



General Terms and Conditions of Purchasing and Ordering for Indirect Material

Applies for all contractual relationships between companies, public law entities and public law entities with special funds (hereinafter referred to as "Supplier") and affiliate companies of the Knorr-Bremse Group (hereinafter referred to as "Purchaser").

1. Applicable Terms

1.1 The legal relationship between the Supplier and the Purchaser shall be governed exclusively by the following Terms and Conditions of Purchasing and Ordering (hereinafter "Terms").

1.2 Any terms to the contrary are hereby expressly excluded.

1.3 The unconditional acceptance of the goods or services (hereinafter consistently referred to as "Goods/Services") or payment by the Purchaser shall in no case constitute acceptance of the Terms and Conditions of the Supplier.

1.4 The Terms shall also apply for all future transactions of this kind with the Supplier.

2. Ordering

2.1 All purchase orders and respective purchase order confirmations to enter into purchase agreement can be issued in writing or in text form e.g. email, fax, EDI, web EDI etc.

In addition, Supplier shall be deemed to have accepted a purchase order of Purchaser and to have formed a contract based exclusively on such purchase order, including these General Terms and Conditions of Purchasing and Ordering for Indirect Material, when Supplier does any of the following: (i) beginning of performance under the purchase order or (ii) engages in any other conduct that recognizes the existence of a contract with respect to the subject matter of the purchase order.

2.2 ANY VERBAL AGREEMENTS AFTER CONCLUSION OF THE CONTRACT OR ANY COLLATERAL AGREEMENTS REQUIRE THE WRITTEN CONFIRMATION OF THE PURCHASER.

2.3 Any cost estimates shall be binding and free of charge.

2.4 THE PURCHASER MAY DEMAND REASONABLE CHANGES OF THE GOODS/SERVICES IN TERMS OF CONSTRUCTION AND DESIGN. The consequences of such changes, in particular with regard to additional or lower costs and delivery dates, shall be mutually and reasonably regulated between the parties.

2.5 Should the Supplier fail to accept an individual order within two weeks of the order date, the Purchaser shall be entitled to cancel the order.

2.6 Should these Terms be integrated into a framework agreement, an individual contract that is based on this framework agreement also comes into existence if the Supplier does not object immediately and justifiably; the date stated in the release order shall be met.

3. Prices, Payment

3.1 Without special agreement, all prices for national deliveries are "delivered duty paid" (i.e. DDP according to Incoterms 2010) including packaging. In case of a cross-border delivery, all prices are DAP (Incoterms 2010). Should the Supplier undertake installation or assembly, he shall, failing a written agreement to the contrary, bear all necessary additional costs.

3.2 Unless otherwise agreed, the Purchaser shall pay within 90 days of the claim for payment and after receipt of a due invoice as well as receipt of the goods/services. ANY PAYMENT IS SUBJECT TO INVOICE VERIFICATION.

3.3 Should early delivery of the goods and services (hereinafter referred to as "consignment") be accepted, any claim for payment shall become due not earlier than on the agreed date of payment, in case of doubt not earlier than the agreed delivery date. The right to assert compensation claims for additional costs, in particular with regard to storage costs is reserved.

4. Delivery and Delivery Dates, Late Delivery, Penalty

4.1 Any agreed delivery dates and terms shall be binding. Decisive for on-time delivery shall be the date the goods are received at the delivery address (place of performance) agreed with or designated by the Purchaser. Failing an agreement to the contrary, delivery shall be made "delivered duty paid" (DDP according to Incoterms 2010).

4.2 Partial deliveries and early deliveries are not permitted unless expressly agreed to in writing by the Purchaser.

4.3 Acceptance of late deliveries without reservation shall not be deemed to be a waiver of any claims to which the Purchaser is entitled due to late delivery.

