

General Terms and Conditions of Purchase and Supply

1. Subject of Contract, Scope, Offer

- 1.1. Pre-worded terms and conditions of contract used by Contractor for diverse contracts ("General Terms and Conditions of Business" as defined by §305 of the German Civil Code, hereafter "BGB") shall not be part of the contract, even if KRONES AG does not expressly object thereto. If KRONES AG accepts the delivery or performance without expressly objecting thereto, this shall not be construed to mean that KRONES AG has accepted the Contractor's terms and conditions of contract. The present General Terms and Conditions of Purchase and Supply of KRONES AG shall apply exclusively.
- 1.2. These Terms and Conditions shall apply to all contractual performances rendered to KRONES AG, regardless of the legal type of contract that such performance is based on (hereafter "object of delivery").
- 1.3. All agreements entered into between KRONES AG and Contractor for the purpose of performing the contract shall be made in writing.
- 1.4. The present Terms and Conditions shall also apply to all future business transactions between KRONES AG and Contractor.
- 1.5. Contractor is bound by all offers, as defined by § 145 BGB, for 3 months from the date of their receipt.

2. Documentation, Printed Materials, Amendments, Maintenance

- 2.1. Contractor shall make special provision to KRONES AG, at no charge, of a full set of technical documentation consisting of at least the documentation itemized in No. 3 of Appendix V to the EC Machinery Directive. Contractor is required to provide KRONES AG, at no charge, with all instruction manuals and documents required for the use, installation, maintenance, cleaning and repair of the object of delivery, including, in particular, replacement parts lists and certificates of purchase. For the object of delivery Contractor shall, at his expense, provide an original copy of the Operating Instructions and a copy of the Maintenance Instructions for technical personnel, as well as User Documentation for application software in accordance with DIN ISO/IEC 12119, Program Documentation for system and system related software in accordance with DIN 66230 and Program Development Documentation in accordance with DIN 66231 for software developments agreed as the object of this contract. These shall be in the German and English language and, where requested by KRONES AG, in the language of the country of destination/intended use. The documentation due from Contractor has to be made available to KRONES AG as hardcopy and in electronic form (PDF format).
- 2.2. All correspondence, consignment notes, invoices, etc., related to orders shall include references to the corresponding order and parts numbers of KRONES AG. Neither the dispatch note nor the invoice are to be enclosed with the delivery.
- 2.3. Contractor shall not be entitled to any payment from KRONES AG for offers, planning of business acquisition, drafts and any other preparatory work undertaken by Contractor.
- 2.4. In respect of the object of delivery, Contractor shall make special provision to KRONES AG of a Manufacturer's Declaration or a Declaration of Conformity in compliance with Appendix II of the EC Machinery Directive and attach the CE Mark of Conformity to the object of delivery. Contractor guarantees KRONES AG that the products shall comply with applicable regulations for the prevention of accidents, work safety regulations and the approved occupational medical-based and technical safety regulations of the Federal Republic of Germany. Where Contractor is aware, at the time of conclusion of the contract, of the country of destination/intended use for the object of delivery, the object of delivery must also comply with the rules and regulations in force there and be approved for delivery to the country in question. In particular, Contractor shall guarantee that the object of delivery comply with applicable directives of the European Union, the EC Machinery Directive, the German Equipment and Product Safety Act (GPSG) and Machine Ordinance (9. GPSGV), in their current valid versions, and that the procedures for assessing conformity stipulated in these directives and regulations have been complied with.
- 2.5. Where any claims are asserted against KRONES AG by any third party due to non-compliance by Contractor with any of the regulations referred to in Clause 2.4., Contractor shall indemnify KRONES AG from any such claims on first written demand. KRONES AG shall always be entitled to be indemnified from such claims, regardless of whether Contractor is at fault. The aforementioned indemnification in respect of KRONES AG shall also relate to all expenses incurred by KRONES AG in connection with legal proceedings or the pursuit of claims. It also includes all other costs necessarily incurred by KRONES AG as a result of or in connection with claims made by a third party.
- 2.6. KRONES AG shall permit Contractor the use of calculations, illustrations, plans, tender documents, specifications of requirements, performance specifications, drawings, other documents and other data carriers including models and any other resources on a temporary basis only. After execution or termination of the contract, these shall be returned forthwith to KRONES AG or, if requested by KRONES AG, destroyed by Contractor. In either case Contractor shall not make any copies of the aforementioned material in any form whatsoever.
- 2.7. All models, devices and other tools produced by Contractor for the execution of the contract shall be the property of KRONES AG. With regard to the aforementioned corporeal things and all industrial property rights associated with them, KRONES AG shall retain sole ownership and have sole power of disposal. After execution or termination of the contract these corporeal things shall be returned to KRONES AG. No copies of any kind shall be made.
- 2.8. The corporeal things and rights owned by KRONES AG shall not be used or otherwise utilized either by Contractor or any third parties and shall not be made accessible to third parties. They shall not be photocopied, microfilmed, electronically duplicated or otherwise copied in any way, whether wholly or partially.
- 2.9. KRONES AG is entitled to subsequently demand modifications (extensions/reductions) to the production and performance of the object of delivery where this may be reasonably expected from Contractor. If this affects significant contractual terms and conditions (prices, deadlines), Contractor shall notify KRONES AG thereof within 8 workdays – unless otherwise agreed – in the form of a supplementary offer or memo, and by means of a new time schedule if there is a change of deadlines. Otherwise it will be assumed that KRONES AG's requests for amendment remain within the scope of the existing agreements. If the agreed price is exceeded as the result of the amendments, Contractor shall notify KRONES AG of the anticipated or estimated level of additional costs. KRONES AG will then decide on whether to implement the amendments. If implementation is decided, a supplement to the agreement will be drawn up.
- 2.10. At the request of KRONES AG Contractor will assume the maintenance of the object of delivery on the basis of a corresponding maintenance and service agreement.

