

## **Terms and conditions of purchase**

### **§ 1 General conditions and scope of application**

(1) Orders by FKN are placed exclusively on the basis of these Terms and Conditions of Purchase; FKN does not recognise any terms and conditions of the Seller that conflict with or deviate from these Terms and Conditions of Purchase, even if FKN does not expressly object to them or accepts the delivery without reservation. These Terms and Conditions of Purchase shall also apply to all future transactions with the Seller.

(2) All agreements made between FKN and the seller must be in text form for reasons of proof (§ 126b BGB). This also applies to the amendment or cancellation of this clause.

(3) These Terms and Conditions of Purchase apply to entrepreneurs within the meaning of §§ 14, 310 para. 1 BGB (German Civil Code).

### **§ 2 Offer and offer documents**

(1) Orders by FKN can be placed in text form (§ 126b BGB). Unless otherwise stated in the order placed by FKN, FKN shall be bound by the order for 10 working days from the date of the order.

(2) The seller is obliged to confirm the order in writing, confirming the binding delivery time, within a period of one week from receipt of the order.

(3) FKN reserves the property rights and copyrights to offer documents, e.g. illustrations, drawings, calculations and other documents; they may not be made accessible to third parties without the express written consent of FKN. They are to be used exclusively for production based on FKN's order; after completion of the order they are to be returned to FKN unsolicited.

(4) Tools which FKN makes available to the seller or which are manufactured by the seller or third parties for contractual purposes shall remain the property of FKN or shall become the property of FKN after full payment at the latest. They must be labelled by the Seller as the property of FKN, stored carefully, protected against damage of any kind, insured appropriately and used only for the purposes of the contract. The seller hereby assigns to FKN all claims for compensation arising from this insurance; FKN accepts this assignment. The use of the tools for the processing of third-party orders is not permitted.

### **§ 3 Prices and terms of payment**

- (1) The prices stated in the order are net prices plus VAT and are fixed prices. Additional claims due to insignificant quantity changes (+/- 10%) are excluded. Transport and packaging costs to the specified dispatch address, any customs costs and other ancillary costs are included in the prices. The delivery notes must be enclosed. The return of packaging requires special agreement.
- (2) Order confirmations, dispatch notes, consignment notes and invoices, as well as all correspondence, must contain FKN's order number.
- (3) Unless otherwise agreed, the purchase price is due for payment within 60 days of delivery and receipt of a verifiable invoice. If payment is made within 30 days of delivery and receipt of a verifiable invoice, FKN is entitled to a 3% discount. Payments can be made by bank transfer. The date of dispatch/transfer shall be decisive for the timeliness of payment.
- (4) FKN shall be entitled to rights of set-off and retention to the extent permitted by law.

### **§ 4 Delivery time and delay in delivery**

- (1) The delivery dates stated in the order are binding. If no delivery dates are specified, delivery must be made immediately. Unless otherwise agreed in writing, receipt of the delivery at the place specified in the order shall be decisive for compliance with the delivery date.
- (2) The seller is obliged to inform FKN immediately in writing if circumstances occur or become recognisable which indicate that the agreed delivery time cannot be met or - if no delivery time is specified - cannot be met immediately.
- (3) In the event of a delay in delivery, FKN shall be entitled to the statutory claims. FKN is entitled to demand compensation for damages instead of performance and to withdraw from the contract after a reasonable period has expired without result. If FKN demands compensation, the seller has the right to prove that he is not responsible for the breach of duty.
- (4) If the seller is in default, FKN may - in addition to further statutory claims - demand lump-sum compensation for the damage caused by default in the amount of 0.2 % of the net price of the goods delivered late per calendar day, but not more than a total of 5 % of the net price of the goods delivered late.

## § 5 Transfer of risk and quality

(1) Unless otherwise agreed in writing, delivery shall be free domicile. The seller is obliged to take out transport insurance at his own expense.

(2) The risk of accidental loss and accidental deterioration of the goods shall only pass to FKN upon handover at the place of fulfilment.

(3) The seller is obliged to comply with the provisions of the REACH Regulation (REGULATION (EC) No 1907/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2006) and thus to check the materials and preliminary products used to manufacture the contract products by means of suitable measures. The quality and properties of the contract products must be REACH-compliant.

(4) The seller guarantees that the goods comply with all public law regulations at the time of the transfer of risk.

## § 6 Inspection for defects and liability for defects

(1) The provisions on the commercial obligation to inspect and give notice of defects (§ 377 HGB) shall apply with the following provisos: The Customer shall inspect the delivery for obvious transport damage immediately upon receipt. If the Customer discovers a defect, it shall notify the Contractor of this immediately. The Customer shall notify the Contractor immediately of any defects (identity, quantity, dimensional accuracy, quality of workmanship) not discovered in the course of this inspection as soon as they are discovered in the ordinary course of business, but at the latest before further processing.

(2) FKN shall be entitled to the statutory warranty claims without restriction. FKN shall be entitled, at its discretion, to demand the elimination of the defect or the delivery of a defect-free item. The seller may refuse the type of subsequent fulfilment chosen by FKN if it is only possible at disproportionate cost, for which the seller shall bear the burden of proof. FKN expressly reserves the right to claim damages, in particular damages in lieu of performance.