4.4 Should the agreed delivery dates not be met, the statutory provisions shall apply. Should the Supplier anticipate difficulties that may prevent him from delivering on time or in the agreed quality, he shall notify the Purchaser thereof immediately, stating the reasons. IN ADDITION, IN CASE OF FAULT OF THE SUPPLIER THE PURCHASER SHALL BE ENTITLED TO DEMAND PAYMENT OF A LIQUIDATED DAMAGES AMOUNTING TO 0.5% OF THE VALUE OF THE LATE GOODS/SERVICES PER STARTED WEEK OF DELAY UP TO A MAXIMUM OF 5% OF THE ENTIRE VALUE OF THE ORDER. THE LIQUIDATED DAMAGES SHALL BE SET OFF AGAINST ANY CLAIMS FOR DAMAGES DUE TO LATE DELIVERY. THE LIQUIDATED DAMAGES MAY BE ASSERTED UNTIL THE AGREED PRICE HAS BEEN PAID IN FULL.

4.5 The Supplier shall bear the performance risk until acceptance of the Purchaser or his agent at the location, to which the goods shall be delivered in accordance with the contract.

4.6 THE SUPPLIER SHALL WARRANT A THOROUGH INSPECTION OF OUTGOING GOODS TO ENSURE DEFECT-FREE DELIVERY. An inspection of incoming goods only takes place with respect to outwardly visible defects and/or deviations in kind or quantity of the goods. The Purchaser will give notice of such defects immediately. Notice of any other defects will be given as soon as those are determined in the ordinary course of business. INSOFAR THE SUPPLIER WAIVES OBJECTION OF LATE NOTIFICATION.

4.7 The Purchaser shall have the unrestricted, irrevocable and within the Knorr-Bremse Group freely transferable right to use any software included in the scope of delivery, including any attendant documentation, in accordance with the intended use of the goods/services under the contract. He may also make a safety copy thereof without any express agreement.

4.8 If required and on demand of the Purchaser, the parties will agree to the establishment of a consignment warehouse.

5. Secrecy

5.1 Any information made accessible by the Purchaser shall not be disclosed to third parties insofar as it is not demonstrably known to the public. The information remains the exclusive property of the Purchaser and shall only be made available to those employees within the Supplier's company that are necessary in the performance of the contract and who have been put under an obligation to secrecy themselves. With the exception of deliveries to the Purchaser, such information may not be duplicated or used for commercial purposes without the prior written approval of the Purchaser. On request of the Purchaser, all information originating with the Purchaser, no matter what kind or in what form, shall be immediately and completely returned to him or destroyed in connection with a written declaration to that effect.

5.2 The Purchaser reserves all rights in such information (including copyright and the right to intellectual property applications). Insofar as the Purchaser has acquired such information from third parties, this reservation also applies for the benefit of such third parties.

5.3 The Supplier may neither use himself nor offer or deliver any products to third parties that have been manufactured on the basis of the Purchaser's documents, drawings, models and the like or on the basis of confidential specifications of the Purchaser or by means of his tools or copies thereof. This shall correspondingly also apply for printing orders.

5.4 The Supplier shall may only use the business connection with the Purchaser for advertising purposes with the prior written consent of the Purchaser.

6. Inventions, Industrial Property Rights

6.1 The Supplier hereby conveys to the Purchaser any proprietary rights in any know-how and inventions of the Supplier that are capable of being protected by copyright or other intellectual property rights and which have come into being through development processes with regard to the Goods/Services during the contractual relationship (the "Results"). The Supplier shall further grant to the Purchaser with regard to such Results that are not capable of being protected by copyrights and other intellectual property rights and without any limitations in terms of time, place and content the irrevocable and exclusive right of use. The right of use covers in particular, but not limited to, the right to use the Results for the purpose of production, sale and application of any goods manufactured by the Purchaser and services offered by the Purchaser. The right of use includes any kind of use, in particular, but not limited to, the right to publish, to copy, to edit and to amend the Results. The Purchaser is entitled to transfer the rights of use to a third party or to let them exercised by a third party without any approval of the Supplier. The use of the Results by a third party may not require prior approval by the Supplier. The Supplier shall organisationally ensure that he can meet his obligation to transfer the proprietary rights in particular with regard to any inventions by employees of the Supplier. The Supplier shall inform the Purchaser about the content of the invention notification (*Erfindungsmeldung*) immediately after its receipt.

