

## **General Terms and Conditions of Purchase of KRIWAN Industrie-Elektronik GmbH**

### **Section 1 General – Scope**

- (1) The KRIWAN General Terms and Conditions of Purchase shall apply exclusively to all business transactions with suppliers and service providers (hereinafter jointly referred to as “Suppliers”). Terms and conditions of sale and delivery and other general terms and conditions of the Supplier are hereby expressly rejected; they shall not become part of the contract even by way acceptance of the order/delivery. This shall also apply if the Supplier's terms and conditions contain provisions that go beyond the content of these General Terms and Conditions of Purchase.

KRIWAN's General Terms and Conditions of Purchase shall also apply if the Supplier's delivery or performance is accepted without reservation in the knowledge that the Supplier's terms and conditions conflict with or deviate from these General Terms and Conditions of Purchase.

- (2) All agreements made between the parties regarding the execution of a contract shall be recorded in writing in the contract.
- (3) The KRIWAN General Terms and Conditions of Purchase apply to all business transactions between KRIWAN and entrepreneurs within the meaning of Section 14 of the German Civil Code (BGB).
- (4) The KRIWAN General Terms and Conditions of Purchase also apply to all future transactions with the Supplier.  
KRIWAN is entitled to amend these General Terms and Conditions of Purchase at any time with effect for the entire future business relationship with the Supplier and to adapt them to statutory provisions.  
The current version of the KRIWAN General Terms and Conditions of Purchase are available at [www.kriwan.de](http://www.kriwan.de) and can be downloaded as a file.
- (5) If there is a quantity contract between the Supplier and KRIWAN, these General Terms and Conditions of Purchase shall apply both to the quantity contract itself and to the individual orders, unless otherwise agreed in writing in the applicable quantity contract.

## Section 2 Order – Order documents

- (1) An order shall not be deemed to have been placed until it has been issued by KRIWAN in writing (including by telex, email, fax or computer printout). Orders placed orally or by telephone shall only be binding on KRIWAN if they are subsequently confirmed in writing within the meaning of sentence 1. Orders are subject to confirmation until the order is confirmed; contractual obligations shall only arise –even in the event of prior agreement by telephone – on receipt of the written order confirmation.
- (2) Orders from KRIWAN must be confirmed within a period of 5 working days.
- (3) By accepting the order, the Supplier acknowledges that it has informed itself of the manner of execution of the contract and the scope of performance by inspecting the available documents. Obvious errors, spelling mistakes or incorrect calculations in the documents provided by KRIWAN, etc. shall not be binding on KRIWAN. The Supplier must inform KRIWAN of such errors so that the order can be corrected accordingly. This also applies *mutatis mutandis* if any documents are missing.
- (4) KRIWAN reserves title and copyright in illustrations, drawings, calculations and other documents. They are “confidential information” and may not be made available to third parties without the express written consent of KRIWAN. They must be used exclusively for production on the basis of the KRIWAN order. After the order or quantity contract has been processed, they must be returned without being requested. They must be kept secret from third parties; in this regard, both the provisions of Section 11 and the German Trade Secrets Protection Act (GeschGehG) also apply.
- (5) By accepting the order, the Supplier acknowledges the rules for external companies regarding conduct on KRIWAN premises or the premises that it must enter to carry out the order.  
On entering KRIWAN business premises or KRIWAN buildings, the Supplier shall sign relevant policies, if there are such policies for the applicable premises.
- (6) In the event that there is an application to open insolvency proceedings or insolvency proceedings are opened against the assets of the Supplier, KRIWAN shall be entitled to withdraw from the unfulfilled part of contracts.

## Section 3 Prices – Invoices – Terms of payment – Assignment

- (1) The price stated on the order is binding. All prices are net plus statutory VAT. The price includes all services and ancillary services by the Supplier and all ancillary costs (e.g., proper packaging, customs, import duties, and transport costs, including any transport and liability insurance).
- (2) Unless otherwise agreed in writing, the price includes delivery “carriage paid”, packaging included. If, by way of exception, KRIWAN has to bear the shipping costs on the basis of a written agreement with different terms, the Supplier must choose the shipping method specified by KRIWAN or, alternatively, the most favorable method for KRIWAN. If, by way of exception, KRIWAN has to bear the packaging costs on the basis of a written agreement with different terms, the packaging costs must be charged at cost price, whereby the Supplier must choose the type of packaging specified by KRIWAN and ensure that the goods are protected from damage by the packaging.

