

## General Terms and Conditions of Purchase of KADIA Produktion GmbH + Co.

Status: May 2021

Applicable in business transactions with companies, legal entities under public law and special funds under public law.

### 1. General

All our orders are based exclusively on these terms and conditions and any separate agreements as the case may be; we do not recognize any conflicting or deviating terms and conditions unless we have expressly agreed to their validity in writing. These conditions shall also apply if we accept the ordered delivery/service without reservation in the knowledge of conflicting or deviating conditions.

### 2. Order, conclusion of contract, power of representation

(1) If you do not accept our order in writing within 10 working days of receipt, we shall be entitled to cancel the order.

(2) All correspondence must contain our order number for clear identification.

(3) Only orders placed in writing are legally binding. Verbal orders require the written confirmation of our Purchasing/Materials Management Department to be effective. This can - after prior written agreement - also be done by remote data transmission or by machine-readable data carriers.

All agreements made between the contracting parties in connection with an order up to the conclusion of the contract are recorded in writing in the order form. Oral agreements do not exist.

**Later changes or additions can only be agreed with our Purchasing/Materials Management Department. Other departments are not authorized to do so. Agreements with other departments therefore require the written confirmation of our Purchasing/Materials Management Department to be effective.**

(4) The preparation of your offers is free of charge for us.

### 3. Confidentiality, advertising

(1) All technical, economic and other data and information, insofar as these are not obvious or generally known, which result from or are connected with the business relationship with us, must be kept secret by you - even after termination of the business relationship; they may only be made accessible for the execution of our order and only to such employees, subcontractors and other third parties whose involvement in the execution of the order is necessary according to your operational circumstances. These employees are to be obliged to maintain secrecy accordingly; the same applies to any subcontractor or other third party which you use to fulfil our order.

(2) In relation to third parties and in advertising materials, you may only refer to business relations with us in any case after we have given our written consent.

### 4. Implementation documents/data

(1) We reserve the property rights and copyrights to illustrations, drawings, calculations, other documents of all kinds as well as models and samples; they may not be made accessible to third parties without our express written consent; they are to be used exclusively for production on the basis of our order and are to be returned to us after completion of the order without being requested and under exclusion of any right of retention; they are to be kept secret from third parties; section 3 para. (1) applies accordingly.

(2) Products which are manufactured according to our specifications, drawings, models or the like may neither be used by yourself nor offered or supplied to third parties.

(3) The drawings, descriptions, calculations or other documents of any kind belonging to the order are binding for you upon execution of the order; however, they are to be checked by you independently for any gaps, discrepancies or errors prior to execution of your contractually owed performance. Such gaps, discrepancies or errors must be reported to us immediately in writing. Furthermore, you shall ensure that you are aware in good time of all documents, data and circumstances relevant to the contractual execution of your delivery/service, as well as the use of your delivery/service intended by us. In the event of a breach of the aforementioned obligations, you may not invoke the absence of these documents, data and circumstances, existing gaps, discrepancies or errors. Further claims arising for us from this remain unaffected.

### 5. Prices and terms of payment

(1) The agreed prices are fixed prices. Additional claims of any kind are excluded. Costs for packaging and transport to the shipping address or place of use agreed or indicated by us as well as for customs clearance and insurance are included in these prices. The agreement on the place of performance is not affected by the type of pricing.

(2) Invoices shall be sent to us separately in duplicate, showing the statutory value added tax and stating the complete order number after delivery has been made. The agreed purchase prices shall become due for payment at the earliest after receipt by us of an invoice in accordance with the statutory requirements. Unless expressly and individually agreed otherwise, payment shall be made in the manner usual in trade, either within 14 days with a 3% discount or after 30 days net, in each case calculated from the date of delivery/service

performance in accordance with the contract, receipt of the invoice and transmission of the documentation in accordance with paragraph (3), whereby the most recent event shall be decisive for the calculation of the period. In the event of defective or partial delivery, we shall be entitled to withhold payment in total until proper performance.

(3) Insofar as certificates of material tests, test reports or other documentation have been agreed, they shall form an essential part of the delivery and shall be sent to us separately from the invoices.

