



KAEFER

Standard Terms of Purchase

I. General provisions

The following terms shall apply to all present and future business transactions with the Contractor. Any conditions imposed by the Contractor shall only apply where we have specifically agreed so in writing. This shall apply even if we do not explicitly reject contradictory terms in individual cases or an acceptance of the services takes place. Amendments to these conditions may only be made in writing; the contents of the amended conditions have to be clear. The Company's General Conditions shall only be binding upon its customers within the meaning of § 310 Abs. 1 BGB (German Civil Code - Bürgerliches Gesetzbuch).

II. Tenders, orders, prices

1. Tenders shall be binding and shall be submitted free of charge to us.
2. Only those orders which are made in writing shall be legally binding upon us. Statements made either verbally or by telephone shall not come into force until confirmed by us in writing. This shall also apply to amendments and additions to an order once placed.
3. Prices quoted in our orders are fixed and are based upon total completion of the service contracted. The prices include free delivery and packaging, unless expressly agreed otherwise.
4. We shall be entitled, during the validity of release orders, to demand a reduction in price, where we are able to demonstrate that the agreed price no longer reflects the market price.

III. Delivery, dates, consignment

1. The dates for delivery or performance stated in an order shall be binding. The delivery time for technical installations shall only be deemed to have been observed once the installation is ready for use. Determination that the installation is ready for use shall be made either in conjunction with the Contractor or, if necessary, through a testing agency such as the TUV (Technischer Überwachungsverein - Technical Inspection Authority).
2. If the agreed date cannot be met, the reasons therefore shall be immediately notified to us in writing, indicating thereby the reasons and the expected length of delay. In case of default in delivery, we shall be entitled to statutory claims. In particular, once a reasonable period of time has expired without remedy being affected, we shall be entitled to withdraw from the contract as well as to claim damages instead of the performance. In the event of compensation being claimed, the Contractor is entitled to prove that he is not responsible for the breach of duty.
3. Part deliveries shall only be acceptable when agreed to in writing, failing which we shall be entitled to refuse acceptance of the delivery. In any case, part deliveries should in each case be specifically marked as such.
4. In the case of excess deliveries, we shall be entitled to refuse the excess quantity; where deliveries are not complete we shall be entitled to make an appropriate reduction in payment. Our right of complete delivery remains unaffected.
5. The dispatch of an order for delivery of goods shall be to the given address of the recipient, at the expense and risk of the Contractor and shall be free of all accessory charges (carriage, packaging, etc.). All consignments shall be notified to us on the day of delivery by means of a delivery note bearing our order number. A copy of the delivery note shall accompany the consignment. Notification that the consignment is ready for dispatch is compulsory where this has been agreed to in writing.
6. The Contractor undertakes to bear, in particular, the assembly and disassembly costs as well as the recall costs in defective deliveries where such costs are proven to be the Contractor's responsibility. We therefore suggest that the Contractor takes out special liability insurance for assembly and disassembly costs as well as recall costs with a sufficient coverage.

IV. Measurements, quality, model type

The execution of orders shall be governed by the terms of DIN (Deutsche Industrie Norm), ISO and EN standards. Engineering norms as well as safety instructions and accident prevention regulations which govern in the Federal Republic of Germany shall be strictly complied with. Specifications concerning the items for delivery (measurements, values, features, etc.) shall be expressly guaranteed.

V. Acceptance, withdrawal

1. In the event we are not able to receive the consignment due to force majeure or to other unforeseeable circumstances beyond our control, such as damages caused by fire, water or storms, strikes and lockouts, we shall be released from any obligation to take delivery. Where an impediment arising out of the above is merely temporary, our obligation to accept shall be postponed until such time as the impediment has been removed. A temporary impediment is a hindrance of up to 3 weeks from the original acceptance date. Where our clients are affected by such circumstances as are described above, we shall similarly be entitled to avail ourselves of the above provisions, as if we ourselves were affected.
2. In the event of filing for insolvency against the Contractor, the opening of an insolvency proceeding in relation to the Contractor's assets or the refusal of insolvency proceedings due to insufficient assets we shall be entitled to terminate the contract extraordinarily. The same shall apply if such circumstances as indicate a significant deterioration in finances (for example, protest of bills of exchange or cheques) are made known to us.
3. On demand, the Contractor shall allow us the quality acceptance directly at its company, notwithstanding the provisions of section III No. 5 and section XI No. 3 hereof.

VI. Claims for deficiencies, warranty period

1. Concerning deficiencies, we are entitled to the full statutory claims. In any event, we have the right to demand remedy of defects or delivery of new goods. We expressly reserve the right to claim damages instead of performance at our discretion.
2. We are entitled to remedy the defect ourselves at Contractor's expense in the event of imminent danger or particular urgency.
3. Obvious defects are reprimanded on time within the meaning of § 377 HGB if the Contractor sends written notice to the specified notice address within a reasonable time period from receipt of the goods. Hidden defects are reprimanded on time within the meaning of § 377 HGB if the Contractor sends a written notice within a reasonable period of time after discovery of the defect. With regard to this, the Contractor waives any defence to a late notification defect. If the delivery item is an insulation material which is monitored according to the guideline VDI 2055 or equivalent quality assurance provisions (such as RAL 710/7) and is limited to the input control on the industry-standard visual inspection of the goods, their identification including OB characters and their integrity.
4. The warranty period shall be 36 months, unless a longer period is required by statutory law.
5. To observe the warranty and exclusion periods, written notification of the defect or written remedy request shall suffice.