- (3) Invoices can only be processed if they state – in accordance with the specifications in the purchase order – the KRIWAN purchase order number shown on the purchase order; the Supplier shall be responsible for all consequences arising from non-compliance with this obligation, unless it proves that it is not responsible for such consequences. Otherwise, the invoices must comply with the legal requirements. Any payment is subject to verification of the invoice.
- (4) Unless otherwise agreed in writing and unless there are counterclaims, KRIWAN shall pay the purchase price within 14 days with a 3% cash discount or within 30 days net. The cash discount period shall start on receipt of the goods and the corresponding invoice. Invoices that do not contain the information under Section 3 para. 3 and/or contain incorrect invoice amounts shall not be deemed to have been received by KRIWAN until a corrected invoice has been received.
- (5) If the contract is for the performance of work, acceptance shall take the place of delivery.
- (6) KRIWAN shall be entitled to rights of retention and offsetting to the extent provided for by law.
- (7) The Supplier's claims under the contractual relationship with KRIWAN may not be assigned without the applicable prior written consent of KRIWAN. In the event that the Supplier has assigned a counterclaim against KRIWAN to a third party, KRIWAN shall be entitled to pay the Supplier with the effect of discharging the obligation vis-a-vis the third party.

#### Section 4 Delivery – Delivery dates – Contractual penalty

- (1) The delivery date specified in the order is binding.
- (2) A delivery shall not be deemed to be complete until all accompanying forms, such as delivery bills, factory certificates, certifications, etc., have been received for the delivery.
- (3) Before expiry of the delivery date, KRIWAN shall not be obliged to accept the goods. In the event of early delivery, KRIWAN shall be entitled, at its own discretion, to return the goods at the Supplier's expense or to store them at the Supplier's risk and expense.
- (4) The Supplier must inform KRIWAN in writing without delay if circumstances arise or become apparent as a result of which the agreed delivery date cannot be met.
- (5) Deliveries must be made "carriage paid"/DDP to the destination specified in the order. The applicable destination is also the place of performance (obligation to be performed at creditor's place of business). Unless otherwise stated in the order, the place of performance is Allmand 11, 74670 Forchtenberg, Germany.
- (6) If the Supplier is in default of delivery for reasons for which it is responsible, KRIWAN shall be entitled to charge the Supplier a contractual penalty of 1% of the contractually agreed price for each week of default or part thereof, up to a maximum of 5% of the total order value (excluding VAT). Further claims for damages by KRIWAN remain unaffected. Any offsetting by the Supplier against a paid contractual penalty shall only be allowed in the case of counterclaims that have been legally established or have been acknowledged. KRIWAN shall be entitled to claim the contractual penalty for the delivery affected by the default until payment is made to the Supplier. If and to the extent that KRIWAN has agreed interim deadlines with the Supplier, KRIWAN states here for clarity that the contractual penalty is always based exclusively on the contractually agreed final delivery date. The time of delivery may also be the time of completion, where there is a contract for work.
- (7) Further legal claims, such as for withdrawal or compensation, remain reserved.

## (8) Sub/-Oversupply

In the event of an overdelivery or underdelivery of the ordered quantity, the excess delivery constitutes a defect, § 434 para. 2 p. no. 1, p. 2 BGB.

The following regulations apply:

### Material Categories

Finished Products (FERT)	Sub 0% Over 0%
Semi-finished product (HALB)	Sub 0% Over 0%
Merchandies (HAWA)	Sub 0% Over 0%
Additives/Consumables indif./certain (HIB3)	Sub 3% Over 0%
Additives/Consumables certain (HIBE)	Sub 3% Over 0%
Standard article (NORM)	Sub 0% Over 0%
Packaging (VERP)	Sub 3% Over 3%
Drawing parts (ZETE)	Sub 3% Over 3%

\* enameled wires on coils are excluded, the following applies here:

If the supplier is not aware of the category of material, the supplier undertakes to request the type of material for the articles.

In the event of overdelivery, we reserve the right to refuse the goods and to return them or have them picked up at the supplier's expense.

## Section 5 Transfer of risk – Documents

- (1) Unless otherwise agreed in writing, delivery shall be made “carriage paid”.
- (2) The risk of accidental loss or accidental deterioration of the goods to be delivered – even if the transport is carried out by KRIWAN itself, by forwarding agents appointed by KRIWAN or at KRIWAN's expense – shall not pass to KRIWAN until delivery to the agreed destination. This also applies to work agreed under a contract for work, on acceptance declared by KRIWAN.
- (3) The delivery of drawing parts must be accompanied by the following documents: Original drawings, purchase order specifications, or parts lists. Otherwise, the delivery shall be considered incomplete. For multiple deliveries of the same parts, applicable copies must be enclosed.
- (4) The Supplier must state the relevant KRIWAN order number, order item, part designation, identification number and order number precisely on all shipping documents and delivery bills; if it fails to do so, KRIWAN shall not be responsible for delays in processing.

