

General Terms and Conditions of Purchase

Agreement about the continuous ruling of the following terms and conditions of sale.

between

Heinrich Krug GmbH & Co. KG, Bornstr. 291, 44145 Dortmund, represented by the managing director Mr. Fedor Hawryluk,

- Buyer -

and

... Company

- Seller -

§ 1 Application

(1)

All present and future sales, delivery contracts and other deliveries, offers and additional agreements or legal obligations between the seller and buyer are exclusively governed by these conditions. Differing terms shall not apply except expressively agreed upon in writing by both sides.

These terms become part of all contracts and other business relationships between the Heinrich Krug GmbH & Co KG Company and seller in respect of the above mentioned deals, activities (performances) and contract relationships.

The following terms and conditions of purchase shall also govern all future transactions, contracts and agreements between the parties and shall also apply, if buyer accepts delivery despite our knowledge of differing or contrary terms or the demand by seller to apply his terms and conditions, which are in any case overruled by the conditions here. And even when we accept delivery knowing that the other side wants to use contradicting conditions for delivery exclusively these terms apply, the general terms and conditions of this contract shall prevail exclusively to any other conditions by the seller; these are not going to become effective between the two parties, at any time.

(2)

These terms and conditions of purchase shall only apply vis à vis and to entrepreneurs, governmental entities, or special governmental estates in the meaning of section 310 para. 1 BGB (German Civil Code, BGB)

(3)

Individual terms have to prevail between buyer and seller but they must be in writing between the parties.

§ 2 Offer and Acceptance

(1)

The seller has to reply to a ... by the buyer and to declare his acceptance within a reasonable period of time but not more than two weeks after he has received the demand. A specific period of time for the handling of an acceptance prevails, if such a clause has been agreed upon in writing. Besides this any request/offer/acceptance has to be by telefax or e-mail or in writing. If the seller does not answer in time, the buyer's offer becomes a binding, accepted request.

(2)

The seller's side may be allowed to change time and place of delivery and the packing at the latest one week before the delivery date, if parties had agreed upon in writing such a possibility of change in a separate agreement between the parties.

The delivery has to be carried out with all contractual product specifications, the regular and usual standard and all additional appropriations by the parties. Insignificant changes of the product, e.g. modifications, which do not affect the product by no means concerning the performance or usage for the buyer's patrons the seller may undertake until three weeks before the point of delivery, if clearly indicated in writing with a true and reliable description of the change and its consequences. The Heinrich Krug GmbH & Co. KG has the right of objection and refusal, which has to be exercised within one week after reception of the seller's intention to insignificantly modify the product. The objection is reasonably justified when the buyer claims plausible grounds, for example restraint of the further processing or usage of that particular good. The objection is reasonably justified as valid and valid, if the patron of the buyer declares his unwillingness to take the

product in the modified version. The burden of proof in respect of a missing relevance of the change of the product lies with the seller.

When the objection is reasonably justified by the terms of this contract the delivery solely may be carried out with the original construction of the product.

All other changes need buyer's expressed consent in writing in respect of the goods to be delivered.

In case of a changed product to be delivered to Firma Heinrich Krug GmbH & Co. KG all financial detriment and a loss due to the change (including any penalties) have to be reimbursed by seller to the buyer due to those changes of the product. This includes all additional costs of the buyer. The consent of the buyer with a change does not eliminate this duties and obligations and the respective contract and the above named financial duties.

§ 3 Price and Payment

(1)

Prices include delivery to our facilities (as named by Heinrich Krug GmbH & Co. KG), including any and all costs for transportation, packaging and the VAT, except if otherwise expressly agreed upon by fax or in writing.

(2)

The purchase price is due and payable within 14 days from receipt of the proper invoice with a 3% discount or net within 30 days from receipt of the proper invoice.

(3)

In all confirmations, papers for delivery and invoices buyer's numbers, itemnumbers, quantity of delivered goods and address for delivery have to be clearly stated. If one or more of these specifications are missing and this leads to a delay in our regular processing of payment and all other time given to us is prolonged until an ordinary and completely correct invoice has been reached the buyer.

(4)

The case of default of payment by buyer can commence at the earliest point of time 31 days after the invoice has reached the Heinrich Krug GmbH & Co. KG. The buyer has to pay interest with a maximum of 3.5 percent above the basic interest rate of the European Central Bank. In case the basic interested rate of the European Central Bank is below this percentage, an interest rate of 3,5 percent is applicable. Further claims of seller against buyer due to a delay/default of payment – without look to the reason - is excluded.

§ 4 Offset, Retainer

The buyer reserves all legal rights to offset or retain payment; these right cannot be excluded.

§ 5 Delivery

(1)

All delivery dates (as part of the order or otherwise agreed) are binding, if § 2 does not grant another possibility. If such a date between the parties is missing the statutory law becomes applicable to define the date of delivery.

(2)

The seller shall immediately inform the buyer of any threatening or existing delay in delivery, the reasons for such delay and the anticipated duration of such delay. The foregoing shall not affect the occurrence of a default in delivery.

(3)

In case of default in delivery the buyer reserves all rights under law. Any statement or acting to handle the default or processing of goods must not be deemed to chance this reservation.

§ 6 Passing of the Risk, Shipment

The risk or transportation, loss or damage to the goods passes to the buyer upon complete delivery at the agreed place and time of delivery. A specific agreement/clause in writing between the parties prevails.

