

General Purchase and Ordering Conditions – Kirchhoff Polska Sp. z o.o. (version 01.04.2006)

1. GENERAL

The legal relations between Kirchhoff (hereinafter referred to as "Purchaser") and their suppliers shall solely be based on the following terms and conditions, if nothing to the contrary has been agreed in individual cases. Any changes to these terms and conditions or supplements thereto have to be in the written form.

Terms and conditions or regulations of the supplier, which contradict our Conditions as set forth hereinafter, shall not be accepted by Purchaser, even if Purchaser should, in individual cases, not explicitly contradict same.

In addition, all activities carried out by the supplier on the business grounds and/or premises of Kirchhoff Polska shall be subjected to the house rules in its respectively valid version ("Zasady prowadzenia prac na terenie Kirchhoff Polska").

Our Purchase and Ordering Conditions and our house rules shall also be applicable to future performances of the supplier.

2. MATERIALISATION OF SUPPLY CONTRACTS

2.1 Supply contracts (orders and acceptance) and release of orders on call or any amendments and/or supplements thereto have to be in written form in order to become valid and binding. Issuing release orders for goods on call may also be effected by way of remote data transmission.

2.2 All orders placed shall become legally effective on both contractual parties once such orders have been granted on the official ordering form of the Purchaser and immediately accepted without restriction by signed confirmation of order on behalf of the supplier.

2.3 Release for delivery shall only be valid in conjunction with the supply contract (conclusion). Purchaser expressly reserves the right to re-plan within the framework of purchase order amendment. Excess respectively advance delivery may be rejected by Purchaser. In the event that Purchaser should accept such order tacitly or expressly, the relevant order shall be made at the burden and at the risk of the supplier. Fixed delivery scheduling for the current and one further month, release for inventory control and capacity planning shall be commissioned by Purchaser for two successive months. It shall not be permitted to manufacture quantities planned to be issued as release on call, but such quantities have to be understood as non-binding forecast analogous to possible quotas planned over and above the two following months. Orders on call shall respectively automatically be extended by one month, if such orders do not lose validity through submission of a new call for release of order. Any allocations exceeding the before mentioned period have to be understood merely as non-binding forecast.

2.4 Purchaser shall be entitled to demand changes to the design and specifications of the delivery item, if this should be realistic to the supplier. The consequences, especially with regard to increase or reduction of costs and delivery dates shall accordingly be mutually agreed between the contractual parties.

2.5 Commissioning third parties to execute Purchaser's orders shall not be permitted without our prior written consent and Purchaser shall be entitled to withdraw from the contract as a whole or in part and to demand compensation for damages in the event of violation.

3. DELIVERY

3.1 In the event that nothing to the contrary has been agreed, the delivery shall be done DDP pursuant to Incoterms 2000, including packaging to the address specified by Purchaser.

3.2 In the event of exceeding scheduled delivery dates, Purchaser shall be entitled to determine the most appropriate means of transportation at Purchaser's own discretion. The supplier shall bear all additional transportation costs, which may arise in this regard.

3.3 A valid delivery note has to be issued for each delivery, which shall reflect the order/ call release number, date of order/ call release date, our item number and description, quantity, weight (gross/tare), supplier number and address of supplier.

4. DELIVERY DATES AND DEADLINES

4.1 Agreed delivery dates and deadlines shall be binding. Authoritative for compliance with any delivery date or deadline shall be receipt of goods by Purchaser. In the event that delivery DDP pursuant to Incoterms 2000 has not been agreed, the supplier shall notify Purchaser as regards availability of the relevant goods at least 2 days before expiry of the delivery date via email address or facsimile number specified by Purchaser.

4.2 If required by Purchaser the supplier shall be obliged to permanently keep appropriate stock levels in excess of the respective delivery quantities, without additional payment (covering one- to two-week average consumption).

5. DELAYED DELIVERY

5.1 The supplier shall be held liable for compensation of any and all damages resulting due to delayed delivery.

5.2 In the event that the supplier should fall into delay, Purchaser shall be entitled to demand liquidated damages amounting to 1% of the delivery and performance value per full week, however in total not exceeding 15% of the delivery and performance value; further going legal claims shall remain unaffected. Both the supplier and Purchaser shall have the right to prove that no lesser or higher damages have been suffered as a result of such delay. In the latter case, Purchaser shall be entitled to also assert claims for damages of the higher amount.

6. PAYMENT, ACCOUNT AND DELIVERY NOTE

6.1 Purchaser shall have the right to select whether to pay by bank transfer, cheque, bill of exchange or any other means of payment.

6.2 If nothing to the contrary has been agreed, payment shall be made net until 30th or 15th day of the month following the delivery after receipt of goods and receipt of due and proper account.