If possible, the documentation must also be sent separately from the goods, but in any case separately packed.

(4) Our payments shall neither constitute an acknowledgement of performance nor a waiver of warranty rights.

## **6. Delivery and shipping**

(1) We shall only accept the quantities or numbers of items ordered by us; this shall also apply to products which are manufactured especially for us ("Special"). Over- or underdeliveries are only permissible after prior written agreement with us.

(2) Advance and partial deliveries must be requested in writing and require the approval of our Purchasing/Materials Management Department. Sample deliveries must be marked as such.

(3) The dispatch is at your risk. In the case of sales contracts, the risk shall pass to us when the receipt of the goods has been confirmed at the delivery point specified by us. In the case of contracts for work and services or contracts for work and materials, the transfer of risk, even if the parts necessary for the execution of the order are stored by you on our company premises or at the delivery point specified by us, shall take place at the earliest upon completion of the entire order and acceptance by us.

(4) A delivery acceptance on our part shall only be made if the corresponding delivery note is included in the delivery.

(5) Each order must be packed individually.

(6) Deliveries of goods must be made exclusively on working days (Monday to Friday) from 7.00 to 15.00 o'clock.

## **7. Packaging**

The goods must be environmentally friendly and packed in such a way that transport damage is excluded. Packaging materials shall be used to the extent necessary to achieve this purpose.

## **8. Dates of delivery/performance**

(1) The agreed dates for deliveries or services are binding. The timeliness of deliveries shall be determined by the receipt of goods and documentation at the place of receipt or use specified by us, the timeliness of deliveries with installation or assembly as well as services shall be determined by their acceptance and the receipt of the documentation. A change in the delivery date in

deviation from section 2 para. (3) without a corresponding agreement with our Purchasing/Materials Management Department shall not prevent the occurrence of default on the originally agreed delivery date.

(2) If you realize that an agreed deadline cannot be met for any reason whatsoever, you must notify our Purchasing Department immediately in writing, stating the reasons and the expected duration of the delay.

(3) If a delivery period has not been agreed, you must provide the service within a period of two weeks from the order date. You are free to prove the reasonableness of a longer delivery period.

## **9. Force majeure and industrial conflict**

(1) Force majeure and industrial conflicts in our company shall release us from the obligation to accept and pay for the duration of the disturbance and to the extent of their effect. We do not assume any liability for disruptions in performance and damages due to force majeure or industrial conflicts in our company.

(2) We shall be wholly or partially released from the obligation to accept the delivery/service ordered and shall be entitled to withdraw from the contract to this extent if the service/delivery is no longer usable for us due to the delay caused by the force majeure or the industrial conflict.

## **10. Design and regulations to be observed**

(1) Irrespective of fault, you guarantee that all deliveries/services are suitable for the use intended by us as well as for a correct, safe and economic use. You further guarantee, irrespective of fault, that all deliveries/services comply with the latest state of the art, the relevant legal provisions and the regulations, guidelines and standards of authorities, professional associations and trade associations, in the latest valid version. Your guarantee also applies to all corresponding regulations in the country of the end user, insofar as the end user is or must be known to you. If a declaration of conformity with CE marking or a declaration of incorporation in accordance with EC Machinery Directive 2006/42/EC is required for your product, a copy of the risk assessment carried out in accordance with the EU standard is automatically part of our order. When rendering services, you shall observe all relevant legal provisions and regulations, in particular environmental protection, hazardous goods and accident prevention regulations and ensure the security of the supply chain in accordance with the relevant customs regulations and comply with the generally recognized safety rules and specifications required by us. Any additional agreements shall not affect these obligations. If deviations from such regulations or agreements are necessary in individual cases, you must obtain the written consent of our purchasing department. If you have any reservations about the type of execution requested by us, you must inform us immediately in writing. You are also obliged to inform us of the measures required to integrate your product.

(2) You undertake to use environmentally friendly and environmentally sound products and processes in your deliveries/services and also in the case of subcontracted supplies or ancillary services from third parties within the framework of economic and technical possibilities.