§ 7 Liability, Warranty

(1)

Buyer reserves all rights and remedies for non-conformity of the goods provided by law for him. He is entitled to choose the repairment of the defect good, delivery of the product free of any defect or to claim damages, without any other condition.

(2)

In case of an imminent danger or after having sent a due reminder to the seller and having given a reasonable time period to act accordingly under the law buyer is entitled after the corresponding notice in such a reminder to the seller to take care of a remedy for the defect on the seller's expense.

(3)

All above named warranty claims to a remedy defect run into the status of limitations after 36 month after the food has been delivered.

In case of repairment of delivery of new goods the liability and warranty are completely newly started. Buyer has to grant only one attempt of repairment.

§ 8 Duty of Inspection and Objection

(1)

Upon delivery at the agreed destination or (in the event of self supply) upon taking possession, the buyer

- a) has at least three normal working days to check quantities, weight and packaging and record any objections thereto on the delivery note or consignment note and/or the acknowledgement of receipt/warehouse removal note of the cold storage or separate note or separate notification to the seller and

- b) has seven working days to conduct a quality check representatively on a spot check basis and, for such purpose, may open the packaging (cartons, bags, tins, foils etc.) and to check thereby the shape and quality of the goods.

(2)

In case of a notice of defect the buyer shall comply with the following procedures and deadlines:

- a) The detailed notice shall be delivered to the seller within the aforementioned deadlines in writing, telefax or e-mail. Any notice by telephone conversation shall not be accepted. Any notice to sale representatives, commission agents or agents shall not be valid.
- b) The notice must clearly specify the kind and amount of the alleged defect.
- c) The buyer agrees to make available for inspection the object goods at the place of inspection; such inspection may be done by seller, or supplier or any expert designated.

(3)

Any good for which objections shall not have been raised in accordance with the procedures and deadlines set out above shall be regarded as approved and accepted.

(4)

These rules do not apply to hidden defects; this situation is covered by the statutory law in strict accordance with the above stated rules (observing time and form).

§ 9 Product Liability, Insurance

(1)

The seller shall, upon first demand, indemnify us and hold buyer harmless from and against any and all liability or claims of third parties based on the manufacture, deliver, storage or use of the goods delivered by seller. This indemnification shall not

apply, as far as buyer himself has intentionally or by gross negligence has caused the breach of a duty/damages.

(2)

The seller shall, at all times during the term of the relevant contract, maintain product liability insurance with an adequate minimum insurance coverage amount of 5 million Euros for each single case or personal and property damage. Further claims for damages shall remain unaffected. The insurance policy has to be presented by the buyer on first demand in writing.

(3)

In any case of product liability the seller cannot excuse himself by a decentralized evidence for the defense. Parties stipulate that the seller is liable for all parts of the delivered goods and financially responsible for every part in case of a defect and has to take the risk of the product totally. He is not allowed to invoke a third parties liability.

§ 10 Warranty of Title

(1)

The seller guarantees that the goods are free from rights of third parties and that delivery of the goods does not violate any rights of third parties. The seller indemnifies the buyer, upon first demand, against any claims of third parties in this regard.

(2)

Claims on a defect in the title shall be time-barred pursuant to par. 7 sub. 3 above after knowledge.

§ 11 Restriction of Liability

Parties to the contract stipulate that all restrictions of liability under this contract/general terms which deal with the violation of life, health or in case of gross

negligence in part or totally are void, if they limit the liability which is caused by negligent or intentional breach of duty by a legal representation or vicarious agent.

§ 12 Applicable Law, Jurisdiction

(1)

This contract shall be governed exclusively by the laws of the Federal Republic of Germany (excluding the UN Convention of contracts for the International Sale of Goods). No international purchase laws shall apply. Additionally no transmission to the laws of a third country takes place (even by the rules of international private law of Germany). For this contract the substantive law of Germany is continuously applicable and any other legal regime is excluded without regard for a reason.

(2)

The place of performance and executive place for all litigation under this contract but additionally for all other (further) claims, including tort cases claims and cases just out of the conherence or which have been a result out of this contract is Dortmund, Germany.

§ 13 Miscellaneous

(1)

As far as in the above wording parties refer to a certain contract (this contract) the above status terms apply to each following contract between the parties may such a contract have an express reference or no reference to the provisions of this agreement of today.

(2)

The invalidity of single provisions does not affect the validity of rest of the contract. The invalid clause is substituted by a provision which keeps the legal standards and gives way to the intentions and economic goals of this contract.

(3)

This contract is in writing. For all clauses this applies as well as to changes, amendments or other modifications, which have effect on the contract as a whole or

on parts of it or on this clause. The condition does not apply, where this contract for specific situations makes an exception to the rule “has to be in writing””

A communication by e-mail or by telefax does not satisfy the requirement for an “in writing”, statement or clause etc., if parties have not allowed for e-mail or telefax expressively in the above given clauses. Parties to this contract may agree in writing, that the formal requirement of “in writing” may be substituted by telefax and/or e-mail, if a legal representative consents in writing to such a clause or written statement.

(5)

If the seller wishes to receive an English version of this contract in order to facilitate the understanding for him, does not change the relevance and the exclusive governance of the German version, which always prevails.

Buyer
Heinrich Krug GmbH & Co. KG

Seller