

GENERAL PURCHASING TERMS AND CONDITIONS

Bischof + Klein SE & Co. KG

1. Scope of the purchasing terms and conditions

The Bischof + Klein SE & Co. KG ("B+K") purchasing terms and conditions apply exclusively. On acceptance of a purchase order, the vendor acknowledges the binding nature of these general purchasing terms and conditions. If the vendor uses opposing, deviating or supplementary terms and conditions, the applicability of these to B+K is excluded even if B+K does not expressly contradict these.

2. Contractual completion

2.1 Purchase orders from B+K are only binding if they are transferred to the vendor in written form. Oral or telephone purchase orders plus supplements and modifications to purchase orders shall be submitted in written form in order for them to become valid.

2.2 B+K's purchase orders represent offers for the completion of purchasing contracts and shall be accepted in writing by the vendor within [10] working days following receipt by means of order confirmation. If a purchase order is not accepted within this period of time, B+K is entitled to withdraw its offer in writing. An order confirmation which is received at a later point in time or whose content deviates from the purchase order is regarded as a new offer and shall be accepted in writing by B+K. Under no circumstances does the lack of any response from B+K constitute recognition of the deviating contents of an order confirmation.

3. Shipping, packaging, transfer of risk

3.1 Deliveries are carried out carriage paid to the delivery address (unless the parties agree otherwise in individual cases). The vendor therefore bears the risk of random loss or the deterioration of the goods up to their delivery to B+K.

3.2 The vendor shall select an inexpensive type of packaging and shipping for each good, insofar as B+K does not issue any specifications concerning the type of packaging and shipping. In the event of culpable non-observance of this obligation, all costs which arise,

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such as replacements for damaged goods, additional freight, disposal and the like, shall be borne by the vendor.

4. Deliveries

- 4.1 Agreed delivery dates are fulfilled when the goods are received at the delivery address by the planned point in time.
- 4.2 In the event of non-adherence to agreed delivery dates, B+K reserves the right to set an appropriate, subsequent period of grace and, following the expiry of this, to withdraw from the contract by means of a written declaration and to demand compensation for damages according to the legal regulations.
- 4.3 If the vendor is presumably unable to adhere to the delivery date – irrespective of reason – it shall immediately inform B+K of this in writing [specifying the reason and the likely duration].
- 4.4 The vendor shall enclose a delivery note specifying the relevant purchase order number with each delivery.
- 4.5 If acts of God, such as the outbreak of war, natural disasters, strikes, lockouts, official measures and other unforeseeable, unavoidable, serious events which lie outside of B+K's sphere of influence and are not the fault of B+K, lead to the fact that a delivery cannot be accepted/delivered, B+K is exempted from its obligation of acceptance for the duration of the disruption and to the extent of its effect. In this case, B+K may adapt existing obligations to these changed conditions in good faith. This may mean that, following the elimination of the disruption, B+K waives the remaining deliveries in whole or in part or demands the continuation of the deliveries.
- 4.6 B+K is not obliged to accept partial deliveries (unless these have been agreed) and may reject excess and short deliveries.

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4.7 B+K is not obliged to accept early deliveries. In each case, B+K reserves the right to invoice the vendor for the storage costs up to the agreed delivery date.

5. Terms of payment

5.1 Invoicing by the vendor shall always be undertaken in euro or in the currency defined in the purchase order. B+K shall exclusively meet its payment obligations in euro. Value added tax shall be disclosed separately on the invoice as a percentage and amount.

5.2 The price for delivery disclosed in the purchase order (order confirmation) is a fixed price and applies to delivery carriage paid to the delivery address. It includes packaging, freight, carriage, insurance and the like.

5.3 The invoice amounts are paid by means of transfer to a bank or post bank account at B+K's discretion within 14 days with 3% discount or within 30 days net unless otherwise agreed. These periods of time commence on the date on which the invoice is received at B+K, but not prior to the delivery of the goods. On acceptance of premature deliveries or services, the periods of time are oriented towards the agreed delivery date. The outgoing mail stamp or the date of receipt at the bank charged with undertaking the transfer are material as regards timely payment.

5.4 In the event of a defective delivery, B+K is entitled to withhold the payment on a pro rata value basis until the order has been properly fulfilled.