(3) In the event of imminent danger or in the event of particular urgency, FKN shall be entitled to remedy the defect itself at the Seller's expense.

(4) The general limitation period for claims arising from material defects and defects of title is 3 years from the transfer of risk. However, if the goods are used for a building in accordance with their normal use and cause the defectiveness of the building (building material), the limitation period is 5 years and 4 weeks from delivery of the goods at the place of fulfilment.

## **§ 7 Transfer of ownership**

Ownership of the delivered goods shall pass directly to FKN upon handover to FKN.

## **§ 8 Product liability, indemnification and liability insurance**

(1) If the seller is responsible for product damage, he must indemnify FKN against third-party claims for damages on first demand to the extent that the cause lies within his sphere of control and organisation and he himself is liable in relation to third parties. In this context, the seller is also obliged to reimburse any expenses arising from or in connection with a recall action carried out by FKN. FKN shall inform the Seller in advance of any such action, as far as possible and reasonable, and give the Seller the opportunity to comment. Other statutory claims remain unaffected.

(2) The Seller undertakes to maintain product liability insurance with an appropriate and sufficient sum insured; if FKN is entitled to further claims for damages, these shall remain unaffected.

(3) The seller is obliged to carry out suitable, state-of-the-art quality assurance and to provide FKN with evidence of this on request.

## **§ 9 Provision of materials**

The Seller shall be liable for the destruction, loss and damage of parts provided. If the parts provided are not processed by the Seller in accordance with the contract, the Seller shall, irrespective of other claims, reimburse the costs of the processed parts provided and their procurement, as well as the value of the contractual product.

## **§ 10 Environmental protection / occupational safety**

(1) FKN and the entire FKN Group are committed to sustainable environmental protection.

(2) FKN also expects its suppliers to take an active approach to environmental protection and will take these aspects into account both when selecting its suppliers and in the supplier evaluation at the end of the year.

(3) The employees and employees of the seller undertake to fulfil fulfil the following requirements:

- 1.) Compliance with the general health and safety regulations and the correct handling of all work equipment and hazardous substances. The employees and staff of the vendor must have access to the necessary sources of information (safety data sheets, operating instructions) and to the necessary protective equipment. The corresponding instructions must be documented.
- 2.) Proof of sufficient qualification for the activities to be carried out.
- 3.) For activities involving particular hazards, technically and personally suitable persons must be deployed. A suitable person from the vendor must be appointed to supervise this work for safety reasons.
- 4.) The equipment used in the workplaces must comply with the relevant national regulations and accident prevention regulations. Proof of the prescribed tests must be provided to FKN on request.
- 5.) FKN's operating facilities and equipment may only be used by the Seller if this is expressly regulated in the contract.
- 6.) Any hazards that may lead to the fulfilment of the order should be identified before commencing work and the necessary measures to remedy the situation should be specified in writing.
- 7.) The employees and staff of the seller shall only be granted access to the areas of the company in which they carry out the agreed activities.

(4) The seller shall be liable to FKN for any damage caused by its employees, staff or third parties as a result of non-compliance with health and safety regulations.

## **§ 11 Secrecy**

(1) The Seller is obliged to keep secret the terms of the order as well as all information, documents, drawings, models, sample tools and means of production and other items provided for this purpose. This shall also apply after termination of the contract, unless FKN has given its written consent.

(2) The Seller may not refer to the business relationship in advertising material, brochures, etc. without the prior written consent of FKN.

## **§ 12 Third-party property rights**

- (1) The seller guarantees and assures that no rights of third parties are infringed in connection with his delivery.
- (2) The seller shall indemnify FKN and its customers against third-party claims arising from any infringements of industrial property rights upon first request and shall also bear all costs incurred by FKN in this connection.

## **§ 13 Place of jurisdiction, place of fulfilment, applicable law and severability clause**

- (1) To the extent permitted by law, the place of jurisdiction shall be the registered office of FKN in 74632 Neuenstein. However, FKN shall also be entitled to sue the seller at the competent court of his place of residence.
- (2) Unless otherwise stated in the order, the place of fulfilment shall be the registered office of FKN.
- (3) All contracts concluded between FKN and the seller shall be governed exclusively by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- (4) In the event that individual provisions of these Terms and Conditions of Purchase are invalid, the remaining provisions shall remain unaffected. Insofar as these Terms and Conditions of Purchase contain loopholes, those legally effective provisions shall be deemed to have been agreed to fill these loopholes which the contracting parties would have agreed in accordance with the economic objectives of the contract and the purpose of these Terms and Conditions of Purchase if they had been aware of the loophole.

## **§ 14 Data protection**

- (1) FKN collects, processes and utilises personal data insofar as this is necessary for the provision of services.
- (2) Personal data will not be passed on to third parties unless this is necessary for the provision of services.
- (3) The employees of FKN are obliged to maintain confidentiality and to comply with the data protection regulations in accordance with § 5 BDSG.
- (4) The seller has the right to free information about their stored personal data, its origin and recipient and the purpose of the data processing as well as a right to correction, blocking or deletion of this data at any time. The seller can contact our data protection officer ([datenschutz@fkn-group.de](mailto:datenschutz@fkn-group.de)) at any time with regard to this and other questions on the subject of personal data.