(3) You shall be liable for the environmental compatibility of the delivered products and packaging materials and for all consequential damages resulting from the violation of your statutory disposal obligations. At our request, you will issue a certificate of quality for the delivered goods

(4) The paintwork shall be carried out with primer and topcoat, both paints consisting of 2-component paint and being permanently resistant to cooling lubricants, oils, oil-removing detergents and the like. Treads, bare parts, type plates on components, hoses, plastic parts and the like must not be painted.

(5) If, in connection with your delivery/service, work is to be carried out by you on our factory premises, the following shall apply: If work associated with fire hazards and/or environmental hazards, e.g., welding work, and/or chemically hazardous work on our factory premises on or in the vicinity of fire-hazardous and/or explosive installations such as oil tanks, cable systems, etc. cannot be avoided, such work may only be carried out with the approval of the responsible plant manager. Unless otherwise agreed, you shall provide a trained fire watch. After completion of the work, follow-up checks must be carried out. This also applies to dismantling and scrapping work.

(6) The Contractor shall ensure that the ordered products / equipment / machines / services are also state of the art with regard to safety, environmental and energy aspects. In addition to economic aspects, the energy efficiency of the products, equipment and services offered is a decisive factor in the award of our contracts.

### **11. Occupational safety**

With your acceptance of the order you confirm to us that the KADIA work safety regulations with all the necessary legal requirements and guidelines, in the case of correspondingly agreed operations on our company premises and the respective current safety regulations by our end customers from the currently valid end customer regulations, in the case of correspondingly agreed operations at our end customers are in any case fully observed and completely complied with by you and your employees and/or, if applicable, by your commissioned subcontractors.

### **12. Inspection/notification of defects**

(1) We must notify you of any defects in the subject matter of the contract within 10 working days as soon as they are discovered in the normal course of business. In this respect, you waive the objection of late notification of defects. Our obligation to inspect and notify defects is limited to the inspection of the quantitative information on the relevant delivery note and to the transport damage (optical defects) which is visually recognizable

upon delivery. In all other respects, the obligation to inspect and notify defects is waived and you expressly waive the objection of improperly performed notification of defects in accordance with § 377 HGB.

(2) Payments made by us do not constitute recognition of freedom from defects.

### **13. Non-contractual delivery/performance**

(1) If you do not properly fulfil a contractual obligation incumbent on you in accordance with the agreements made or statutory requirements, we shall be entitled to the statutory claims without restriction. This applies in particular if the service owed is not provided, not provided on time or provided in a defective manner.

(2) In the event of the defectiveness of the delivery or service, we shall be entitled to demand that you remedy the defect or deliver a new item, at our discretion. We expressly reserve the right to claim damages, in particular damages in lieu of performance.

(3) Without prejudice to the rights under para. (2), we shall be entitled to remedy the defect ourselves or have it remedied by a third party at your expense and risk if you fail to comply with your obligation to remedy the defect within a reasonable period of time set by us, or if there is imminent danger or special urgency.

(4) The period of limitation for claims for defects shall commence on the date of acceptance by our end customer, which is stated in our written acceptance declaration, and shall correspond to the period for which we have to provide a warranty to our end customer. If our declaration of acceptance does not contain any information on the end user or on the duration of our warranty period, the limitation period shall begin with the hand-over of the delivery item to us or to the third party named by us at the place of receipt or use specified by us and shall be three years. If the acceptance is delayed through no fault of yours, the warranty period shall commence when the delivery item is made available for acceptance.

(5) The expiry of the limitation period for claims for defects shall be suspended during the period from notification of defects until the delivered part can be used without defects. For repaired or replacement parts, the warranty period begins anew at this point.

(6) If the agreed delivery date is not met due to a circumstance for which you are responsible, we shall be entitled, after a reasonable grace period set by us has expired without result, to demand compensation for damages instead of performance, to obtain a replacement from a third party at your expense or to withdraw from the contract in whole or in part at our discretion.

(7) You may only invoke the absence of necessary documents to be supplied by us if you have sent a written reminder and have not received the documents within a reasonable period.