## Section 6 Inspection for defects – Warranty – Liability for defects – Quality assurance – REACH

- (1) KRIWAN must inspect the goods within a reasonable period of time for any deviations in quality and quantity; the obligation to inspect shall be limited to defects that become apparent during the incoming goods inspection from external examination, including the delivery documents (e.g., transport damage, wrong delivery and short delivery) or that are apparent during quality control by us from random sampling. Notice of a defect shall be deemed to be on time if it is sent within a period of 7 calendar days, calculated from the date of receipt of the goods for obvious defects or from the date of discovery for hidden defects.
- (2) The goods to be delivered must be free of defects, must comply with the specifications

stipulated by KRIWAN, be developed and manufactured in accordance with the latest state of the art and be usable without restriction for the contractually stipulated use; they must also comply with the relevant statutory and official rules of protection applicable in the Federal Republic of Germany and must not infringe any industrial property rights or rights of third parties.

- (3) KRIWAN shall be entitled to the statutory claims for defects. In any case, KRIWAN shall be entitled to demand that the Supplier either correct the defect or deliver a new item. The right to claim damages, in particular damages in lieu of performance, is expressly reserved.
- (4) KRIWAN shall be entitled to correct the defect itself at the Supplier's expense if there is risk in delay or special urgency.
- (5) The limitation period for material defects and defects of title is 3 years. It shall start on delivery of the goods or on acceptance of performance/goods by KRIWAN. If a claim is made against KRIWAN by its customers on account of a defect, any possible rights of recourse against the Supplier shall expire by limitation at the earliest two months after the date on which KRIWAN has satisfied its customer's claims. This suspension of expiry shall end no later than five years after KRIWAN has received the goods.  
For software installation services and the preparation of expert opinions, the limitation period is 3 years. It starts at the end of the year in which delivery/acceptance took place.  
The limitation period for spare parts ordered at the same time as the main item and designated as spare parts in the contract shall start on commissioning of the spare parts, if the spare parts are properly stored. It shall end no later than 3 years after delivery of the main item or receipt of the spare parts, unless the spare parts have been delivered together with the main item.
- (6) The Supplier undertakes to provide continuous quality assurance by means of suitable tests and inspections, in particular before the goods are dispatched. It must document these tests and inspections. KRIWAN shall be entitled to satisfy itself as to the nature of the quality assurance on site, if necessary including at sub-suppliers. KRIWAN also expressly reserves the right to conclude a quality assurance agreement with the Supplier.
- (7) The Supplier undertakes only to supply KRIWAN with goods that meet all the requirements of EU Regulations (EC) 1907/2006 ("REACH") and (EC) 1272/2008 ("CLP Regulation") and/or the German statutory provisions adopted in this respect.  
These obligations include, in particular, the registration and information obligations under REACH and the classification, labeling and packaging obligations under the CLP Regulation. The Supplier shall provide KRIWAN with the safety data sheets required for substances and mixtures, free of charge and on request, in order to determine the suitability of the materials. The Supplier shall send safety data sheets to KRIWAN free of charge without being requested promptly before the first delivery and again as soon as relevant changes become necessary. The fulfillment of the registration obligation and sending current and complete safety data sheets in particular are considered by KRIWAN to be an essential basis for any deliveries. The Supplier hereby indemnifies KRIWAN against all recourse claims by third parties in the event that the safety data sheets have not been supplied, have been supplied late or have been supplied incorrectly. For the supply of articles according to the REACH definition, the Supplier must only supply products with a content of substances of very high concern (SVHCs) on the "Candidate List" of the European Chemicals Agency that does not exceed 0.1% (m/m). The Supplier shall inform KRIWAN if the goods contain a substance on the candidate list – even below the limit of 0.1%.

## Section 7 Product liability – Indemnification –Liability insurance cover

- (1) If the Supplier is responsible for a claim in connection with a product, it must indemnify KRIWAN against third-party claims for damages on first request to the extent that the cause lies within its

sphere of control and organization and the Supplier is itself liable vis-a-vis third parties. This shall also apply in cases of fault-based liability, unless it can be proven that the Supplier is not at fault.

