

**1. Validity**

- 1.1. These General Terms and Conditions ("GTC") apply to all orders, closings and agreements of KÄMMERER Energie GmbH concerning the purchase of goods, unless the contracting parties have expressly agreed otherwise in writing. Any provisions deviating from these GTC only apply to the extent that KÄMMERER Energie GmbH has expressly agreed to them in writing (even if KÄMMERER Energie GmbH does not expressly object to them). These GTC shall also apply to all future transactions with the seller (hereinafter also referred to as "Contractual Partner"), even if no express reference is made to the GTC in the future. "KÄMMERER" equally means KÄMMERER Energie GmbH.
- 1.2. Offers submitted to KÄMMERER are free of charge and (prior to written confirmation of the order) non-binding for KÄMMERER, irrespective of the preparatory work required.

**2. Order, conclusion of agreement**

- 2.1. Orders are only binding to KÄMMERER after written placement of the order and confirmation by the Contractual Partner. Until such confirmation has been received, KÄMMERER is entitled to revoke orders at any time and without stating reasons. If the confirmation is not sent within three working days after the date of the order, KÄMMERER is no longer bound to the order as customer. If an order or offer placed by KÄMMERER is not revoked in writing within six working days at the latest, it is deemed to have been accepted.
- 2.2. The order number of KÄMMERER must be indicated on all documents relating to a specific order. Without quoting the order number, notifications are deemed not to have been received.
- 2.3. The Contractual Partner has to tolerate objectively justified and reasonable changes to KÄMMERER's performance requirements or order if such changes do not result in a price or wage increase exceeding 10% of the order amount.

**3. Delivery, place of fulfilment**

- 3.1. Unless agreed otherwise, the place of fulfilment is the place of receipt stated in the order. The timeliness of deliveries will be determined by the date of receipt at the destination. If a delivery includes installation/assembly or if other services are to be provided by the supplier, the timeliness will be determined by the acceptance by KÄMMERER.
- 3.2. The costs and risk of transport are borne by the Contractual Partner. The risk of loss or damage only passes to KÄMMERER upon handover or acceptance.
- 3.3. KÄMMERER is entitled to unilaterally change the delivery date three working days prior to the agreed delivery without giving reasons and without incurring any costs.

#### **4. Partial delivery**

- 4.1. Partial deliveries are not permitted unless KÄMMERER has expressly agreed to them. Any deadlines will only commence upon receipt of the last partial delivery.

#### **5. Price, shipping**

- 5.1. Unless stated otherwise in the order, the price indicated in the order includes all delivery costs in accordance with Incoterms 2020 - DAP ordering plant.
- 5.2. Unless agreed otherwise, the prices include packaging and transport costs as well as unloading at the place of destination with the applicable statutory VAT. These are fixed prices which the supplier cannot increase unilaterally.
- 5.3. If the Contractual Partner reduces the list prices for its goods prior to acceptance, it has to pass on such reduction in full to KÄMMERER with respect to the goods not yet delivered.
- 5.4. The mode of transport has to be agreed with KÄMMERER if not specified in the order. KÄMMERER is entitled to dispose of packaging material and – in case of larger quantities of packaging material - to charge the supplier for the resulting costs. If KÄMMERER does not exercise this right, the supplier is obliged to collect the packaging material at its own expense without delay and to dispose of it properly. The latter generally applies in the case of deliveries to construction sites of KÄMMERER, in particular in the case of investment projects and major repairs. In such cases, the supplier has to take away all packaging material at its own expense and leave the delivery site swept clean.
- 5.5. Without appropriate shipping documents (e.g. delivery note, etc.), the delivery will not be accepted or further treated as order fulfilment, but will be stored at the supplier's risk and expense. The delivery has to be properly packaged, in particular, in accordance with the shipping instructions of KÄMMERER as customer. Any damage resulting from non-compliance with such instructions are borne by the supplier. Goods are accepted only at the acceptance or unloading times specified in the order. In exceptional cases, e.g. in the event of an urgent delivery, the supplier has to arrange a special acceptance of goods with KÄMMERER. Acceptance shall generally be subject to inspection for absence of defects, correctness and suitability.