6.2 THE SUPPLIER IS AWARE THAT THE PRODUCTS OF THE PURCHASER ARE BEING USED WORLD-WIDE. HE UNDERTAKES TO IMMEDIATELY NOTIFY THE PURCHASER OF ANY USE OF PUBLISHED AND UNPUBLISHED, OWN AND LICENSED INDUSTRIAL PROPERTY RIGHTS AND PATENT APPLICATIONS REGARDING THE GOODS/SERVICES pertaining to inventions and know-how developed prior to the conclusion of contract (the "Existing Rights"). The Supplier further grants to the Purchaser the irrevocable, free, non-exclusive, unrestricted in terms of time and place and transferable right to use the Existing Rights to the extent such use is required to facilitate the commercial use of the Goods/Services by the Purchaser.

7. Delivery Note, Invoice, Country of Origin of Goods, Export Control

7.1 The Purchaser shall be provided with a delivery note and a separate invoice regarding each consignment. These must contain the Supplier number, date and number of the order and/or release order and purchase agreement, quantity and material number, the tariff classification code (HS-Code), number and date of the delivery note, gross and net weights listed separately, additional data of the Purchaser (e.g. point of discharge) as well as the agreed price per unit. A packing slip with a list of contents and order number must be enclosed with each consignment.

7.2 Should the invoice refer to several different orders, the information under 7.2 shall be listed separately for each order. The invoice may only refer to the delivery note.

7.3 The Supplier shall comply with national, European as well as international customs law regarding goods and services. A supplier whose place of business is inside the EU, shall provide the Purchaser with a long-term supplier's declaration for goods with preferential origin status in accordance to Regulation (EC) No. 1207/2001. The long-term supplier's declarations must show the country of origin (i.e. the EU member state) contain or enable recoding to the material number of the Purchaser. The Supplier is obliged to issue information certificates INF 4 to verify the accuracy or authenticity of a supplier's declaration if asked by the Purchaser according to Art. 6 Regulation (EC) No. 1207/2001 as amended from time to time. The Supplier agrees to notify in writing the Purchaser immediately if the long-term supplier declarations are no longer valid. A supplier whose place of business is outside the EU shall provide the Purchaser with an evidence of origin of goods by means of an official certificate of origin (issued by a competent authority) as part of each order and further preferential documents (e.g. Form A, EUR.1, EUR-MED, A.TR), if legally required.

7.4 The Supplier acknowledges that the goods/services or part of them may be subject to export controls and regulations and warrants to comply with all such applicable export laws and regulations (including U.S. regulations). The Supplier shall identify any part of the goods/services that is subject to export laws and regulations at the time of acceptance of the purchase order and provide all relevant export control information, including the export control classification of all goods/services. This shall include the obligation to indicate on all delivery notes the correct export control classification number (including any U.S., EAR or ITAR classification), the number or reference of any applicable export license and distribution restrictions in this regard. In the event of a change of the respective export control regulations or the export control classification, the Supplier shall inform the Purchaser in writing accordingly. Supplier shall be responsible for obtaining in time, at no cost to the Purchaser, all necessary governmental export licenses, authorizations, approvals and clearances, required to ensure that (i) all goods/services to be delivered will be utilized by the Purchaser in accordance with the purchase order and (ii) shipment of deliverables to the customer will be effected in due time. In case of an existing export license, the Supplier shall provide a copy of that document to the Purchaser showing all relevant information, including any provisos, in particular but not limited with regard to re-export.

7.5 The Supplier undertakes to fulfill the safety and reliability requirements issued by the customs authorities for the certification as an "Authorized Economic Operator" (AEO) (or equivalent). In case the Supplier is not certified as AEO and is not yet applying for it, he shall provide a separate safety declaration. The Supplier shall inform the Purchaser if safety or reliability requirements are not met or if their strict observance can no longer be ensured.

7.6 Notwithstanding any other provisions, the Supplier shall be liable to the Purchaser for, and indemnify him against, all damages, losses and liabilities incurred by the Purchaser due to a breach of the aforementioned obligations by the Supplier.

8. Force Majeure

Any force majeure, strikes or lockouts, disruption of operations through no fault of his own, riot, official governmental actions and other unavoidable events, including the imposition of territorial and/or personal sanctions and/or embargo regulations by the European Union, any of its member states and/or the United States of America, entitle the Purchaser – irrespective of his other rights – to withdraw from the contract in full or part, provided these events result in a significant reduction of his needs and last for a significant period of time.