- (2) Under its liability for damage/loss within the meaning of para. 1, the Supplier shall also be obliged to reimburse any costs and expenses resulting from any necessary corrective action on the market, such as a recall action carried out by KRIWAN. KRIWAN shall inform the Supplier of the content and scope of the recall measures to be carried out – as far as possible and reasonable – and give the Supplier the opportunity to express its views. Other statutory claims shall remain unaffected.
- (3) The Supplier undertakes to maintain product liability insurance with an insured sum of €3.0 million per personal injury/property damage – as a lump sum – and to provide proof of such cover to KRIWAN on request. If KRIWAN is entitled to further claims for damages, they shall remain unaffected.
- (4) If KRIWAN should have identified the defect for which the Supplier is responsible and/or taken measures to avert damage, KRIWAN shall only be held responsible for intent and/or gross negligence by KRIWAN's executive bodies, employees and vicarious agents in its relationship with the Supplier.
- (5) The Supplier waives any right of recourse against KRIWAN in connection with product or producer liability. However, this exclusion does not apply in cases of intent or gross negligence or negligent breach of essential contractual obligations by KRIWAN or in the event of intentional or negligent injury to life, limb or health by KRIWAN.

## Section 8 Property rights

- (1) The Supplier guarantees that no rights of third parties are infringed in connection with delivery by the Supplier.
- (2) If a claim is made against KRIWAN by a third party for an infringement of its rights under para. 1, the Supplier must indemnify KRIWAN against such claims on first written request.
- (3) The Supplier's obligation to indemnify is for all expenses necessarily incurred by KRIWAN arising from or in connection with the claim by a third party.

## Section 9 Supplier's retention of title

- (1) If the delivered goods are goods which must be sold quickly by KRIWAN owing to their nature or purpose, the Supplier's retention of title in the goods is excluded. KRIWAN shall then obtain unrestricted title on delivery of the goods to the points for acceptance specified by KRIWAN.
- (2) Any reservation of current account and any extended reservation of title by the Supplier in the goods delivered by the Supplier is excluded in all cases. Provisions in the Supplier's general terms and conditions, order confirmation, delivery bill and invoices that deviate from this provision shall have no legal effect, regardless of whether KRIWAN has expressly objected to them in the specific case.

## Section 10 Items provided by KRIWAN – Tools

- (1) If KRIWAN provides parts to the Supplier, KRIWAN retains title in the parts. The goods provided by KRIWAN must be marked as KRIWAN property and treated with care. KRIWAN must be notified immediately in writing if KRIWAN property is seized or otherwise suffers interference by third parties. KRIWAN must be provided with all information and documents

required for third-party proceedings pursuant to Section 771 of the German Code of Civil Procedure (ZPO).

- (2) Processing or transformation by the Supplier shall always be carried out in the name of and on behalf of KRIWAN. If the goods provided by KRIWAN are processed with other items that do not belong to KRIWAN, KRIWAN shall acquire co-ownership in the new item at the ratio of the value of the KRIWAN item (purchase price plus VAT) to the other processed items at the time of processing.  
The Supplier shall hold the new item that is created by processing on behalf of KRIWAN.
- (3) If the item provided by KRIWAN is inseparably mixed, blended or combined with other items that do not belong to KRIWAN, KRIWAN shall acquire co-ownership in the new item is acquired at the ratio of the value of the item subject to retention of title (purchase price plus VAT) to the other mixed, blended or combined items at the time of mixing/combination. If the mixing, blending or combining is carried out in such a way that the Supplier's item is to be regarded as the main item, it is agreed that the Supplier shall transfer co-ownership to KRIWAN on a pro rata basis; the Supplier shall hold the item in sole ownership or co-ownership for KRIWAN with care.
- (4) If KRIWAN has paid for the processing into a new item or combination, mixing, blending with another item that does not belong to KRIWAN by way of advance payment, KRIWAN shall acquire unrestricted ownership of the end product on completion of the processing into a new item or combination, whereby the Supplier, by accepting the advance payment, hereby declares its consent to such transfer of ownership and it shall hold such goods/parts processed or combined by it for KRIWAN free of charge. The property of KRIWAN must be marked accordingly.
- (5) To the extent that the security interests to which KRIWAN is entitled under para. 1 and/or para. 2 exceed the purchase price of all goods subject to retention of title not yet paid for by KRIWAN by more than 10%, KRIWAN shall, at the Supplier's request, release the security interests at KRIWAN's option.
- (6) KRIWAN retains title in tools; the Supplier must use the tools exclusively for the manufacture of the goods ordered by KRIWAN. The Supplier must insure the tools that belong to KRIWAN at replacement value against fire, water and theft damage at its own expense. At the same time, the Supplier hereby assigns to KRIWAN all claims for compensation arising from such insurance; KRIWAN hereby accepts the assignment. The Supplier must carry out any necessary maintenance and inspection work on the tools as well as all maintenance and repair work in good time at its own expense. The Supplier must notify KRIWAN immediately of any malfunctions; if it culpably fails to do so, claims for damages shall remain unaffected.

