights. Potential entitlements to benefits due to the assignment of invention rights and/or potential entitlements to benefits due to an appropriate reimbursement for granting rights of use for work results, which could be protected by copyrights, are completely compensated for by the price (see 3.1) as mutually agreed upon by both parties.

9.5 If the work results are embodied in reports, data media, raw data, patterns and other documents, the ownership to this goes to Krohne with their development. Up to the handing over to Krohne they will be kept safe by the Contract Partner.

9.6 Upon termination of the contract the Contract Partner will assign and hand-over to Krohne the reports, data media, raw data, patterns and other documents embodying the work results in any case.

## 10 Drawings and Other Records, Tools

10.1 All production records, devices, tools, models etc. supplied to the respective Contract Partner remain our property and must be carefully stored on our behalf for the duration of contract performance and at the expense of the respective Contract Partner. They may be used only for contractually agreed purposes and third parties be given access to them only to the extent required.

10.2 Tools and other production means paid by us must not be scrapped or supplied to a third party, in particular for production purposes, without our written consent.

10.3 The right to drawings and products manufactured to our specifications and to processes developed on our behalf is reserved.

## 11 Incoterms

If not agreed otherwise, commercial terms shall be interpreted in the sense of the INCOTERMS of the International Chamber of Commerce, latest version.

## 12 Certificate of Origin, Export Restrictions

12.1 Certificates of origin required by us shall be supplied by the respective Contract Partner with all the necessary details, and submitted to us promptly and duly signed.

12.2 We shall be informed by the respective Contract Partner if a shipped product, in whole or in part, is subject to export restrictions under German or other foreign trade laws.

## 13 Governing Law

13.1 Supplementing the contract provisions, all transactions between us and the respective Contract Partner shall be subject exclusively to the laws of the Federal Republic of Germany on transactions between domestic parties at the exclusion of any foreign law. Unified UN Purchase Law shall not apply.

13.2 The contract language is German. If another language is used by the Contract Parties, the German wording shall prevail.

## 14 Confidentiality Obligation

The Contract Parties undertake to keep confidential all undisclosed commercial or technical details learned during their commercial relationship. Subcontractors must be committed accordingly.

## 15 Place of Performance, Partial Invalidity, Place of Jurisdiction

15.1 The place of performance for deliveries and services is the point of use, for payment it is Duisburg.

15.2 The respective Contract Partner is not entitled to subcontract the order or significant parts thereof to a third party without our prior written consent.

15.3 Krohne agrees to treat personal data of the Supplier in line with the Federal Data Protection Act.

15.4 If individual provisions of the present Purchasing Terms should be void, the validity of this Agreement or the validity of the remaining provisions shall not be affected.

15.5 The place of jurisdiction is Duisburg. Krohne remains entitled to take out proceedings against the respective Contract Partner also at the latter's place of jurisdiction or in any other legally permitted forum. This also applies to liabilities involving checks and bills of exchange.

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