6.3 In the event of accepting premature delivery, due date shall be calculated in accordance with the agreed delivery date

6.4 In the event of faulty delivery, the purchaser shall be entitled to withhold payment to the proportionate value until due and proper accomplishment of performance.

6.5 The supplier shall not be permitted to assign his claims against Purchaser to any third party or arrange for collection by any third party without prior written consent of Purchaser, which consent may not be unjustly rejected.

6.6 Accounts have to be forwarded to Purchaser's Headquarters in duplicate. Accounts have to reflect the supplier number, number and date of order (respectively conclusion of purchase order and call for release), Purchaser's additional data (account assignment), unloading point, number and date of delivery note and quantity of goods accounted for..

7. CONFIDENTIALITY

7.1 The contractual partners undertake to treat all business and technical details, which are not publicly known, which they should obtain knowledge of on the basis of the business relations between the parties as business secrets.

7.2 Drawings, models, templates, samples and similar objects, may not be passed on or made accessible to any third party in any other way and shall remain property of Purchaser. Copying, such objects shall only be permitted within the framework of operational requirements and the provisions set forth under copyright law. Goods manufactured on the basis thereof may not be assigned to any third party as raw, semi-finished or finished goods. The same shall apply to parts, which the supplier has developed in terms of Purchaser's specifications.

7.3 The same obligations have to be imposed on sub-contractors.

7.4 The contractual partners shall only be permitted to publicise their mutual business relations after the prior written consent has been granted by the respectively other party.

7.5 Correspondence between the supplier and Purchaser's customers concerning the respective objects ordered shall be strictly prohibited without express written consent as given by Purchaser.

8. QUALITY AND DOCUMENTATION

8.1 All deliveries by the supplier shall be carried out in compliance with the acknowledged rules of technology, all safety regulations and the agreed technical data (national and international norms). Modifications to the delivered objects have to be approved in advance by Purchaser. Purchaser draws supplier's attention to the applicable valid standards of the purchaser's OEM customers, i.e. the guideline "Production Part Approval Process" or the script issued by the "VDA" (Association of German Automobile Manufacturers) "Sicherung der Qualität von Lieferungen" (volume 2). Irrespective thereof, the supplier shall be under the obligation to continuous quality control. The contractual partners shall mutually inform each other with regard to any quality improvement possibilities.

8.2 In the event that the nature and extent of such inspections as well as the testing equipment and methods have not been bindingly agreed between the supplier and Purchaser, Purchaser shall be prepared to discuss the inspections with the supplier within the framework of his knowledge, experience and possibilities in order to determine the respectively required standards of testing equipment. In addition, if the supplier should request to be informed on the pertinent safety regulations, Purchaser shall furnish the supplier with such information.

8.3 Furthermore, Purchaser draws supplier's attention to our "Specific Requirements to Suppliers".

9. CLAIMS, WARRANTIES / LIABILITY, TERMS OF LIABILITY

9.1 Purchaser shall not be obliged to carry out any incoming goods inspections; Purchaser shall conduct random checks and examine the goods as regards visible defects. The quantity, weight and measure values determined by Purchaser shall be decisive.

9.2 Claims shall be deemed as having been notified in due time, if visible (obvious) defects have been reported to the supplier at the latest within 5 working days as of receipt of goods. Purchaser shall also be entitled to give notice of hidden or concealed defects, i.e. within 5 working days after detection and establishment of defect.

9.3 The supplier is obliged to provide Purchaser with possession and ownership of the goods, free from material defects or deficiency in title.

9.4 Material damage shall be deemed as being prevalent if upon passing of risk the goods do not possess the agreed characteristics and/or should not be suitable for use in terms of the prerequisites as set forth in the contractual agreements between the parties and/or should not maintain its characteristics and/or usability for the customary life cycle.

9.5 The supplier guarantees that all goods delivered comply with the specifications stipulated in purchasing order as well as with the accident prevention regulations set forth by the Employer's Liability Insurance Association.

9.6 In the event of material defects or deficiency in title and other violation of obligations, Purchaser's rights and claims shall be governed by the "BGB"/German Civil Code. This applies only to non-Polish suppliers; towards Polish suppliers the Polish Law will be used. In addition to the statutory rights, the following is agreed: In the event that the supplier should not meet his obligations with regard to subsequent performance within an adequate period of grace set by Purchaser, Purchaser shall be entitled to carry out subsequent performances by themselves at the cost of the supplier or arrange for same to be carried out by a third party. This shall also apply to the necessary sorting costs. There will be no need to set a deadline, if the subsequent performance is aborted or if it should be unreasonable towards Purchaser or Purchaser's customers. If in the case that subsequent performance should be necessary (e.g. sorting, rectification) on the site or at a facility where the goods had been delivered as agreed, the supplier shall be obliged to deliver subsequent performances on site at his own costs or arrange for such performances to be rendered. In order to avoid assembly line stagnancy, such performances shall be executed immediately upon notification, without setting of deadlines being necessary. If this is not the case, Purchaser and/or those concerned within the delivery chain shall be entitled to carry out such performances at the costs of the supplier or arrange for same to be carried out.