5.5 Ownership of the delivered goods is transferred to B+K on full payment by B+K.

6. Liability for defects

6.1 The vendor guarantees that the goods which it supplies

- (I) correspond to the agreed specifications, patterns, drawings and all other requirements made on them,
- (II) are free of defects (particularly as regards design, production and material),

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- (III) correspond to the scientific and technical state-of-the-art and all applicable legal regulations, particularly safety regulations, including all applicable EU Directives and
- (IV) are suitable for the [special] purposes for which they have been purchased.

- 6.2 In the event that the vendor violates its obligations in accordance with number 7.1, B+K's rights (particularly as regards subsequent fulfilment, withdrawal, reduction, compensation for damages or reimbursement of expenses) are determined according to the legal regulations.
- 6.3 The guarantee period is 36 months as of delivery of the goods to B+K.
- 6.4 B+K is entitled to eliminate defects itself at the expense of the vendor if it is no longer possible, due to particular urgency, to grant the vendor the opportunity of subsequent fulfilment and the vendor is not entitled to refuse subsequent fulfilment in accordance with § 439 sub-section 3 BGB (German Civil Code).
- 6.5 The acceptance of deliveries or the payment of the agreed price do not constitute recognition of proper delivery.

7. Product liability and insurance

- 7.1 Insofar as the vendor has caused a product defect and/or (depending on the underlying claim basis) is responsible for this, the vendor is obliged, when initially requested to do so by B+K, to pay compensation for damages or to exempt B+K from all third-party claims provided that the cause of the claim lies within the vendor's control and organisation and the vendor would itself be liable to third parties.

The vendor's obligations also include the costs incurred by B+K due to seeking the assistance of an attorney or other costs which arise in connection with the aversion of product liability claims.

- 7.2 The vendor is obliged to ensure appropriate insurance coverage (particularly employer's liability and product liability insurance) for its obligations arising from the contract. On request, the vendor shall provide B+K with a corresponding certificate from the insurer.

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- 7.3** The vendor bears liability for its representatives or sub-contractors to the same extent as for its own conduct.
- 8. General provisions**
- 8.1** The vendor may not transfer any rights or obligations arising from the contract in whole or in part without the prior written approval of B+K.
- 8.2** The vendor is only entitled to offset B+K's claims if the vendor's counter claim is undisputed or has been legally ascertained.
- 8.3** If the vendor ceases its services or if a request for insolvency proceedings on its assets is submitted, B+K is entitled to withdraw from the unfulfilled part of the contract.
- 8.4** The place of fulfilment for payments is Lengerich / Westphalia. The place of fulfilment for deliveries and services is the location at which the goods are to be delivered or the service is to be performed.
- 8.5** The law of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods dated 11.04.1980 (CISG), applies to these purchasing terms and conditions and all legal relationships between B+K and the vendor.
- 8.6** The place of jurisdiction for all disputes arising directly or indirectly from this contractual relationship is Münster / Westphalia. However, B+K is also entitled to institute legal proceedings against the vendor in any other place of jurisdiction.
- 8.7** Modifications and additions to the contract and / or these general purchasing terms and conditions as well as ancillary agreements necessitate the written form. This also applies to the modification of this written form requirement.

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9. Export control regulations

The VENDOR shall guarantee adherence to all legal regulations of the European Union, all member states of the European Union and the European Free Trade Association pertaining to the export, re-export and/or resale of goods, services and/or technical data ("Export control regulations").

The VENDOR shall guarantee that it does not export goods, services and/or technical data to countries if such export violates the export regulations. In the event that export to a specific country necessitates a state export permit or other approval, the VENDOR shall guarantee that such a permit/such approval shall be obtained prior to export.

The above regulations shall apply accordingly to the legal export control regulations of the United States of America (USA).

The VENDOR shall ensure that it only uses suppliers (and these in turn also only use (further) suppliers) which also adhere to the above described regulations.

If one of the provisions contained in these purchasing terms and conditions is discovered to be invalid, illegal or unenforceable, such a provision is regarded as amended or limited to the extent necessary to transform it into a valid, legal and enforceable provision. If such amendment or limitation is not possible, the invalidity of one or more of these provisions does not affect the validity of the remaining provisions or the validity of the contract.

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