#### **6. Invoices, terms of payment**

- 6.1. Invoices must be sent to the specified invoice address. The entire order number must be included in the invoice, otherwise it will not be processed, and no payment will be due. Invoices must comply with the VAT Act.
- 6.2. Unless agreed otherwise, payments are made after 14 days with a 3% discount or after 90 days net. Payment periods run from the date of the invoice check by KÄMMERER, which will take place without delay. Payment does not constitute acknowledgement of the correctness of the delivery and, therefore, does not constitute a waiver of warranty claims or claims for damages.

6.3. Payments by bill of exchange, cheque and order to third parties as well as letter of credit are permissible.

## **7. Spare parts for discontinued series requirements**

7.1. The Contractual Partner is obliged to supply spare parts at reasonable prices for a period of at least 10 years, even after a series delivery has been discontinued.

## **8. Civil and intellectual property**

8.1. Any materials or parts provided to KÄMMERER remain its property. They may only be used as agreed. The processing of materials and the assembly of parts are carried out for KÄMMERER. It is agreed that KÄMMERER is co-owner of the products manufactured using its materials and parts in the ratio of the value of the materials provided to the value of the overall product, which is stored for KÄMMERER by the supplier. In the event of a reduction in value or loss of the materials provided by KÄMMERER, the supplier has to provide compensation.

8.2. Samples, models, drawings, artwork and other aids remain material and intellectual property of KÄMMERER as customer, and it may freely dispose of them. These aids may only be used for the execution of the orders and may neither be made accessible nor handed over to third parties. They may neither be passed on to third parties nor used for purposes other than those stipulated in the agreement without written consent of KÄMMERER. They have to be secured against unauthorised inspection and use. Subject to further rights, KÄMMERER may demand their surrender if the supplier violates these obligations. Unless agreed otherwise, they have to be returned free of charge after delivery of the order.

8.3. The Contractual Partner has to indemnify and hold KÄMMERER harmless in the event of disputes under intellectual property law, in particular patent disputes, and allow KÄMMERER unrestricted use of the delivered items.

## **9. Defects, warranty provisions**

9.1. Exclusions and limitations of liability of KÄMMERER's Contractual Partner, in particular under the title of warranty or damages, are ineffective. In the event of defects, KÄMMERER is free to choose between replacement, repair, price reduction or rescission. Periods for remedy of defects not exceeding four weeks are deemed reasonable. The burden of proof for the absence of defects is always borne by the supplier.

9.2. The obligation to inspect the goods and to give notice of defects commences upon receipt by KÄMMERER or acceptance is one (1) month.

9.3. In the absence of an agreement for a longer period, the Contractual Partner guarantees for a period of two years that the delivery item does not have any defects that impair its use or operation and that it has the properties specified by the Contractual Partner. The Contractual Partner guarantees the functionality, the promised and in any case the usually assumed properties as well as the first-class quality of the products or services delivered by him/her during the entire warranty period.

- 9.4. All deliveries, in particular machines, must comply with all applicable legal and technical provisions, in particular safety provisions, and must be able to obtain a CE mark as an individual unit and, if necessary, such a mark in combination with upstream and downstream plant components, as well as the General Employee Protection Ordinance, the Machinery Protection Device Ordinance and the regulations for electrical engineering applicable in Germany.
- 9.5. Right of retention: In the event of complaints, KÄMMERER is entitled to retain the entire outstanding remuneration until the question of whether a defect exists has been clarified.
- 9.6. The Contractual Partner has to provide KÄMMERER with any storage and operating instructions together with the delivery, otherwise it is liable for any damage arising from ignorance of such instructions

## **10. Shipping documents, additional addresses**

- 10.1. The entire order number has to be entered in the column of the shipping document intended for notes for the recipient. Dispatch notes or delivery notes are to be sent in such a way that, if possible, they are received by the customer before or at the same time as the goods. The entire order numbers must be entered in the dispatch notes and delivery notes. The Contractual Partner is liable for damages and costs, in particular also wagon demurrage, special shunting costs and rehandling charges in the event of incorrect addressing, incurred to the customer as a result of incorrect dispatch by the Contractual Partner. In the case of payment according to unit prices, the weight or the number of items determined by weighing on the part of the recipient is decisive.

