

General Conditions of Purchase

1. General Provision

Only the conditions below shall be applicable to our orders. All of the conditions contained in the offer or the confirmation of order of the supplier shall only apply -- even if no objection is made by us -- if they are expressly accepted in writing by us. If special conditions are agreed for certain orders, these general conditions of purchase shall have secondary priority and shall be deemed supplementary.

2. Form of the Order

Only orders placed in writing shall be binding. Verbal or telephone agreements shall require our written confirmation.

3. Correspondence

All correspondence is to be conducted only with the offices named on the front with reference to our inquiry/order data.

4. Prices

The price shown in the order shall be binding.

The prices include everything that the supplier has to carry out in order to fulfil his supply obligations, but are exclusive of VAT.

If in exceptional cases the prices are not agreed in advance, the contract shall only come into force when the binding prices in the confirmation of order have been confirmed by us.

5. Packaging

Packaging shall only be paid for if this has been expressly agreed.

The supplier shall be responsible for ensuring that both the transport packaging and the surrounding packaging consist of recyclable material within the meaning of the packaging regulations.

6. Acts of God

If an Act of God prevents a party to the contract from fulfilling a contractual obligation, this party shall notify the other party immediately of the event, its probable effects and duration. The party is then released from the fulfilment of the obligation concerned for the duration of this hindrance. Acts of God shall be deemed to be all circumstances outside the sphere of influence of one of the contractual parties, such as war, revolution, uprising, embargo, epidemics, earthquake and other natural catastrophes, but not strikes and lock-outs. If the hindrance through an Act of God lasts for more than six months, both parties shall be entitled to terminate the contract.

7. Delivery Dates

The agreed delivery dates are binding.

In cases of delay in delivery, we shall be entitled to withdraw from the contract after setting a deadline or to demand flat-rate damages of 5% of the value of the delayed delivery unless we have incurred greater damage as a result of the delay.

8. Notification of Delivery

Advice of dispatch is to be submitted to our purchasing department in duplicate for every consignment before or not later than upon dispatch in which the following information shall be provided: number of items, dimensions, weights, etc and the order number; the advice of dispatch must reach us before the consignment is delivered. Truckloads shall not be dealt with until the delivery papers have been received. The costs shall be borne by the supplier.

If consignments are destined for export, pro forma commercial invoices, certificates of origin or other export documents required by the import regulations of the country of destination shall be submitted before dispatch.

9. Export Licence Obligation

The current versions of the relevant export regulations such as AWG, AVO and US export and re-export legislation are to be complied with.

Export restrictions and official directives restricting exports are to be notified to us immediately.

10. Dispatch, Transfer of Risk

- a) All dispatch documents shall state the departments, order number, reference or issue remark. If our dispatch instructions are not complied with, all incurred costs shall be borne by the seller.
- b) Deliveries shall always be accompanied by delivery notes.
- c) The supplier shall bear the risk until acceptance/receipt of the consignment.
- d) The supplier shall be responsible for ensuring that the information contained in the consignment notes is complete and correct, as well as for proper transport and suitable packing.

11. Invoicing

Invoices are to be submitted in duplicate after delivery or provision of the service. The invoice duplicates are to be designated accordingly. The invoice must contain our order reference (order and commission number).

12. Conditions of Payment

Unless otherwise agreed, we effect payment within 14 days of receipt of the invoice, goods and required documentation, deducting 3% discount, or after 60 days net.

Payment shall be deemed to have been effected on time if we are able to show that the payment order was given by us by the due date.

If the invoices do not contain the information stated under 11 above, the payment deadlines, in particular the 14-day period for deduction of the discount, shall begin on the day on which all information required by us is submitted. Cash on delivery consignments shall not be accepted; the costs incurred for these shall be borne by the supplier.

With the agreement of the other companies of our group and our parent company we are entitled to set off all claims for payment from the supplier against all such claims held by us or one of the above companies. The list of the above companies is available upon request. The supplier is not, insofar as this is legally permitted, entitled to set off claims or to assert a right of retention against us.

If deposits are paid by us in association with our order, we shall be entitled at all times to obtain suitable securities or materials corresponding to the transfer of security, in particular the ordered objects which are still undergoing processing.

13. Assignment of Claims and Obligations

Without our prior written agreement, the supplier may not transfer his contractual claims and obligations, either in part or in whole, to third parties.

14. Guarantee

Unless otherwise agreed, the supplier shall provide a guarantee of two years for his consignment from the date of acceptance of the goods, including compliance with the performance specifications stated on the printed form.

If a fault which is not externally visible becomes apparent only after acceptance of the goods, the limitation period shall not begin until the fault has been determined. The objection of delayed inspection and notification of defects (§§ 377, 378 German Commercial Code) shall be excluded.

In urgent cases, or in cases of delay on the part of the supplier, we shall be entitled at his expense to obtain a substitute supply or covering purchase. Our payment shall not be deemed to be acceptance that the goods are free of faults.

The supplier shall be liable for ensuring that the consignment and its use do not infringe patents or other industrial property rights of third parties. He shall release us from any claims by third parties.

15. Termination

In the case of termination by us, the supplier shall receive remuneration for the work and services which can be shown to have been provided by him up to the time of termination.

16. General Regulations

For all consignments and services, all applicable legal and other regulations and relevant documents, e.g. accident prevention regulations of the main trade associations, the provisions of VDE, VDI, DVGW and VdTÜV are to be observed. In respect of the supplied article, the supplier shall have in place a suitable quality assurance system (e.g. ISO 9000 ff), appropriate operating facilities and specialist personnel.

17. Materials provided temporarily to the Supplier

Insofar as we provide parts or materials temporarily to the supplier, these shall remain our property. They are to be designated as such immediately during the inspection of incoming goods, and are to be stored separately until use in association with the contract. Any processing or modification by the supplier shall be carried out on our behalf. If our supplied articles are processed with other objects which do not belong to us, we shall acquire co-ownership of the new item in the ratio of the value of our article to the other processed objects at the time of processing.

18. Drawings, Models

The information provided to the supplier, as well as models, drawings, designs and other documents placed at his disposal, irrespective of whether these are originals or copies, shall remain our property, be subject to our copyright, and may not be used for other purposes or passed to third parties.

The granting of authorisation or approval by us relating to the use of drawings, information, plans, designs of other documents, shall not release the supplier from his liability to ensure the correctness and completeness of the documents submitted to him and the proper construction of the supplied article.

19. Spare Part Lists, Operating Instructions, Documentation, Certificates etc

These documents shall be provided to us voluntarily not later than the time of delivery.

20. Application of German Law

For all legal relationships between the orderer and the supplier only the law pertaining to legal relationships between domestic parties at the location of our registered office shall apply, to the exclusion of foreign law. The provisions of the United Nations relating to the international sale of goods shall not apply.

21. Place of Performance and Jurisdiction

The place of performance for all deliveries shall be the receipt location stated in the order, but for all payments it shall be Würzburg.

The place of jurisdiction for both shall be Würzburg/Germany.

NKM Noell Special Cranes GmbH