

Terms of Purchasing Kinshofer GmbH

1. Area of application

- a) The terms of purchasing from Kinshofer are exclusively valid; we do not recognise conflicting or from our terms divergent conditions of the supplier, unless in particular cases we have expressly agreed in writing beforehand. Our terms of purchasing are also valid if we accept a delivery without reservation in knowledge of conflicting or from our terms divergent conditions of the supplier.
- b) These terms of purchasing are a component of all future orders from Kinshofer. They are also valid for follow-up orders, even when Kinshofer does not specifically indicate these terms again.
- c) The terms of purchasing from Kinshofer are valid only for contractors.

2. Offers

- a) The supplier adheres to the offer with regard to amount and properties of the product exactly as stated in the inquiry, and in case of divergences, he expressly points these out. In this case, a contract is effective only with written approval from Kinshofer. No response means a refusal.
- b) Offers are to be delivered in writing and occur free of charge.
- c) Any doubts which exist on the part of the supplier about the intended design from Kinshofer – for example, because contents and interpretation of our requirements are not clear – are to be communicated in writing to Kinshofer promptly, prior to order delivery. In such cases, the order may only be delivered when another written notice has been received from Kinshofer.

3. Orders

- a) Orders occur only in writing. Verbal, telephone or telegraphic orders are only valid if they have been confirmed on our part in writing. This is also valid for supplements or changes.
- b) The supplier is obliged to accept the order from Kinshofer within a period of 10 days. If the order is not confirmed within 10 days in writing, Kinshofer is entitled to revoke the contract offer within another 14 days. The supplier is not entitled to claims due to the cancellation.

4. Delivery time

- a) The ordered goods must be delivered to Kinshofer on the stipulated delivery date. When a delivery time has been specified, the calculation of the delivery date begins with the day the supplier receives the order.
- b) As soon as the supplier realizes that he cannot avoid a delay, he has to notify in writing the reasons and the expected duration of the delay in order to reduce possible oncoming damage. If the supplier violates this obligation to notify, he also is liable for delays of delivery for which he is not responsible. The new date of delivery (after the expected duration of the delay) is neither approved by the notification nor is it approved by lack of notification.
- c) In the case of delay of delivery, Kinshofer is entitled to collect 0.5% of the proportionate contract sum per work day for the late portion of delivery as an all-inclusive compensation, however, altogether no more than 10%. Further legal claims remain untouched from this regulation, in particular, Kinshofer remains entitled to collect compensation instead of the goods after adequate time has passed with no delivery and remains entitled to withdraw from the contract. The supplier has the right to verify that as a result of the delay, no damage or substantially low damage has occurred.
- d) If deliveries are made before the stipulated delivery date, Kinshofer reserves the right to return the goods at the risk of the supplier or to bill the supplier for expenses caused there of (for example for storage).

8. Warranties for defects

- a) Kinshofer is entitled to decide between the options of repair or replacement. The right to choose between resignation, abatement, and compensation instead of fulfillment of the warranty is reserved by Kinshofer, as soon as the stipulated adequate time period has run out without fulfillment.
- b) Kinshofer is entitled to abatement or to compensation instead of fulfillment of the warranty, even for insignificant defects.
- c) The supplier bears, in case of subsequent fulfillment of the warranty, also the expenses for delivery of purchased items to a place other than the residence or the commercial establishment of the receiver. The place of delivery, in case of subsequent fulfillment of the warranty, will be indicated by Kinshofer.
- d) In urgent cases, Kinshofer may repair or replace purchased items at the expense of the supplier or otherwise resolve the deficiency.
- e) Warranty claims from Kinshofer come under the statute of limitations three years after receipt of goods.
- f) Kinshofer is obligated to check the delivered product within an adequate time period for any defects; the reproof is timely if it is reported to the supplier within 10 working days calculated from receipt of goods or for hidden defects calculated from the time of discovery.

9. Product liability

- When the supplier is responsible for product damage, he is obliged to free Kinshofer from compensation claims of third parties at the first request, when the cause of damage is in his territory or organised area and he is liable in external relations.
- Within the scope of his liability, the supplier is also obliged to refund all expenditures which arise from or in connection with a recall action carried out by Kinshofer. We will inform the supplier – as far possible and within reason – about the contents and extent of the recall measures to be carried out, and he will be given an opportunity to respond. Other legal claims remain disregarded.
- The supplier is obligated to hold product liability insurance with an adequate amount of coverage and to verify this upon request.

