

General Terms and Conditions of Purchase

Friedrich Kocks GmbH & Co KG / Kocks Technik GmbH & Co KG

1/ The following conditions shall exclusively be valid for the privity of contract between the supplier and Friedrich Kocks GmbH & Co KG resp. Kocks Technik GmbH & Co KG hereinafter referred to as Kocks. Deviating or contradictory conditions or other restrictions on the part of the supplier shall not be accepted by Kocks, unless Kocks have agreed expressly in writing to these conditions. Neither silence nor acceptance of a service without contradiction or the payment of such a service by Kocks shall be considered as agreement.

2/ Order and acceptance as well as their modification and completion shall be made in writing to be legally binding. Oral side-agreements on signing of contract shall only be valid after confirmation by Kocks in writing. This shall also be valid in case of contract amendments after conclusion of the contract. Kocks shall always be authorized to effect cancellation without any consequences of liability before the acceptance of the contract by the supplier. Offers of the supplier shall be made free of charge and shall not be an obligation of Kocks as inquiring party.

3/ The contracting parties shall be obliged to treat all commercial and technical details not yet known and now becoming public by the business relationship as business secret. They shall only be permitted to advertise with the business connection upon prior approval in writing. Drawings, parts lists, models, measuring gauges, manufacturing gauges and similar objects made available by Kocks to the supplier or paid by Kocks shall remain the property of Kocks and shall be treated and stored carefully. These shall not be delivered and not be made accessible otherwise to third parties and shall only be used in case of supplies to third parties with prior agreement of Kocks in writing. Sub-suppliers shall be bound accordingly.

4/ As far as his supplies and services are concerned, the supplier shall observe the latest generally accepted rules of technology, the safety regulations as well as all technical data and characteristics agreed upon in accordance with the order and documents enclosed, such as drawings and specifications. For this purpose, the supplier shall check the contractual stipulations of Kocks for completeness and correctness as well as the feasibility of realization and shall point out to Kocks immediately possible gaps, technical faults, contradictions and/or violations of imperative legal regulations and of the state of the art, but expressly in writing on confirmation of the order, the latest. In case of orders with particular technical complexity, Kocks shall have the right to ask for a confirmation of feasibility regarding fabrication together with the confirmation of order, which shall become in this case a constituent part of the scope of services ordered. All deviations from the technical data and characteristics agreed upon as well as from fabrication processes, if applicable, (e.g. in the order, on drawings, in parts lists) or from sub-suppliers specified by Kocks shall be subject to the approval of Kocks.

5/ If the supplier realizes services on the premises of Kocks resp. on premises of third parties specified by Kocks, he shall have to announce the start and the scope of work to the contact person named by Kocks. In this connection, the contact person of Kocks respectively a representative shall be

authorized to issue instructions. The supplier shall hand over to Kocks together with the quotation a completely filled-in safety data sheet as per § 14 of the direction on hazardous material and the appropriate accident procedure sheet (transport) for material and articles (e.g. working materials, technical equipment) from which threat may occur to life of physical condition of humans, to the environment as well as to property and which are thus subject to special treatment related to packing, transport, storage, handling and waste disposal.

The supplies of the supplier shall be effected free destination as indicated in the order unless otherwise agreed. The latest INCOTERMS as amended on signing of contract shall be valid in case of all trade terms.

A delivery note shall be added to all shipments and a packing list shall be e-mailed to Kocks (Excel).

6/ The supplier shall provide guarantee that his supplies and services will remain free from defects during the guarantee period. The limitation period for any claims from defects shall be 2 (two) years after delivery or, if applicable, on acceptance agreed upon.

The term of limitation for claims in connection with a special claim shall be suspended by a complaint in writing of Kocks until the defects will be removed. But this suspension shall be terminated three months on receipt of the statement in writing that the defect is removed or that a defect does not exist, however six months after complaint in writing, the latest, if the supplier did not react until then.

Moreover the legal regulations regarding the suspension and interruption of the limitation period shall remain unaffected. Defects must be announced to the supplier immediately after statement of the same in accordance with the conditions of a regular business process. The notice period shall depend on the circumstances of each single case and shall amount to a minimum of five (5) working days (Monday – Friday) from delivery in case of apparent defects and to a minimum of five (5) working days after detection of the defect in case of hidden defects.

The above regulations shall accordingly be applicable in case of services to be effected by the supplier.

In the event of defective delivery, Kocks shall be in a position to request at their discretion from the supplier the repair of the subjects of the contract at his own risk and at his own expense or the replacement by subjects free of defects. The supplier shall bear all costs caused in connection with the repair or the replacement of defective subjects of contract including travel, transport, handling costs, costs of mounting / dismounting, material and labor costs. Place of performance in case of warranty claims shall be the place where the subjects of contract are to be found in accordance with the regular course of business.