3. Time of Delivery/Performance

- 3.1. Contractor shall comply with the stipulated time of delivery or performance. Specified dates or periods for delivery or performance refer to the point in time at which the object of delivery is handed over at the place of destination specified by KRONES AG.

- 3.2. In case of delayed delivery or performance, KRONES AG is entitled to demand liquidated damages for damage caused by delay in the amount of 0.5% of the agreed price for each commenced week of delay – to a maximum of 5 % of the agreed price. This shall not preclude any further statutory rights (cancellation of the contract and damages).

Contractor shall be entitled to prove to KRONES AG that the delay did not result in any damage, or that the actual damage was significantly lower. KRONES AG shall be entitled to prove that the actual damage was higher.

- 3.3. The arrangements in Clause 3.2. will also apply if Contractor performs partial or complete deliveries on time but in such way that they cannot be accepted.
- 3.4. Furthermore, KRONES AG shall be entitled to demand that Contractor indemnifies KRONES AG from liability for all claims for damages and/or contractual penalties and/or any other claims made by its customer in relation to delayed delivery or performance, if and to the extent that such delay in delivery or performance is caused by Contractor.
- 3.5. Contractor shall inform KRONES AG of any foreseeable delays in delivery or performance immediately as they come to his attention and at the latest as soon as the stipulated time of delivery or performance has passed.