10. Trade mark rights

- The supplier guarantees that the goods delivered by him do not injure any domestic or foreign commercial or other trade mark rights. The supplier frees Kinshofer from all compensation claims due to the injury of conditions precedent to liability or other claims which are asserted towards Kinshofer, in internal relations.

11. Models, dies, tools, samples, drawings etc.

- a) For such components which Kinshofer has made available to the supplier, Kinshofer reserves the right to ownership and copyright.
- b) They are not to be made accessible to third parties without previous written approval, and must be shut away and insured.
- c) They are to be given back unsolicited, as soon as they are no longer needed for the execution of the delivery. Models, dies, tools, samples, drawings, etc. remain property of Kinshofer after payment of the tool cost fraction.

12. Prices, bills and payments

- a) The price shown in the order is binding. In the absence of divergent written agreements, the price includes delivery at "no delivery charge", including packaging. Sales tax is included unless otherwise specified.

5. Purchase commitment

a) The legal regulations are valid for the acceptance of the ordered goods if no other arrangements are met. Operational disturbances caused by a force majeure, in particular strike, lock-out etc. frees Kinshofer, at least for the duration of the disturbances, from the purchase commitment. Kinshofer can then request the delivery at a later date, whereby supplier is not entitled to compensation.
b) This is also valid for all other events which we are not responsible for.

6. Passing of risk

a) All shipments are at the risk of the supplier freight paid and free of cost to the Kinshofer premises. The cargo is to be paid by the sender at the departure station. Expenses for transport insurance are not taken over from Kinshofer. If express shipment is necessary due to the fault of the supplier, the additional costs also go to his costs. The goods are to be packed in consideration of the general conditions of rail and forwarding agencies.

b) A packing slip in double issue is to be attached to every shipment. The packing slip must contain detailed specifications about the content as well as the order number from Kinshofer. Partial deliveries are permissible only with explicit approval from Kinshofer.

7. Quality and design regulations

a) The characteristics or features found through sampling or in quality management testing must conform to those stated in the purchasing contract.

b) As far as the supplier has received drawings, samples or other regulations from Kinshofer, these alone are authoritative for the type, composition, and design of the goods to be delivered.

c) If Kinshofer asks for an outturn sample, batch production may begin only after receiving written approval of the sample. If the supplier has any doubts about specifications in the contract, Kinshofer is to be promptly informed in writing before beginning batch production. In such cases, batch production may only begin after receiving another written approval from Kinshofer.

d) The delivered goods must conform to the valid legal accident prevention regulations, VDE regulations, appropriate police orders, and other corresponding legal regulations as well as the approved rules of technology.

e) The supplier guarantees accuracy in design, material, and manufacture for the delivered goods. He guarantees in particular that the delivered goods have the qualities specified by Kinshofer as well as functional capability.

b) Modifications in order to reduce subsequent cost increases are not allowed for any reason, unless otherwise expressly agreed.

c) The invoice is to be sent separately and immediately after delivery has taken place in double issue to Kinshofer. Charges may only be made for dimensions, weights, and quantities established by Kinshofer.

The payment of the invoice ensues after the complete receipt of goods or services and to the following conditions:

within 14 days with 3% discount
or 30 days net.

d) Payment by cash on delivery is not possible.

e) The transfer of payment to a third party beyond Kinshofer is not allowed.

f) We expressly draw attention to the fact that we recognise only basic reservation of title. Reservation of title clauses extending to demand cessations and acquisition of joint ownership are not recognised by Kinshofer.

13. Place of delivery and legal venue

a) Place of delivery is the address specified by Kinshofer; in the absence of such a specification the delivery address is 83666 Waakirchen. The same is effective for subsequent deliveries by the supplier.

b) Legal venue for all litigations from this contract is in 83714 Miesbach. Nevertheless, Kinshofer is entitled to bring the supplier to trial also at his general legal venue.

14. Miscellaneous

a) Exclusively German right is valid for the liquidation of the contract and under the United Nations Convention on Contracts for the International Sale of Goods (CISG).

b) Should a regulation of the contract be fully or partly ineffective, the rest of the contract still remains valid. In this case, the invalid regulation is to be substituted with a valid regulation, and the use and purpose of the contract is reached in the very same manner.

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