## Section 11 Confidentiality

- (1) The Supplier must keep all "confidential information" received from KRIWAN strictly confidential.
- (2) "Confidential Information" means all illustrations, drawings, calculations and other documents and information received, whether or not marked or designated as "confidential" or communicated under confidential circumstances or which, in the reasonable judgment of the parties, would be considered confidential.  
"Confidential information" means, in particular, technical and commercial information such as plans, drawings, illustrations, photographs, data, documentation, process illustrations, samples, customer and Supplier data, calculation information and other information, such as know-how transmitted within the framework of the contractual relationship, which the parties make accessible to each other directly, indirectly or in any other way.

- (3) The Supplier shall keep all confidential information strictly confidential and shall not disclose, distribute or publish it. It will take all necessary measures both during and after the end of the contractual relationship to prevent such information from becoming accessible to third parties. During the term of the contractual relationship, it shall only use such information for the agreed contractual purpose. After the end of the contractual relationship, the Supplier shall not make use of the confidential information that has been made available, unless KRIWAN has given its express written consent. The Supplier shall limit access to the confidential information to those of its managing directors, employees, affiliates or suppliers who need to know such information for the purpose of this agreement and shall impose the obligation on them to maintain appropriate confidentiality. The Supplier shall ensure and guarantee that the companies affiliated with or engaged by it also comply with the obligations arising from this agreement if they become aware of the confidential information in the course of working together.

Confidential information may only be disclosed to third parties with the written consent of KRIWAN. The obligation to maintain confidentiality shall also apply after a contract has been completed. There shall be no obligation to maintain confidentiality on the Supplier or no such obligation shall apply if the illustrations, drawings, calculations and other documents provided to the Supplier are publicly known at the time they are handed over to the Supplier. If the documents and information are published by KRIWAN at a later date, the obligation to maintain confidentiality shall end on such information becoming known. The obligation to maintain confidentiality shall also cease to apply if the documents/information become known to the Supplier via a third party in a lawful manner or if the Supplier has to disclose such information as the result of a court or official order.

- (4) If the Supplier breaches its obligation to maintain confidentiality, it must pay KRIWAN a reasonable contractual penalty for each breach, to be determined by KRIWAN at its reasonable discretion. The Supplier shall be entitled to have the amount of the contractual penalty reviewed by the court.

## Section 12 Environmental management

- (1) The Supplier shall act in compliance with environmental principles by operating in an environmentally compatible way and by instructing its manufacturers/suppliers to carry out production in compliance with environmental principles.

## Section 13 Code of conduct

- (1) The Supplier undertakes to comply with national environmental laws, labor laws and labor contracts, regulations on competition and other regulations applicable to the Supplier.  
It undertakes to act in accordance with the principles of the UN Global Compact, the ILO Conventions and other international norms.  
The Supplier in particular observes human rights and does not permit or practice child labor.  
The Supplier also does not participate in any direct or indirect way in price fixing, cartels, corruption or other practices that restrict competition or in other unlawful practices.
- (2) The Supplier agrees to act in accordance with the principles of the Wall Street Reform and Consumer Protection Act, section 1502. This means that the Supplier ensures that conflict minerals are not used in its supply chain (e.g. tantalites, wolframites, cassiterites, etc.; a more detailed specification of conflict minerals is available at <http://www.sec.gov/about/laws/wallstreetreform-cpa.pdf>).

## Section 14 Assignment

Rights and obligations arising from this contractual relationship may only be transferred



to third parties with KRIWAN's consent.

## Section 15 Applicable law – Place of jurisdiction – Partial invalidity

- (1) This contractual relationship shall be governed exclusively by the laws of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (CISG), even if the Supplier has its registered office abroad or the delivery is made from abroad.
- (2) The exclusive place of jurisdiction is KRIWAN's place of business if the Supplier is a merchant; however, KRIWAN shall also be entitled to sue the Supplier at its place of business.
- (3) If any of the provisions of these General Terms and Conditions of Purchase are or become invalid or void, this shall not affect the validity of the remainder of the contract. In place of the invalid/void provision, the parties shall agree on a provision that comes as close as possible to the purpose intended by the invalid/void provision. This also applies to any omissions in the contract. In no case shall the invalid provision be replaced by terms and conditions of the Supplier.