7/As far as the product liability is concerned, the legal liability provisions shall be applicable. If a claim is made on Kocks by a customer or another third party due to product liability, the supplier shall be obliged to release Kocks from such claims, if the defect has been caused by a fault at the product delivered by the supplier. In cases of liability dependent on culpability, this shall, however, only be valid, if the supplier is responsible. If the supplier is responsible for the cause of the defect, he shall bear the burden of proof in such a way that he is not at fault. The supplier shall bear in such cases all costs and expenses including possible claim preparation costs, the costs of remediation or a product recall. Furthermore the legal provisions shall apply.

8/ Invoices shall be sent to the company address in Hilden indicating the Kocks order number as well as the correct name of the company (Friedrich Kocks GmbH & Co KG or Kocks Technik GmbH & Co

KG). Formally incorrect invoices and/or invoices with incorrect contents shall be returned to the supplier. All payments shall be effected within 15 days after receipt of the invoice less 2% cash discount, unless otherwise agreed upon. The prerequisite for the payment shall be the fact that the complete scope of supplies/services as per order including all documentations to be added is available. The scope of documentation to be added by the supplier results from the specification and in addition from the contractually specified use as well as from the relevant legislation, in particular from the sovereign regulations. Partial payments shall be subject to a confirmation of Kocks in advance. Invoices must correspond to the legal regulations and shall only be settled in the amount of the order value announced to Kocks in writing.

Unless otherwise agreed, the prices agreed upon shall be fixed prices and shall comprise delivery free to destination as per order including all costs of contractual packing, loading, freight and transport insurance.

9/ Additional costs caused or to be expected must be announced immediately to Kocks and must be legitimated by a repeat-order. Claims without official order in writing shall not be subject to a claim against Kocks. Advance payments also including the value-added tax shall be effected by Kocks against presentation of a correct invoice in accordance with § 14 UStG (=law on turnover tax). The final invoice to be issued shall clearly show the advance payments and the resulting turnover tax amounts.

Bank guarantees (advance payment bonds resp. performance bonds) shall be made available cost-free to Kocks in accordance with a sample received from Kocks and issued by an acceptable bank or savings bank in Germany. The possibly incurring value-added tax must be included. Kocks reserve the right to accept foreign banks according to prior agreement. The supplier shall not be entitled to assign his claims against Kocks or to authorize third parties to collect these claims. This shall not be valid for the extended reservation of title. If the supplier assigns his claims against Kocks to a third party without approval of Kocks contrary to the previous sentence, the assignment shall nevertheless be effective. But Kocks can effect payment, at their discretion, with discharging effect to the supplier or to the third party.

Kocks can always request modifications of the subjects of the contract to be technically feasible and reasonable for the supplier. The supplier shall be obliged to realize the modifications promptly on the basis of the applicable terms and conditions of the contract. If thus increased expense and cost and/or delays may result from the point of view of the supplier while fulfilling the contract, the supplier shall have to inform Kocks immediately. Both sides shall have mutually to ensure that there is appropriate regulation in place regarding the effects, in particular additional costs or cost reductions as well as possible postponements.

10/ Subsequent claims and additional expenses shall not be binding unless confirmed by Kocks by a modified official order in writing. Subsequent claims not confirmed in writing or additional expenses shall in general not delay the due date of the delivery and/or postpone the due date.

11/ In case of the technical acceptance of the supplies/services by Kocks as constituent of the order, the supplier shall announce the readiness for acceptance 15 days, the latest, if possible, before the delivery time specified in the order. The supplier shall take care that the technical acceptance can be effected reasonably. This shall include at least the access, accessibility, illumination, provision of measuring devices. Kocks reserve the right to document acceptances by taking photographs in the company of the supplier as well as by carrying out meanwhile unannounced fabrication quality controls in the supplier's company. Kocks shall announce in advance intermediate controls, if possible, in due

time. Fabrications and assemblies ordered from sub-suppliers in accordance with the drawings shall be subject to the approval of the purchase department of Kocks. In this case, the supplier shall also provide to Kocks the possibility to carry out intermediate controls on the premises of the sub-suppliers. Supplies agreed upon with a technical acceptance must not be delivered without the agreement of Kocks.

12/ The delivery time and the place of delivery specified in the order shall be binding for the supplier, unless he has contradicted in writing by the order confirmation, the latest. Delivery times deviating from the order shall be subject to an official confirmation in writing by Kocks. The supplier shall take appropriate special measures, if necessary, in order to keep the delivery times, such as multi-shift operation and/or weekend working. Delays, for which the supplier is responsible directly or also indirectly, shall be announced to Kocks in writing immediately after notice. This shall also be applicable in case of delays imminent with reasonable certainty, which have not yet occurred. The supplier shall make available to Kocks sufficiently detailed time schedules of the production process 2 (two) working days after request.

In case of delays, Kocks can call upon the legal claims. If the supplier is behind the schedule of the contractual delivery times, Kocks shall have the right to claim the payment of the following penalties:

- The supplier shall pay 0.5 % of the complete order value, however a maximum of 5 % of the complete order value per each started week of delay in case of the delivery of the technical documentation agreed upon.
- The supplier shall pay 1.0 % of the complete order value, however a maximum of 10 % of the complete order value per each started week of delay in case of delayed delivery of machinery and machinery components and facilities as well as in case of the delayed supply of services.