4. Packaging, Transportation and Disposal

- 4.1. Contractor shall package and load the objects of delivery in a manner which prevents them from being damaged during loading, unloading and transportation. Contractor is liable for any damage to the objects of delivery caused by inadequate packaging.
- 4.2. Contractor bears the costs of packaging and shipment. To the extent that KRONES AG bears the costs of transportation and/or packaging, Contractor shall choose the most reasonably priced method of transportation and/or packaging.
- 4.3. Contractor shall take back all transportation containers, tools, equipment and packaging of every kind, especially transportation packaging. Contractor shall bear all costs associated with the above for packaging, loading and transportation to his premises, and subsequent unloading. In its own name and at the expense of Contractor, KRONES AG shall conclude a contract for carriage. Where Contractor does not re-use the returned (transportation) packaging, he shall bear the costs incurred by KRONES AG for its material disposal. Foreign Contractors shall, in addition, also pay all customs duties, customs clearance charges, taxes and fiscal charges associated with the taking back of the transportation containers, tools, welding gas cylinders, other equipment and the transportation packaging.
- 4.4. Contractor shall provide a written declaration in respect of the customs-based origins of the object of delivery (certificate of origin) without delay. Contractor shall also declare his origin of goods details by way of customs office certification and observe all export regulations, export directives etc., particularly when delivering software products. Contractor shall be liable to KRONES AG for all damage incurred by KRONES AG arising from the irregular or late provision of this declaration.
- 4.5. Contractor shall provide, at his own expense, KRONES AG with the delivery order and/or the usual transportation document (e.g. a negotiable bill of lading, a non-negotiable sea waybill, an inland waterways transport document, an air waybill, a railway consignment note, a road freight consignment note or a multi-modal transportation document), as required by KRONES AG for the acceptance of the object of delivery in accordance with Clause 6.3. If Contractor and KRONES AG have agreed to the use of electronic data communications, the document referred to in the previous paragraph may be substituted by a corresponding message via electronic correspondence.

5. Price and Payment

- 5.1. The agreed prices are binding, unless the parties to the contract expressly agree otherwise in writing, in which case Contractor bears the burden of proof.
- 5.2. The time limit for payment shall begin with the receipt of all objects of delivery due under the terms of the contract at the place of destination specified by KRONES AG, or with their acceptance if an acceptance is provided for by contract or law. If, however, Contractor's invoice is only received by KRONES AG after receipt of all objects of delivery due under the terms of the contract at the place of destination specified by KRONES AG, or after acceptance by KRONES AG, the time limit for payment shall begin with the date of receipt of the invoice.
- 5.3. KRONES AG shall effect payment within 30 days after the beginning of the time granted for payment. Should payment be already effected within 14 days after the beginning of the time granted for payment, KRONES AG shall be entitled to deduct a discount of 3%. Payment as referred to above shall be deemed to have been effected with the remittance or electronic submission of a bank remittance order or with the remittance of a check for deposit only.
- 5.4. The payment by KRONES AG of an invoice from Contractor without the assertion of objections shall not be deemed to be affirmative acknowledgment of debt in respect of the claim settled.

6. Place of Performance/Hand-Over/Transfer of Risk

- 6.1. The destination specified by KRONES AG shall be deemed the contract's place of performance.
- 6.2. If Contractor's delivery consists of creating or adapting software, hand-over will be made on a suitable data carrier in machine-readable form together with the source code.
- 6.3. If an acceptance is not required by law and is not provided for by contract either, the risk of accidental loss, destruction or accidental deterioration shall pass from Contractor to KRONES AG with the handing over of the object of delivery at the specified destination, and otherwise with the acceptance provided for by law or Clause 8 of the present Terms and Conditions.

7. Duty to Examine and Give Notice of Defects

- 7.1. If the object of delivery is defective and there is no inspection at time of acceptance, KRONES AG shall be entitled, notwithstanding the provisions of § 377 HGB (German Commercial Code), to give notice of obvious defects within a period of 14 days after completion of unpacking of the object of delivery at the place of their intended use, and to give notice of latent defects within a period of 14 days after their discovery.
- 7.2. In the case of volume deliveries, KRONES AG shall only be required to make random checks. Where this results in more than 10% of the random checks not meeting statutory requirements or the requirements of the contract, KRONES AG shall be released from any further requirements to examine and shall be entitled, on the basis of such random checks, to refuse acceptance of the delivery as a whole and hold it available for Contractor to take back.

