

GENERAL TERMS AND CONDITIONS

KRUPS Automation GmbH, Ringstr. 13, 56307 Dernbach

Valid for

1. any person who, when concluding the contract, is engaging in commercial or independent professional activity (entrepreneur) or
2. a legal entity under public law or a special fund under public law.

I. General

1. All deliveries and services are based on these conditions and any additional contractual agreements established for the specific project. These General Terms and Conditions apply to any contract. Purchaser's General Terms and Conditions do not apply even if we do not expressly oppose them. A contract is concluded - in the absence of a special agreement - with the written order confirmation from the supplier.
2. Verbal agreements, promises, assurances and guarantees must be in writing to be valid.
3. Seller reserves title and copyrights to estimates, samples, drawings and other documents. Purchaser shall only make them accessible to third parties after having obtained our written approval (prior consent).
4. The seller agrees to only make plans, drawings, and the like which have been designated as confidential by the customer accessible to third parties after obtaining the customer's consent. The supplier also reserves the right to make changes and further developments.

II. Pricing and Payment

1. Unless otherwise agreed, material is sold under ex works terms. The terms include loading at our facility, but exclude packaging and unloading. Sales tax at the respective statutory rate will be added to the prices.
2. The customer has the right to withhold payments or offset them against counterclaims only to the extent that these counterclaims are undisputed or have been legally established.

III. Delivery Timing, Delivery Delays

1. The delivery time results from the agreements between the contracting parties. Compliance by the supplier requires that all commercial and technical questions between the contracting parties have been clarified and that the purchaser has fulfilled all of his obligations, such as providing the necessary official certificates or approvals or making a down payment. If this is not the case, the delivery time will be extended accordingly. This does not apply if the supplier is responsible for the delay.

2. Compliance with the delivery deadline is subject to correct and timely communication of information and release of approval drawings by the purchaser.

3. The delivery deadline is deemed to have been met if the seller has communicated to the purchaser that the material is ready to ship or the material has been shipped from the supplier's facility by the confirmed target date (plus any additional time granted by delays as indicated in this document). If an acceptance is to take place, the acceptance date, or alternatively, the notification that the material is ready for acceptance, is binding – except in the case of justified refusal of acceptance.

4. If shipping or acceptance of the delivery item is delayed for reasons for which the purchaser is responsible, any costs incurred (including storage costs) as a result of the delay will be charged starting one month after notification of readiness for shipping or acceptance.

5. If non-compliance with the delivery time is due to an event beyond our control, such as force majeure (i.e. war, blockade, fire, riot, strike, lock-out, interruption of operation in our or our supplier's or forwarding agent's plants), labor disputes or other unpredictable official measures or events, partial deliveries may be performed, or the delivery time may be extended as far as possible to prolong the delivery time by the period of impediment. The supplier will inform the purchaser of the beginning and end of such circumstances as soon as possible.

IV. Transfer of Risk, Acceptance

1. The risk passes to the purchaser when the material has left the seller's facility, including in the case of partial deliveries or if the supplier has assumed other services, e.g. shipping costs or delivery and installation. If an acceptance is to take place, it must be carried out immediately on the acceptance date, or alternatively after notification from the supplier that the material is ready for acceptance, and is binding for the transfer of risk. The purchaser may not refuse acceptance if there is a non-essential defect.

2. If shipping or acceptance is delayed or does not occur due to circumstances that are not attributable to the supplier, the risk passes to the purchaser from the date when the purchaser was notified of the readiness for shipment. If required by the purchaser, the supplier undertakes to take out the insurance on the material at the purchaser's expense.

3. Partial deliveries are permitted as long as this is reasonable for the purchaser.

V. Retention of Title

1. The supplier maintains ownership of the material until all payments from the delivery contract have been received (until their clearance in case of payment by check or bill).

2. The supplier is entitled to insure the material against theft, breakage, fire, water and other damage at the purchaser's expense, unless the purchaser has demonstrably taken out adequate insurance.

3. The purchaser may not sell, pledge, or assign the material as security. In the event of seizure, confiscation or other dispositions by third parties, the purchaser must inform the supplier immediately

4. If the purchaser behaves in breach of contract, particularly in the event of late payment, the supplier is entitled to repossess the material after a reminder and the purchaser is obliged to return it.
5. Due to the retention of title, the supplier can only demand return of the material if the supplier has withdrawn from the contract.
6. The supplier is entitled to withdraw from the contract and demand the immediate return of all delivered material upon the application to open insolvency proceedings.

VI. Claims for Defects

The supplier guarantees for material and legal defects in the delivery, excluding further claims - subject to Section VII. - As follows:

Material defects

1. All parts that turn out to be defective as a result of a circumstance that occurred before the transfer of risk must be repaired or replaced free of charge at the supplier's discretion. The discovery of such defects must be reported to the supplier immediately in writing. Replaced parts become the property of the Supplier.
2. After communicating with the supplier, the purchaser must allow the necessary time and opportunity to carry out all inspections, repairs and replacement deliveries deemed necessary by the supplier, otherwise the supplier is released from liability for the resulting consequences. Only in urgent situations where operational safety is compromised or to prevent excessive damage, whereby the supplier must be informed immediately, does the purchaser have the right to remedy the situation himself or through a third party and to require reimbursement of the necessary expenses from the supplier.
3. Of the costs arising from the repair or replacement of material, the supplier bears the costs of the replacement item including shipping – provided the complaint turns out to be justified. The supplier bears the costs of removing and installing the replacement material, provided that it is freely accessible for the required work. The purchaser is responsible for providing free access to the material for any necessary mechanical work and test runs. This also applies if the defect is remedied by the customer or a third party commissioned by the customer, which must then be carried out at reasonable costs.
4. The purchaser shall bear the expenses necessary for the repair or replacement – even if the claim is justified – in the event that these costs increase as a result of the material being delivered to a location other than the purchaser's facility unless the shipment was agreed upon by the supplier.
5. The purchaser has the legal right to withdraw from the contract if the supplier – taking into account the statutory exceptions – allows a reasonable deadline set for repair or replacement delivery to lapse due to a material defect. If the defect is insignificant, the purchaser only has the right to reduce the contract price. The right to reduce the contract price is otherwise excluded. Further claims are determined in accordance with Section VII. 2. of these conditions.

6. No guarantee is given in particular in the following cases:

Incomplete information from the purchaser about the application and operating conditions, unsuitable or improper use, incorrect assembly or commissioning by the purchaser or third parties, natural wear and tear, incorrect or negligent use, improper maintenance, unsuitable operating equipment, inadequate construction work, unsuitable subfloor, chemical, electrochemical or electrical influences – unless these are the fault of the supplier.

7. If the purchaser or a third party makes improper repairs, the supplier is not liable for the resulting consequences. The same applies to changes made to the material without the prior consent of the supplier.

Defects of Title

1. If the use of the material leads to a violation of industrial property rights or copyrights, the supplier will, at his own expense, generally provide the purchaser with the right to further use or modify the material in a manner that is reasonable for the purchaser so that the infringement of intellectual property rights no longer exists.

If this is not possible under economically reasonable conditions or within a reasonable period of time, the purchaser is entitled to withdraw from the contract. Under the conditions mentioned, the supplier also has the right to withdraw from the contract.

In addition, the supplier will release the purchaser from undisputed or legally established claims of the relevant property rights holders.

2. The obligations of the supplier established in Section VI. 7. Are, subject to Section VII. 2., in the event of property rights or copyright violation.

These are valid only if:

- the purchaser immediately informs the supplier of the asserted property rights or copyright infringements
- the purchaser supports the supplier to an appropriate extent in defending against the asserted claims or enables the supplier to carry out the modification measures in accordance with Section VI. 7.
- the supplier reserves the right to utilize all defensive measures, including out-of-court settlements
- the defect of title is not based on an instruction from the purchaser and
- the violation of the law was not caused by the purchaser changing the delivery condition on his own authority or using it in a manner that was not in accordance with the contract.

VII. Liability

1. If the delivered material cannot be used by the purchaser in accordance with the contract, due to the fault of the supplier as a result of omission or incorrect execution of suggestions and advice given before or after the conclusion of the contract, or due to the violation of other contractual ancillary obligations – in particular instructions for operation and maintenance of the material – the provisions of Section VI and VII. 2. Apply accordingly, excluding further claims by the purchaser.

2. For damages that did not occur to the delivered material itself, the supplier is only liable in the event that the damages were:

- a) with intent
- b) due to gross negligence on the part of the owner/organizational bodies or senior employees
- c) resulting in culpable injury to life, body or health
- d) due to defects which the supplier fraudulently concealed or whose absence was guaranteed
- e) were the result of defects in the delivered material, insofar as liability for personal injury or property damage to privately used items is in accordance with the Product Liability Act.

In the event of a culpable violation of essential contractual obligations, the supplier is also liable for gross negligence on the part of non-executive employees and for slight negligence, in the latter case limited to the reasonably foreseeable damage typical for the contract.

Further claims are excluded.

VIII. Limitation Period

All claims from the customer – for whatever legal reasons – expire after 12 months. The statutory deadlines apply to claims for damages in accordance with Section VII. 2. a) – e). They also apply to defects in construction or to delivered material that was damaged due to inadequate construction – even if the material was used in accordance with its intended use. The statutory warranty period applies to purchased parts that are installed in our delivered items.

IX. Software Usage

If software is included in the scope of delivery, the purchaser is granted a non-exclusive right to use the software supplied, including its documentation. It is provided for use on the intended material. Using the software on more than one system is prohibited.

The customer may only reproduce, revise, translate the software or convert the object code into the source code to the extent permitted by law (§§ 69 a ff.UrhG). The purchaser undertakes not to remove manufacturer information – in particular copyright notices and brand symbols – or change them without the prior express consent of the supplier.

All other rights to the software and documentation, including copies, remain with the supplier or the software supplier. Sublicensing is not permitted.

X. Applicable Law, Place of Jurisdiction

1. For all legal relationships between the supplier and the purchaser, the law of the Federal Republic of Germany applicable to the legal relationships between domestic parties applies

exclusively, excluding the UN Convention on Contracts for the International Sale of Goods and German International Private Law as well as any laws of third countries.

2. The place of jurisdiction is the court responsible for the supplier's headquarters if the purchaser is a merchant, a legal entity under public law or a special fund under public law. Otherwise, the legal rules regarding the place of jurisdiction remain.

The supplier retains the right to file a lawsuit at the purchaser's headquarters.