

General Terms and Conditions

(EKR-GROUP, June 2018)

1. General

- 1.1. These General Terms and Conditions will apply to all offers, (purchase) agreements, deliveries and activities of EKR-GROUP. With placement of the order or at the latest upon receipt of the products the buyer acknowledges these General Terms and Conditions.
- 1.2. These General Terms and Conditions shall apply for the entire duration of the business relationship, i.e. for subsequent transactions as well. These General Terms and Conditions need only be provided once.
- 1.3. Delivery is made, and services are carried out by EKR-GROUP only on the basis of the following General Terms and Conditions, if the parties do not agree otherwise in writing. Any and all terms and conditions – including those of the contract partner –, if not explicitly accepted by EKR-GROUP in writing, are not binding for EKR-GROUP, even if EKR-GROUP does not expressly reject them.
- 1.4. In the event any provision of the General Terms and Conditions shall be held to be entirely or part wise invalid, the validity of the remaining provisions of the General Terms and Conditions and the General Terms and Conditions as such shall remain unaltered in force.

2. Closing the Contract, Offers

- 2.1. Our offers are only binding when they are submitted in writing and when they are explicitly specified as binding.
- 2.2. The conclusion of the contract becomes effective upon our written confirmation of an order or upon otherwise expressly confirmed in writing.
- 2.3. No variation or purported variation of a term of this or any contract shall bind EKR-GROUP unless first agreed in writing.
- 2.4. For the purpose of these General Terms and Conditions the term “in writing” includes also all communication between the parties by means of email.
- 2.5. Our delivery certificate and/or our final invoice are also valid as order confirmation.
- 2.6. Illustrations, drawings, specifications of dimensions, which form the basis of the offer or order confirmation, shall as a rule only be seen as approximate values, insofar as they are not exclusively designated to be binding.

3. Dispatch and Packaging

- 3.1. Unless agreed otherwise, we deliver our products unpacked ex warehouse or ex works (Incoterms version 2010 ex works) inclusive packaging exclusive other dispatch costs or costs of shipment. In cases of our aid for loading the buyer must relieve us from any responsibility or liability.
- 3.2. Insurance will be taken out only if this is the buyer’s express wish. We function solely as an agent under exclusion of all responsibility or liability.

4. Priority of documents/ambiguities

- 4.1. For the purposes of the contract (purchase order), the priority of the documents shall be in accordance with the following sequence:
 - the contract itself, including all appendices,
 - these General Terms and Conditions,
 - the recognized engineering standards at the time of acceptance,
 - all technical standards applicable to the construction project covered by the contract and all subject- specific guidelines applicable especially EU standards at the time of conclusion of the contract,

If the contract is not only based on specifications or schedules but also on drawings, texts shall take precedence over drawings in case of ambiguities. If an ambiguity is found in the contract documents, the EKR-GROUP shall be obliged to perform the work of higher quality or better design as appropriate unless the Client expressly consents in writing to a different form of execution in the individual case.

5. Subcontractors

If the EKR-GROUP on its part would like to subcontract work to third parties, the prior written consent of the Client shall be obtained. Correspondingly, this shall apply to the change of or the use of other subcontractors. The EKR-GROUP shall ensure that the subcontractor will not subcontract the work assigned to it without the prior written consent of the Client. The EKR-GROUP shall in particular ensure that all subcontractors comply with the Client's occupational safety regulations. The Client shall be entitled to reject subcontractors proposed by the EKR-GROUP on factual grounds, such as quality of work, credit standing and/or inadequate schedule effectiveness, non-compliance with the occupational safety regulations.