- 7.3. If KRONES AG agrees by contract to the successive release orders of deliveries and a part delivery has physical and/or legal defects which prevent it from being used as intended, KRONES AG shall be entitled, without prejudice to any other rights, to cease the continued release orders of deliveries and cease continuation of payments.
- 7.4. If Contractor is certified in accordance with DIN EN ISO 9001, Rev 2000 ff, KRONES AG's duty to examine and give notice of defects as required by § 377 HGB (German Commercial Code) shall not apply.
- 7.5. Where, in relation to the duty to examine and give notice of defects, Contractor and KRONES AG have concluded a Quality Assurance Agreement, the provisions of that agreement shall have precedence over the Terms and Conditions set out here under Clause 7.

8. Acceptance

- 8.1. If acceptance of the object of delivery is contractually agreed and/or provided for by law, KRONES AG will perform the acceptance inspection within four weeks of receiving both Contractor's declaration of readiness for the acceptance and all documents belonging to the object of the delivery.
- 8.2. If Contractor's delivery consists of creating or adapting software, the created and adapted programs shall be handed over in testable form. After the program test has been carried out jointly with KRONES AG, initially a provisional confirmation of readiness for operation will be issued. This shall merely confirm that the test run under production-like conditions may commence for purposes of the final acceptance.
- 8.3. The duration of the functionality test and the test run shall depend on the contractual agreements. If major defects arise during the test run, the test run will commence again after such defects have been remedied.
- 8.4. Acceptance is effected when all the performances and criteria laid down in the specifications have been satisfied and the object of delivery is free of defects.
- 8.5. Acceptance will be recorded in a written acceptance inspection report. Formal acceptance will not be effected, however, until Contractor has eliminated all the defects which were discovered. The elimination of defects shall take place without delay, but not later than any deadline set by KRONES AG.

9. Claims Based on Defects/Liability of Contractor

- 9.1. Contractor shall be liable to KRONES AG that, from the time of the passing of risk to the limitation of actions in respect of claims arising due to defects, the object of delivery shall be free from physical and legal defects.
- 9.2. Where, in spite of the aforementioned obligation, the object of delivery is defective, the rights of KRONES AG shall be based on the provisions of the present Terms and Conditions as well as the statutory provisions in respect of claims arising due to defects.
- 9.3. KRONES AG shall be entitled, at Contractor's expense, to remedy any defects itself, or have them remedied by third parties, or arrange for replacement itself where – upon written request – Contractor does not remedy the defects himself within a reasonable period set by KRONES AG, or where insolvency proceedings are initiated against the assets of the Contractor. This shall also apply without requiring a prior request in urgent cases where there is a risk to operational safety or to prevent disproportionately large damage where due to the special urgency it is no longer possible to notify Contractor about the defect and the threatening damage and to set a deadline for remedying the defect.
- 9.4. KRONES AG shall be entitled, at Contractor's expense, to remedy minor defects itself immediately, or have them remedied immediately. Measures for the remedying of defects may be carried out or ordered to be carried out, at Contractor's expense, without the setting of a deadline, if delivery is made after the beginning of a delay in delivery and KRONES AG has an interest in remedying the defect immediately in order to prevent any delays on its part.
- 9.5. Contractor is to be informed immediately whenever the cases referred to in Clauses 9.3 and 9.4 arise. KRONES AG shall provide Contractor with a report which details the nature and extent of the defects and the work undertaken.
- 9.6. Contractor shall bear all costs for remedial performance, in particular for troubleshooting, the costs of retrofitting, installation and removal, the costs of transportation, travelling expenses, labour and material costs, and customs duties.
- 9.7. Contractor shall guarantee that the object of delivery are free of third-party rights, in particular third-party industrial property rights, which would rule out or impair their use by KRONES AG or that he has the power to pass on such rights of use, and that no applications for property rights disseminated within the European Economic Area, the US and Japan, are infringed upon. Where any claims are asserted on such grounds against KRONES AG by any third party, Contractor shall indemnify KRONES AG from any such claims upon first written demand. Such indemnity of Contractor relates to all expenses incurred by KRONES AG as a result of or in connection with claims made by a third party. This shall not apply in cases where (industrial property) rights are infringed as a result of plans, drawings, models or any other descriptions of an equivalent nature specified by KRONES AG.
- 9.8. If Contractor fails to ensure the contractual use of the deliveries in suitable manner, KRONES AG may demand damages and withdraw from the agreement.
- 9.9. KRONES AG is entitled to demand the Contractor to indemnify KRONES AG from all liability claims from its customers, where and in so far as Contractor is responsible, through his delivery, for providing the grounds for liability. In respect of indemnification from claims for damages against KRONES AG which are outside the scope of liability covered by the German Product Liability Act, this only applies where and in so far as Contractor is responsible for providing the grounds for liability.
- 9.10. Contractor shall observe his inspection and monitoring responsibilities with due diligence. In this regard he shall guarantee in particular compliance with all technical quality standards and the contractually agreed qualities through diligent quality controls and the documentation of such controls. Contractor shall organize his area of responsibility and organization in respect of material operations and personnel such that all dangers related to the performance of Contractor and the use of that performance by KRONES AG and its customers are eliminated.
- 9.11. Where any claims by KRONES AG against Contractor are dependent upon events in the Contractor's sole sphere of risk or responsibility, the Contractor shall have the burden of proof to show that any such events have not occurred.