9. Liability for Defects

9.1 Unless agreed otherwise below, the statutory provisions regarding defects of quality and title shall apply.

9.2 The Purchaser may choose the manner of subsequent performance.

9.3 Should the Supplier fail to start immediately with the repair of the defect within a period to be determined by the Purchaser, the Purchaser shall be entitled at the Supplier's expense to carry out the repair himself or have it carried out by a third party. Should the Purchaser, due to special urgency and in particular in defense against impending risks and/or substantial damage, be unable to notify the Supplier of the defect and the impending damage and to set a time limit, he shall be entitled to remedy measures without setting a time limit.

9.4 The warranty shall expire 36 months after delivery to or acceptance (*Abnahme*) by the Purchaser.

9.5 FOR PARTS REPAIRED OR REPLACED WITHIN THE WARRANTY PERIOD, THE WARRANTY PERIOD SHALL START ANEW UPON COMPLETED SUBSEQUENT PERFORMANCE. HOWEVER, THIS SHALL ONLY APPLY IF THE VOLUME, DURATION AND COSTS OF THE REPAIRS OR SUBSEQUENT DELIVERIES ARE NOT MERELY INSIGNIFICANT.

9.6 The Supplier shall bear the costs incurred by the Purchaser due to defective delivery of the goods/services, in particular costs for handling, transport traveling, labour, material, installation and modification, costs for an incoming goods inspection that exceeds the ordinary scope as well as costs the Purchaser has to bear for his customers due to statutory obligations.

9.7 In case of culpable defect of title, in particular in case of infringement of third party industrial property rights, the Supplier shall indemnify the Purchaser and his customers from all claims by third parties and shall compensate all costs the Purchaser incurs due to a necessary and appropriate legal defense in connection with the infringement of third party rights. In respect of defects of title a period of limitation of 7 years applies.

9.8 Should the Purchaser take back any products manufactured and/or sold by him due to defects of the goods/services delivered by the Supplier, or should the remuneration of the Purchaser have been lowered or shall claims be made on him in other ways, the Purchaser reserves the right to recourse against the Supplier.

10. Other Liabilities

10.1 Should the Purchaser be subjected to product liability claims, the Supplier shall indemnify him insofar and to the extent that the damage was caused by a defect of his goods/services. However, in case of tortious liability this shall only apply if the Supplier is at fault. The Supplier shall bear the burden of proof, provided the cause of the damage lies within the scope of his responsibility. In these cases THE SUPPLIER SHALL BEAR all costs and expenses, including the COSTS for bringing an action.

10.2 THE SUPPLIER UNDERTAKES TO TAKE OUT AND PROVE THAT HE IS COVERED BY PUBLIC LIABILITY INSURANCE for damages under extended product liability as well as for the costs of any recall action, such insurance to be taken out with a certified insurer within the EU. The sum insured shall be no less than EUR 5 million each for personal injury, property damage and extended product liability and recall costs.

10.3 The Supplier shall be liable for measures taken by the Purchaser in defense against any hazards and/or damages (e.g. recall action) insofar as he is obligated to do so under the law and/or contract.

11. Third Party Industrial Property Rights

11.1 The Supplier warrants that no third-party industrial property rights are in conflict to the contractual use of the goods/services.

11.2 Insofar as the Supplier is at fault for the infringement of industrial property rights, he shall indemnify the Purchaser from all third-party claims made against him in and out of court, including any costs incurred by the Purchaser for a necessary and appropriate legal defense resulting from an infringement of industrial property rights.

11.3 Furthermore, the contracting parties shall notify each other immediately of any infringement risks and alleged cases of infringement and shall afford each other the opportunity to jointly counteract any corresponding claims.

12. Assignment and Set-Off

12.1 The Supplier may not assign his claims against the Purchaser nor have these collected by third parties without prior written approval, which may not be refused unreasonably.

12.2 The Purchaser may withhold or set off payments based on his counterclaims.

13. Retention of Title

13.1 Any extended or wider retention of title on the part of the Supplier shall require an express separate agreement to be effective.

13.2 Any materials provided by the Purchaser shall remain his property and may only be used for the intended purpose. Any processing of materials and assembly of parts is carried out on behalf of the Purchaser. The Purchaser shall have co-title in the products manufactured using his materials and parts in proportion of the value of the materials provided by him to the value of the overall products, which the Supplier shall keep for him.