VII. Industrial property rights

1. The Contractor shall be liable for ensuring that, in connection with its supplies, third parties' rights are not violated.
2. In the event we are held liable for the aforementioned by a third party, the Contractor shall hold us free and harmless, on first written demand, of these claims. We are neither entitled to reach any agreement nor even to come to compromise with the third party, without the Contractor's consent.



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3. The release obligation relates to all necessary expenses which are incurred as consequence of or in connection with the claim of a third party.
4. The limitation period shall be ten years, counted from the conclusion date of the contract.

VIII. Property Rights

1. All components, tools and related items including plans, drawings, patterns, models, designs or other material furnished to or made available to the Contractor by us pursuant to this Order shall remain our property and are to be returned on completion of the order.
2. Without our prior written consent, the aforementioned objects can neither be reproduced, sold, pledged, transferred by way of security, nor otherwise transferred, nor be made available to third parties.
3. Inasmuch as we have furnished components or material on the Contractor's premises, we reserve the property right. Any processing or transformation of the goods by the Contractor shall be done on our behalf. In the event that any of our conditional goods are processed with other goods not belonging to us, we shall acquire the co-ownership of the new object in the ratio of the value of our goods (purchase price plus VAT) to the other processed goods at the time of the processing.
4. In the event that goods furnished by us are mixed inextricably together with other goods not belonging to us, we shall acquire the co-ownership of the new object in the ratio of the value of reserved goods (purchase price plus VAT) to the other mixed goods at the time of the mixing. If the mixing was made in such a way that the Contractor's goods are deemed to constitute the principle thing, it shall be considered as agreed that the Contractor proportionally assigns us the co-ownership. The Supplier shall keep the property or co-property in safe custody on our behalf.

IX. Terms of payment and invoicing / set-off

1. Invoices and credit notes have to include our order- or account number. They have to be send via email to ap.de@kaefer.com or via mail to the following address:
KAEFER Isoliertechnik GmbH & Co. KG
KAEFER internal Business no. ((KAEDTXX - to be requested from the KAEFER business contact)
P.O. Box 210432,
28224 Bremen
In addition the relevant KAEFER beneficiary (Client) needs to be mentioned including the place of business. Any deviations from these requirements do allow the rejection of the invoice. The due date of the invoice shall not occur.
2. Partial invoices shall not be accepted, unless previously agreed in writing.
3. Payment shall become due upon receipt of delivery or upon unreserved acceptance and upon receipt of the invoice, at our discretion within 14 days with 3% discount or net within 30 days, unless prior arrangements have been made. Decisive for the maintenance of the discount period is the bank transfer instruction or the timely dispatch of the cheque/check to the Contractor.
4. We shall be entitled to set off all our receivables or the receivables of any company of the KAEFER Group (pursuant to article 18 of the Stock Corporation Act - § 18 Aktiengesetz) accruing to the Contractor or to one of the Contractor's group member companies against us or any company of the KAEFER Group.
5. The set-off shall also be admissible if the due dates of the mutual outstanding debits are different. In the case that the outstanding debits have different due dates, the payment shall be made with value date.

X. Order of construction works

Orders of construction works according to the definition of Article 1 of the VOB Part A (German Conditions of the Contracting Rules for Award of Public Works Contracts Part A - Vertragsordnung für Bauleistungen Teil A) shall be complementarily governed by the VOB Part B regulations in its respective version valid upon the conclusion of the contract.

XI. Insurance

1. The Contractor will at its own expense conclude an insurance policy with a reputable insurer. The insurance should cover the liability of the Contractor against KAEFER and third parties, including, but not limited to, product liability claims.
2. If KAEFER does not require proof of insurance from the Contractor, this does not relieve the Contractor of its obligations. In particular, it does not constitute a waiver of the obligations named in this paragraph by KAEFER.

XII. Compliance

1. Within the framework of trade with KAEFER the Contractor is committed to refrain from any conduct that could lead to criminal liability, in particular due to fraud, embezzlement, bankruptcy offenses, breach of competition advantages through promises, corruption, bribery and corruption on the part of the employees of the Contractor or any third party.
2. The Contractor acknowledges the KAEFER Code of Business Conduct. It can be found on the following website:
www.kaefer.com/Compliance
3. In case the above mentioned rules are breached KAEFER has the right to immediately revoke or terminate all existing transactions and negotiations with the Contractor.
4. Notwithstanding the above the Contractor agrees with the legal transaction and shall comply himself with the applicable law(s).

XIII. Miscellaneous

1. These conditions shall be governed by and interpreted in accordance with the German substantive Law, expressly excluding application of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
2. Should individual provisions of this agreement be or become legally ineffective, then the validity of the remaining provisions of the relevant contract shall not be affected thereby. In this case, the ineffective provision shall be replaced by an effective one which is closest to the intention of the parties as well as to the economic purpose of the contract. This also applies to filling up unintentional gaps.
3. The place of fulfilment for all supplies and/or services of the contract shall be, for the supplies, the delivery address stated in the order, for the provision of services, the building site, and for payment, Bremen.
4. Insofar as the Contractor is a merchant or a company the place of jurisdiction shall be Bremen (courts of the City of Bremen) or the jurisdiction in which the headquarters of the subsidiary that submits the order is located. At our option, however, we remain entitled to assert claims against the Contractor also at the courts, which have jurisdiction over the Contractor's place of business.

Bremen, February 2017