## **11. Delay, penalty**

- 11.1. If it is apparent to the Contractual Partner that it will be in default with the delivery or that the delivery will not be of the agreed quality, it has to inform KÄMMERER without undue delay. In such case, KÄMMERER is entitled to insist on delivery or to withdraw from the contract. Such notification does not result in exemption from the contractual penalty pursuant to the provision below. Acceptance of the delayed delivery/service does not constitute a waiver of any claims whatsoever, in particular compensation claims.
- 11.2. In the event of delay, the supplier has to pay a contractual penalty of 0.5% of the total order value for each week of delay or part thereof, up to a maximum of 5% of the respective total order value irrespective of fault, unless another penalty has been agreed. The deadline for the penalty is 12:00 noon on the day following the agreed delivery date. The Contractual Partner reserves the right to prove that no damage at all or only significantly less damage has incurred. KÄMMERER is furthermore free to withdraw from the order without granting a grace period, without incurring any costs. The right to claim compensation for any further damages remains unaffected.

## **12. Offsetting, assignment of claims**

12.1. KÄMMERER is entitled to set off counterclaims or claims arising from raised notices of defects against the purchase price.

12.2. Any assignment of existing claims against KÄMMERER is only permitted with KÄMMERER's written consent.

### **13. Product liability**

13.1. The supplier is liable for the products in connection with defects of its delivered products. The supplier bears all costs and expenses resulting therefrom (including the costs of any litigation or of any necessary retrofitting or recall action) and is obliged to take out sufficient product liability insurance and to provide evidence thereof upon request.

### **14. Confidentiality**

14.1. The parties undertake to treat all information concerning the other party, which becomes known to them in the course of the contractual relationship, as strictly confidential and to use it exclusively for the fulfilment of this agreement. In the course of the cooperation, each party is responsible for ensuring that its employees also comply with the relevant legal provisions, in particular those of the General Data Protection Regulation GDPR (DSGVO) and the Federal Act concerning the Protection of Personal Data (DSG).

14.2. The parties undertake to keep the contents of their agreements confidential vis-à-vis third parties. This also applies for the time after termination of the contract.

14.3. The confidentiality obligations do not apply to information which was already known to the general public at the time it came to the knowledge of one of the parties or which later became generally known without any action or breach of contract on the part of that party. The obligations do also not apply vis-à-vis authorities or courts, insofar as no statutory right to refuse to testify exists.

### **15. Prohibition of child labour**

15.1. The supplier undertakes not to employ children. The supplier shall ensure that its own suppliers also do not employ children. Children shall be understood to mean all persons under the age of 15. In the event of a breach, KÄMMERER shall be entitled to terminate all contractual relations with the contractual partner with immediate effect or to terminate them immediately.

### **16. Compliance**

16.1. The Contractual Partner is obliged not to commit any acts which may lead to criminal liability due to fraud or breach of trust, infringement of competition, granting of advantages, acceptance of advantages, bribery or similar offences (offences or crimes) within the meaning of the German Criminal Code (StGB), the Act against Unfair Competition (UWG) etc

### **17. Employee protection, environmental protection**

- 17.1. KÄMMERER further declares that it will comply with the relevant statutory regulations, in particular the regulations on the treatment of employees and occupational safety, and that it will commit itself to reduce adverse effects on people and the environment in its activities.
- 17.2. The Contractual Partner warrants in particular that the provided deliveries and services to KÄMMERER are free of pollutants. The Contractual Partner is liable for the environmental compatibility of the products supplied and for all consequential damage caused by the violation of environmental regulations and/or the products' pollutant content, provided that it is responsible for the violation of environmental regulations and/or the products' pollutant content. The Contractual Partner undertakes to comply with the provisions of environmental law applicable to KÄMMERER in the case of deliveries/services and also in the case of supplies or ancillary services provided by third parties.
- 17.3. KÄMMERER is entitled to monitor compliance with the obligations assumed at any time by means of on-site inspections and to demand information and appropriate evidence from the Contractual Partner at any time regarding compliance with the obligations assumed and, in the event of material breaches, to terminate all contractual relations with the Contractual Partner with immediate effect.