10. Producer Liability

- 10.1. Contractor indemnifies KRONES AG from its producer liability, where and in so far as the grounds for the liability of KRONES AG may be assigned to the risks and responsibilities of Contractor, and Contractor is liable for the cause of the grounds for liability. This shall also apply to claims asserted against KRONES AG in respect of producer's liability under the legislation of another country.
- 10.2. Under this agreement, Contractor shall reimburse any expenses incurred in accordance with §§ 683, 670 BGB which arise from or in connection with any recall actions carried out by KRONES AG. KRONES AG shall inform Contractor – as far as is possible and rea-

sonable – about the subject and scope of any recall actions to be implemented, and give him opportunity to provide a response.

- 10.3. Contractor shall maintain a product liability insurance policy covering an appropriate sum, the amount covered being no less than EUR 1,000,000.00 per case of personal injury/damage to property – blanket cover – for the duration of the contract and to verify the existence of the insurance if requested. Further claims for damages shall not be affected by this.

11. Use of Industrial Property Rights

- 11.1. All copyrights, industrial property rights and similar rights in law immanent to the contractual object of delivery and to all other written, machine-readable and other work results performed in connection with this agreement shall pass to KRONES AG upon their creation without further condition and without additional remuneration.
- 11.2. These rights shall belong to KRONES AG exclusively and without restriction of territory, time or content, and may be extended, transferred, revised, adapted, amended, duplicated or published by KRONES AG without Contractor's consent.
- 11.3. Use of the object of delivery by KRONES AG shall be free of charge. KRONES AG is granted the right to register patentable development results.
- 11.4. Contractor shall not be prevented from using any know-how obtained during performance of the agreement for his own purposes, provided this does not violate the rights granted pursuant to clause 11.1. Any results of work performed by the Contractor exclusively for KRONES AG under this agreement shall not be used in Contractor's performance of deliveries for third parties.

12. Limitation Periods

- 12.1. The statutory limitation periods for claims arising due to defects shall apply, with the following exceptions.
- 12.2. Where claims arising due to defects are subject to a statutory limitation period of two years, such limitation period shall be extended to 36 months.
- 12.3. The limitation period for legal defects (Clause 9.7) shall be 4 years, beginning with the date of conclusion of the contract.
- 12.4. The limitation period for the object of delivery or parts thereof which are replaced or repaired in the course of remedial performance and of the object of delivery or parts thereof on which defects were remedied shall start again with the completion of remedial performance. Where the object of delivery cannot be used during investigations of defects and remedial performance, the period of limitation shall be extended by the amount of time that operations were interrupted for, due to the defects.