(8) In the event of a delay in delivery, we shall be entitled, without prejudice to the rights set forth in section 12, para. (1), to demand compensation for the damage incurred by us as a result of the delay in the amount of

0.5% of the total net order value for each completed calendar week of the delay, but not more than 5% of the total net order value, without any proof of damage by us being required. However, you shall be free to prove that the damage was less. We reserve the right to assert claims for damages in excess thereof. The assertion of the lump sum damage caused by delay can be made up to the final payment.

(9) In the case of orders with partial deliveries, we shall also be entitled to withdraw from the entire contract if you do not properly fulfil your contractual obligations only with regard to a partial delivery.

#### **14. Product liability**

(1) You shall indemnify us against all claims for compensation by third parties arising from product and manufacturer liability for damages if and to the extent that the cause of such damages lies within your sphere of control or organization and you are liable to third parties yourself. In such cases of damage, you are also liable for the costs of a recall action that becomes necessary and for those compensation payments (including the costs that have become necessary for appropriate legal prosecution) that we have already agreed to pay to the third party out of court, taking your interests into account. Other legal claims remain unaffected.

(2) You shall also bear all costs of measures which are necessary for (also precautionary) fault rectification, in particular due to our product monitoring obligation.

(3) You shall label the delivery items in such a way that they are permanently recognizable as your products and can be traced or retraced.

(4) You shall insure yourself against all risks arising from product liability to an appropriate amount and shall provide us with a suitable confirmation of the scope, existence and duration of the insurance cover on request.

#### **15. Quality assurance**

You shall carry out quality assurance which is suitable in type and scope and which corresponds to the latest state of the art and shall provide us with proof of this upon request. For all components to be delivered to us, you shall carry out a documented outgoing goods inspection with regard to all features necessary for the proper functioning of the delivery item. The test protocols are to be handed over to us for inspection on request, and in any case to be archived for a period of 10 years. You will conclude a corresponding quality assurance agreement with us, insofar as we consider this necessary.

#### **16. Spare parts, service and maintenance**

(1) For a period of at least ten years after delivery, the supplier shall supply us with replacement and disassembly parts for the goods delivered to us at market prices. If the supplier intends to discontinue the production of these replacement and disassembly parts, he shall inform us - without prejudice to the obligation in section 2 para. (3) - at least three months before production is discontinued.

(2) When concluding a maintenance contract, the following aspects shall always be taken into account by the contractor or his commissioned subcontractors:

- Compliance with occupational health and safety regulations

- Any notes and recommendations regarding environmental protection and energy savings must be communicated to us in advance

#### **17. Third party rights**

(1) You guarantee that all deliveries are free of third party rights and in particular that patents, licenses or other third party property rights are not infringed by the delivery, use, further processing, further use or resale of the delivery items.

(2) You shall defend us and our customers at your own expense against all claims of third parties arising from the infringement or impairment of the rights mentioned in para. (1) above and indemnify us in this respect from all legal costs and other claims for damages. For this purpose, we will inform you about claims made against us as well as about defensive measures and settlement negotiations we have taken.

(3) If claims have been asserted or are expected against us due to impairment or infringement of the rights mentioned in para. (1) above in connection with items delivered by you, you shall immediately procure an unrestricted right of use for us at your expense or deliver replacement items in accordance with the contract which are free of third-party rights. If neither of these is possible within a reasonable period of time set by us, we are entitled to withdraw from the contract and to demand compensation for the damage we have incurred.

#### **18. Order transfer/offsetting**

(1) The passing on of the order or essential parts thereof to third parties without our prior written consent is not permitted and entitles us to withdraw from the contract in whole or in part and to claim damages.

(2) You may only set off counterclaims or exercise a right of retention if and to the extent that your counterclaim is undisputed or has been legally binding established.

#### **19. Right of withdrawal in case of deterioration of assets**

If a significant deterioration of your financial circumstances occurs after the conclusion of the contract and if the enforcement of our contractual and legal claims against you is endangered by this, we are entitled to withdraw from the contract in whole or in part. A deterioration in financial circumstances is given in particular if individual executions are carried out against you, you are refused an important credit, you stop payments or insolvency proceedings are applied for with respect to your assets.