14. Quality and Documentation

14.1 The Supplier shall meet state-of-the-art of science and technology standards, safety provisions and agreed technical specifications for his consignments. For this purpose he shall establish an appropriate quality management and provide evidence thereof.

15. Subcontractors

15.1 The use of a third parties (in particular subcontractors) for the performance of the contract by the Supplier shall comply with the applicable statutes and shall require the prior consent of the Purchaser which shall not unreasonably withheld. In case the Supplier intends from the beginning to deploy third parties for performing the contract, he shall inform the Purchaser already in the offer. The liability of the Supplier for proper performance of the contract shall remain unaffected by the approval. To the extent required by the Purchaser in order to comply with applicable statutes, in particular pertaining to employment and social security law, the Supplier is obliged to immediately provide further information about the use of the subcontractor.

16. Compliance with Statutory Provisions (Minimum Wage-Regulations)

16.1 The Supplier shall comply with all statutory provisions regarding the payment of minimum wages to employees as follows:

16.2 The Supplier abides to all relevant provisions of the German employee assignment law (*Arbeitnehmerentsendegesetz*), the German minimum wage law (*Mindestlohngesetz*) and other statutory and collectively agreed provisions regarding the payment of minimum wages in their respective applicable version.

16.3 The Supplier declares that it has never been sanctioned or penalised for any violation of wage payments obligations. The Supplier shall inform the Purchaser in writing of any own violations and violations of its subcontractors and temporary employment agencies immediately after a violation has become known.

16.4 The Supplier shall ensure that all its declarations in this context will also be made by any of its possible subcontractors and temporary employment agencies, engaged by the Supplier or subcontractors, each in turn containing respective provisions to pass on such obligations. Upon request, the Supplier will provide respective evidence to the Purchaser.

16.5 The Supplier shall indemnify the Purchaser upon first demand from any claims arising from any infringements of its declaration in this context, in particular resulting from infringements of the German minimum wage law (*Mindestlohngesetz*) and/or the German employee assignment law (*Arbeitnehmerentsendegesetz*) by the Supplier or its subcontractors or a temporary employment agency, engaged by the Supplier or a subcontractor and/or all further subcontractors and/or temporary employment agencies. The Purchaser reserves all further rights.

17. Safety and Environmental Protection

17.1 All packages shall be easily separable and recyclable, avoid compound unit packs and be made of naturally renewable materials. The corresponding information regarding product and material shall be made available.

17.2 Any persons carrying out work in performance of the contract on the premises of the Purchaser shall observe the applicable safety and environmental protection regulations. Any liability for accidents that happen to these persons on the Purchaser's premises shall be

excluded unless these have been caused by intentional wrongdoing or gross negligence on the part of the legal representatives or vicarious agents of the Purchaser.

18. Replacement Parts and Availability

Failing an agreement to the contrary, the Supplier shall be obligated to deliver replacement parts at appropriate conditions for the period of ordinary technical use, no less, however, than for 15 years after delivery of the last goods/services.

19. Final Provisions

19.1 Place of jurisdiction for all disputes arising directly or indirectly from contractual relationships that are based on these Terms shall be Munich insofar as legally permissible, otherwise the place of business of the Purchaser. FURTHERMORE, IT SHALL BE AT THE PURCHASER'S DISCRETION TO BRING ACTION BEFORE A COURT AT HIS PLACE OF BUSINESS, THAT OF HIS BRANCH OFFICE OR AT THE PLACE OF PERFORMANCE.

19.2 The contractual relationship shall be governed exclusively by the applicable law at the place of business of the Purchaser to the exclusion of the principles of conflict of laws and the UN Convention on Contracts for the International Sale of Goods (CISG).

19.3 Should one of the contractual partners discontinue payment or should his assets be subjected to insolvency proceedings or composition proceedings be instituted in or out of court, the other party shall be entitled to withdraw from that part of the contract that has not been fulfilled.

19.4 Should any provision of these Terms and of the other concluded agreements be or become invalid, this shall not affect the validity of all other provisions of these Terms. The contracting parties undertake to replace such invalid provision with a valid provision that as closely as possible reflects the economic purpose of the invalid provision.