## **18. Sustainability**

- 18.1. KÄMMERER requires its suppliers to act in a sustainable manner with regard to
- working conditions and human rights (concerning child labour and young workers, pay and benefits, working time, modern slavery, forced labour, freedom of association and collective bargaining, harassment);
  - no discrimination based on religion, origin, nationality, age, disability, sexual orientation or similar;
  - occupational safety;
  - corporate ethics.

## **19. Anti-corruption, money laundering**

- 19.1. The Contractual Partner undertakes (including its employees or representatives),
- that it will neither make, arrange for or support any direct or indirect payments to third parties, nor grant any substantial benefits or gifts to third parties - this applies in particular to its customers, employees, shareholders or directors, nor will the customer (including its employees or agents) accept or agree to accept any such payments/benefits which constitute illegal and corrupt practices under the relevant laws ("anti-corruption duty");
  - to comply with competition law and in particular all antitrust provisions ("antitrust duty");
  - that it will at all times strictly comply with anti-corruption, anti-trust and compliance obligations, ensure that its employees and agents comply with these obligations and make it clear in all its business dealings that it acts in accordance with anti-corruption, anti-trust and compliance obligations.

- 19.2. In the event of a violation of the anti-corruption duty, the antitrust duty or compliance duties,
- KÄMMERER is entitled to compensation according to the legal requirements;
  - the Contractual Partner will indemnify and hold KÄMMERER harmless against all and any claims of third parties;
  - KÄMMERER is entitled to terminate the contract without notice in accordance with the statutory requirements.

## **20. Non-solicitation provision**

- 20.1. The Contractual Partner undertakes to refrain from any enticement or employment of employees of KÄMMERER - irrespective of whether such enticement or employment is carried out directly by the Contractual Partner itself or via third parties, e.g. by persons who have a close relationship or a relationship of dependence with the Contractual Partner due to legal ties and constructions, e.g. as a subsidiary or group company.
- 20.2. "Employment" of an employee of KÄMMERER is understood to mean any form of cooperation. This includes, in particular, an employment relationship, a freelance or quasi-freelance employment relationship, a contract for work and services or cooperation in whatever other legal form, such as in the form of a company or a joint venture. "Employees" of KÄMMERER include not only employees, but also freelancers or contractors similar to a contract for work and labour, but only on condition that these persons act on behalf of KÄMMERER.
- 20.3. The obligation under 20.1 applies during the contractual relationship and also for a period of two years after termination of the contractual relationship.
- 20.4. For any violation of this non-solicitation provision, the Contractual Partner undertakes to pay KÄMMERER a contractual penalty of € 100,000.00, irrespective of any claim for injunctive relief. KÄMMERER reserves the right to assert claims in excess thereof.

## **21. Final provisions**

- 21.1. Ancillary agreements, amendments to the contract and declarations of any kind must be confirmed in writing by KÄMMERER in order to be valid. This shall also apply to any waiver of this formal requirement. Any acceptance of order deviating from the order constitutes a new offer and requires written acceptance by KÄMMERER.
- 21.2. Confirmed e-mails fulfill the written form requirement.
- 21.3. German law applies to the exclusion of the conflict of laws rules of international and European private law and the UN Convention on Contracts for the International Sale of Goods (CISG, UN Sales Convention).
- 21.4. Legally ineffective provisions shall be replaced by the provision that is legally effective and comes closest to the economic and legal purpose of the ineffective provision.

The exclusive place of jurisdiction for all disputes between the Contractual Partner and KÄMMERER shall be Osnabrück, Deutschland.