#### **20. Retention of title**

Any rights of ownership in items delivered by you that go beyond the simple reservation of ownership, in particular an extended or prolonged reservation of ownership, are excluded.

## **21. Place of performance, place of jurisdiction, applicable law**

(1) Unless expressly agreed otherwise, the place of performance for the delivery obligation is the shipping address or place of use requested by us, for all other obligations of both parties it is Fabrikstrasse 2, 72622 Nürtingen.

(2) The place of jurisdiction for all disputes arising between the parties from the contractual relationship is Nürtingen, provided that it is a commercial transaction for both parties and the supplier is a registered trader, a legal entity under public law or a special fund under public law. However, we can also sue you at your general place of jurisdiction.

(3) All legal relations between you and us shall be governed exclusively by the law of the Federal Republic of Germany, excluding the referral norms of international private law. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) and the Hague Uniform Laws on the International Sale of Goods is excluded.

(4) In the event of the invalidity of individual contractual provisions, the remaining provisions shall remain fully effective. Ineffective provisions shall be replaced by such effective provisions which come as close as possible to the purpose and economic significance of the ineffective provision.

## **22. General requirements**

Internally and in cooperation with our suppliers, we place great emphasis on the topics of occupational safety, energy savings, environmental protection, social responsibility, compliance and adherence to the relevant codes of conduct

Therefore, the following points are the fundamental basis for the cooperation with our suppliers. We expect you and your employees to observe them and to incorporate them sustainably into your decision-making and action processes. The order of the following individual points has nothing to do with their value.

- People must not be harmed in the correct performance of their activities. The protection of personal integrity must be the highest good of management and superiors.
- Active and constantly developing occupational safety (including the provision of the necessary personal protective equipment for your employees) is the basis for avoiding health impairments.
- The regular determination of all laws, regulations and requirements that apply to you and their strict and consistent compliance ensure complete conformity with the normative requirements.
- Social and ecological aspects must also be taken into account in the assessment of operational activities (sustainability concept).

- The general human rights and principles of equal treatment must be respected. Child labor must be strictly rejected and mobbing actively prevented.
- Care should be taken to ensure that the contractor is fairly remunerated. The relevant national laws are taken into account.
- On the company premises, the freedom of assembly of the employees must be guaranteed within the framework of the applicable national law.
- Your employees must not suffer any disadvantage from the joint protection of employee interests, for example in collective bargaining.
- All forms of corruption, bribery and corruptibility must be unequivocally rejected and combated with appropriate measures.
- Used minerals/raw materials such as tungsten, tantalum, gold, silver, tin or rare earths, as well as ores such as coltan, must not come from civil war or conflict regions. If necessary, an obligation to provide evidence (freedom from conflict) can be demanded here.
- The continuous promotion and further development of employees is an essential building block for the sustainability of your company.
- The continuous analysis and ongoing reduction of energy consumption avoids energy wastage in the operational environment (production, administration, services, buildings, etc.) and contributes to the development of sustainable management. The same applies to the promotion and successive increase in the use of renewable energies and the resource-saving use of raw materials.
- We are entitled to process and store the data received in connection with the business relations about the contractor and, if necessary, also about his subcontractors within the meaning of the Federal Data Protection Act, insofar as this appears to be expedient and legally unobjectionable in the context of the execution of the contract. The contractor hereby acknowledges and agrees that we thus collect, store, process and use personal data in accordance with the legal provisions of the EU-DSGVO (EU Data Protection Basic Regulation), which are connected with the mutual business relationship with the contractor and, if applicable, his subcontractors, and that these data can also be transferred to companies of KADIA Produktion GmbH + Co. that are affiliated with the customer for the purpose of maintaining and handling proper business transactions and payment processing. The legal and operational regulations concerning data protection must be observed. The contractor shall obligate the employees and vicarious agents as well as his subcontractors affected and involved by this, who come into contact with the contractually owed performance, to these General Purchasing Conditions of KADIA accordingly and shall also hand them over at their request.