9.7 In the event that defects to goods should be established upon commencement of production (processing or installation), Purchaser shall grant the supplier the opportunity to sort and deliver subsequent performance (rectification or subsequent performance), if Purchaser can reasonably be expected to do so; otherwise Purchaser shall be entitled to rectify such defects by themselves and to charge all costs arising in this regard to the supplier.

In the event that such defect should only be detected after going into production, the before mentioned shall be applicable, with the proviso that Purchaser shall be entitled to demand further compensation for additional expenditure, e.g. for processed parts.

9.8 Purchaser's claims based on material defects or deficiency in title as well as other contractual violations by the supplier shall become statute barred at the earliest 5 years as of installation into the vehicle, unless if otherwise provided for by statutory regulations or deviating deadlines agreed in individual cases and subject to the regulations set forth in 9.9 and 9.10. This limitation period shall be extended by the time periods during which the statute barring period has been suspended.

9.9 In the event that claims against Purchaser should be raised due to material defects or other contractual violations which is constituted in any sphere related to the supplier's obligations, the supplier shall indemnify Purchaser from any and all claims raised by Purchaser's contractual partners or any other third party. Purchaser's claims for compensation of damages and indemnification from all damages and expenses relating to goods provided by the supplier shall exceed the liability/statute barring limitation periods set forth under 9.8 hereof for the time period that Purchaser is held responsible as well as any consequential damages and expenses pertaining to claims based on obligations falling in the field of responsibility of the supplier. Claims based on violation of obligations by the supplier which Purchaser reprimands within the warranty/statute barring limitation period, shall

become statute barred at the earliest 3 months after reprimand.

9.10 Claims and extended statute barring limitation periods pursuant to the binding product liability law based on tort, malicious acts and arising from warranties shall remain unaffected.

10. PRODUCT LIABILITY, INDEMNIFICATION AND INSURANCES

10.1 If the supplier should be responsible for damages caused by his goods, the supplier shall indemnify Purchaser from any and all claims for compensation raised by third parties upon first request. This shall in particular apply to such claims, which are asserted against Purchaser in terms of the laws pertaining to liability for defect products or similar local or foreign legal provisions.

10.2 Within this framework, the supplier shall also be obliged to compensate for any expenses which may arise for actions in terms of §§ 683, 670 "BGB", which Purchaser should be compelled to execute within the framework of product recall measures. This applies only to non-Polish suppliers; towards Polish suppliers the Polish Law will be used. Purchaser shall inform the supplier with regard to the content and extent of such recall action - as far as possible and reasonable - and grant the supplier the opportunity to deliver his statements on the circumstances.

10.3 The supplier undertakes to maintain product liability insurance with an amount of cover totalling EURO 5.000.000.-- per any one occurrence of personal damage/material damage; should Purchaser be entitled to further going claims for compensation of damages, such claims shall remain unaffected.

11. THIRD PARTY RIGHTS

The supplier shall guarantee that the goods ordered/performances rendered are free from any and all third party rights and that the goods can be used or resold without violating any third party rights. In the event that any third party should assert rights as regards the goods delivered/performances rendered, in particular industrial protection rights, the supplier shall lend the utmost extent of support in any possible actions of legal defence and make available to Purchaser all necessary documentation.

12. CONCLUDING PROVISIONS

12.1 In the event that one of the contractual partners should cease payment, or application for institution of insolvency proceedings should be filed with regard to any one of the contractual partner's assets and institution of such proceedings are not avoided, the other contractual party shall be entitled to rescind the part contractual performances not yet accomplished. Further going claims, in particular claims for compensation of damages shall in such cases not arise on behalf of the contractual part falling into insolvency.

12.2 In the event that one or several provisions set forth in these Conditions or any other contractual arrangements concluded between the parties should be invalid or become invalid, the validity of the remaining part of these Conditions respectively the contract shall not be affected thereby. Such invalid clause or filling of any possible gaps shall be replaced by an appropriate provision, which comes as close to the objective and purpose of the invalid provision or gap, which the contracting parties would have agreed upon if such event should have been contemplated by the parties upon conclusion of the contract. In the event that invalidity should be affected by extent of performance or temporal delimitation, such provision shall be replaced by the closest permissible statutory dimension.

12.3 If nothing to the contrary has been agreed, solely the laws of the Federal Republic of Germany shall be applicable. Application of UN Purchase Law (Treaty by the United Nations dated 11.04.1980 pertaining to the International Sale of Goods) shall be precluded.

12.4 Place of performance and venue of jurisdiction shall be the seat of the respective purchaser; this shall only apply if the supplier is an established merchant.