13. Rights of Assignment, Set-off, Retention

- 13.1. Contractor is not entitled to assign any claims against KRONES AG.
- 13.2. Contractor is not entitled to withhold completion of any remedial work owed by him until the purchase price or payment has been paid in full.
- 13.3. KRONES AG shall be entitled to the statutory rights of set-off and retention. KRONES AG shall also be entitled to set off against claims of a company, of which KRONES AG owns at least 50%.

14. Duty to Supply Information, Duties of Confidentiality and Data Protection

- 14.1. Where the delivery relationship is of longer duration, Contractor shall have a duty to notify regarding all circumstances possibly of importance to KRONES AG; this includes, in particular, information about problems with quality if it is possible that such problems may not have been fully overcome, foreseeable difficulties with deliveries, and regarding all changes in product characteristics which may affect the way the product's use by KRONES AG, even where such changes do not lead to the object of delivery itself becoming defective.
- 14.2. Where Contractors supplying replacement parts intend to stop production of such parts, either partially or wholly, they shall provide KRONES AG with at least 6 months prior notice of such intent.
- 14.3. Both parties to the contract agree to treat as trade/business secrets all commercial and technical details that have come to their attention as a consequence of the business relationship and which are not common knowledge. Contractor shall in particular keep strictly confidential all calculations, illustrations, plans, tender documents, specifications of requirements, performance specifications, drawings, other documents and any other data carriers, models or other tools. Contractor shall not disclose any of the above to third parties and/or use them for any purposes not covered by this contract without the express consent of KRONES AG. This obligation to maintain confidentiality shall also apply after expiry of the contract; it only ends if and to the extent that the knowledge, experience and information contained in the aforementioned calculations, illustrations, plans, documents, etc., becomes public knowledge. With regard to the aforementioned corporeal things and all industrial property rights associated with them, KRONES AG shall retain sole ownership and have sole power of disposal. Contractor shall not disclose its contractual relations with KRONES AG to any third parties without the written consent of KRONES AG.
- 14.4. Contractor guarantees that all persons entrusted by him with performing or processing the agreement observe the statutory provisions concerning data protection. The respective undertaking required by data protection statute to keep data confidential shall be obtained at the latest before such persons initially commence their activities, and verification of the same shall be submitted to KRONES AG on request. Contractor agrees that any personal data disclosed to KRONES AG in the course of business relations will be stored and automatically processed by the computer systems of KRONES AG.

15. Jurisdiction, Applicable Law

- 15.1. Where Contractor is a domestic merchant, a domestic entity subject to public law or a trustee of public funds, Regensburg, in the Federal Republic of Germany, shall be the exclusive place of jurisdiction for any disputes arising from or in connection with the contractual relationship. In legal proceedings brought against KRONES AG by Contractors with no domestic place of general jurisdiction, the exclusive place of jurisdiction shall also be Regensburg, in the Federal Republic of Germany. In legal proceedings brought by KRONES AG against Contractors with no domestic place of general jurisdiction, Regensburg, in the Federal Republic of Germany shall be a further place of jurisdiction, in addition to the places of jurisdiction provided by law. Any arbitration agreements concluded between the parties shall take precedence.
- 15.2. The laws of the Federal Republic of Germany shall apply exclusively both with regard to the applicability of the present Terms and Conditions of KRONES AG and to all legal relationships of the contractual parties and their legal successors / assigns, that result from the contract and/or any possible ancillary or subsequent transactions. The present choice of law clause as well as the above jurisdiction agreement shall also be governed by the laws of the Federal Republic of Germany.