The above mentioned penalties can still be claimed by Kocks on acceptance of the delayed supplies/services until the final payment. All penalties must not exceed 10 % in total of the complete scope of the order. The penalty claim shall be limited in total to 10 % of the complete scope of the order.

Kocks reserve the right to claim a damage due to delay caused higher in fact. Penalties already paid shall be credited against the damage, if any, caused in fact.

13/ Kocks reserve the right to visit the fabrication works of sub-suppliers or service providers of the supplier, in particular within the limits of the supplies/services agreed upon with the supplier. The supplier shall inform Kocks on request about the contact data of all sub-suppliers or service providers and this shall also be applicable in case of parts/services which are not made in accordance with the drawings.

Parts or services supplied cost-free to the supplier by Kocks for the realization of supplies/services shall be listed in the order. A deviation shall be subject to the agreement and official confirmation in writing by Kocks.

The delivery times of the added parts or services specified by Kocks shall be checked by the supplier and contradicted by the order confirmation in writing, the latest, if this could influence the complete scheduled delivery date. The added parts or services shall be checked on receipt by the supplier for being complete and usable within a reasonable period of time of a business process. Deviations shall be advised immediately to the purchase department of Kocks.

Objects of any kind delivered respectively supplied by Kocks within the limits of the order processing shall remain the property of Kocks and shall be stored and marked by the supplier during further

processing in such a way that these can always be separated, if necessary, as long as these are not installed or mounted. These shall exclusively be used for the completion of the order. The proper storage and insurance shall be the obligation of the supplier.

14/ The completion and the completeness of the scope of supply shall be advised to Kocks in due time by means of a notification of readiness for shipment by the supplier in such a way that Kocks shall have the possibility to initiate and perform all necessary work for shipping in due time. The notification of readiness for shipment shall comprise the order number, reference number of Kocks, the designation of the parts, exact date of loading, gross/net weight, dimensions per each package, number of packages. Each part shall be marked in such a way that the clear identification is always possible. The marking shall include: supplier, order number, reference number, designation of parts, drawing number, item number as per parts list.

In case of EU goods having preferential originating status, the supplier shall provide a supplier's declaration in accordance with the regulation (EG) no. 1207/2001. In case of third country goods with preferential origin status, the supplier shall provide a certificate of origin with the stamp of the relevant Chamber of Commerce and Industry.

A detailed delivery note shall be attached comprising all above data for clear identification and assuring the correct incoming goods inspection by Kocks. In case of supplies within the European Economic Area, all directives of the EU member countries / CE directives as well as the corresponding harmonized standards shall be complied to. Kocks shall have a claim against the supplier regarding the presentation of the technical documentation to be prepared in accordance with these directives for risk assessment for inspection. The execution of this right shall not lead to the fact that Kocks shall be responsible respectively jointly responsible for the due complete and correct execution of the risk assessment and its documentation.

15/ The supplier shall be liable for claims resulting from the violation of registered or approved trademark rights taking into account the contractual use of the supplies and services. The supplier shall hold harmless Kocks from all claims resulting from the violation of such rights. Kocks shall receive from the supplier a single, unrestricted right of use applying to all kinds of use by the supply of a copyright work as far as legally permissible.

16/ In case of the opening of insolvency proceedings over the assets of the supplier, Kocks shall have the right to terminate the contract without advance notice and shall have the right to claim from the supplier the immediate handing over of all ordered goods and of all added subjects possibly in the respective condition of machining/processing. This shall also be applicable in the case that the supplier stops his payments to the sub-suppliers or service providers.

The settlement of the services performed until then within the limits of the order processing shall be effected in accordance with the progress of work at the time of the termination of the contract less the reimbursement of additional flat rate costs to be taken into account in favor of Kocks amounting to 10% of the order value as flat rate reimbursement for the additional expenses incurring in connection with the other awarding of contracts and for delays. Kocks shall remain unaffected from the proof of further damages and increased costs caused by the premature termination of the contract for which the supplier is responsible. Justified costs and damages shall in advance be compensated with the above mentioned reimbursement of additional flat rate costs.

If the contract is not terminated, Kocks shall be entitled to reserve the amount of at least 10% of the payment as security for contractual obligations up to the end of the contractual guarantee period. This shall not affect the right to claim further damages due to violation of duty and/or culpable delay caused by the supplier during order processing or the release after termination of the contract by the buyer.

17/ If the supplier is a merchant, the laws of the Federal Republic of Germany shall apply exclusively whereby the UN-convention on Contracts for the International Sale of Goods and the collision regulations of international private law shall be excluded unless otherwise agreed upon in writing. The German wording of the contract shall be binding for the interpretation of the contract, if the same is multilingual. The place of performance for supplies or services shall be subject to the assignment/ordering of Kocks and shall apart from that alternatively be the registered office of the Kocks company concerned. In case of all present and future claims arising from the business relationships with merchants, the place of jurisdiction shall exclusively be Düsseldorf. Kocks shall be entitled to also take action at the domicile of the supplier.