6. Delivery Period and Acceptance

- 6.1. In the absence to the agreement to the contrary, the period of delivery begins at the latest of the following moments:
 - a.) date of the order confirmation
 - b.) Date of fulfilment of all technical, commercial and financial requirements on the part of the buyer
 - c.) The date on which we received the down payment of the products and/or a letter of credit to our benefit has been opened.
- 6.2. Delivery dates given in our order confirmation and/or written correspondence are estimated delivery dates and nonbinding otherwise confirmed by us in writing.
- 6.3. The deadline is met when the articles are declared to be ready for delivery or when the delivery item has left the factory before the delivery period ends. If and in so far, the goods fail to be dispatched at the agreed time for reasons not attributable to us, the agreed delivery time shall be considered to have been met at the day on which the goods are notified to be ready for dispatch.
- 6.4. Partial deliveries are allowed.
- 6.5. In the event that we or our suppliers are hindered through an act of god we are entitled to extend the delivery date by an appropriate period. The same shall apply in the event of government intervention, shortages of energy or raw materials, delays in delivery of components supplied by or on behalf of the buyer, strikes, lockouts, lack of means of transportation and other unforeseen supply problems, insofar as they are beyond our control. We shall inform the buyer without delay and ensure that any inconvenience for the buyer is kept to a minimum.

7. Prices and Conditions of Payment

- 7.1. Prices are ex-works inclusive packaging and exclusive other shipping and transport expenses if not otherwise agreed in written form. One-way packaging cannot be returned. All prices are net and unless expressly agreed otherwise in the currency EURO plus the respective statutory value-added tax and local Vat
- 7.2. The price shall also cover the costs of sampling but neither the costs of testing and processing equipment's nor modifications determined by the buyer.
- 7.3. Pallets and transport packaging shall be replaced or invoiced separately at cost price.
- 7.4. Payments have to be made according to the agreed payment conditions. Unless otherwise agreed, our invoices are due to be paid according to the date of invoice and the payment has to be made without deductions to our bank account within 14 days after the date of invoice. Deduction of discounts require a special agreement. Payments are deemed to have been made at the time in which they are received in our business account.

- 7.5. Discount agreement will be completely negated as soon as a default in payment occurs (also in the case of partial payments) and/or if all other due payments have not been made by the time of receipt of the discounted invoice amount, at the latest.
- 7.6. The purchaser has the right to counter demands only in the case of indisputable or legally determined demands.
- 7.7. Complaints which have not been integrally closed are no cause for a delay in payment.
- 7.8. Components supplied by or on behalf of the Buyer
- 7.9. Notice of defect of the components will be made from us immediately, as soon as the defect is in evidence within a normal course of business. The buyer shall waive the objection of a late notification of defects.

8. Preparatory Work, Drawings, Lithographic, Tools

- 8.1. Any preparatory work, such as sketches, drawings, drafts, estimation of costs, originals, samples etc. prepared by us will be invoiced separately if no orders are placed. Such preparatory work remains our property. Any usage in particular transmission, copying, publication and provision inclusive copying in extract requires our explicit approval.
- 8.2. Final drawings, lithographic prints and special tools etc. shall remain our property even full payment has been received. Unless instructed otherwise, they shall remain in our possession after full payment has been received and kept for repeat orders for 2 years. If no additional orders are received within that period of time, we will dispose of the items at our own discretion. Any claims of the buyer concerning these components expire at the latest at that time.

9. Protected rights

- 9.1. Where workpieces are manufactured according to the ideas, proposals, models, drawings or Samples of the buyer, the buyer gives a guarantee that no protected rights of third parties are infringed thereby. In any legal proceedings in connection with claims for compensation of infringement of patent rights, trademark rights, protection of designs, trade secrets or proceedings protected by copyright within the construction or the manufacture the buyer will release the supplier from all claims of third parties and resulting costs and will participate in legal proceedings if the supplier asks him to do so.
- 9.2. Irrespective of the existence of legal protection rights all ideas, inventions, designs and samples, works protected by copyright, patents, design right, trademarks, copy rights and trade secrets and all know-how or other intellectual property made by us, and all techniques applied by us to manufacture and design of the goods, preliminary to or upon processing of an order shall always remain sole intellectual property of us.

10. Notice of Defects

- 10.1. A warranty claim shall be subject to the proviso that the buyer has given commercially reasonable written notice of the defects that have occurred within 8 working days after the delivery of the products for apparent defects or 8 days after detecting a latent defect of the product by including a specific description of the nature of the defect. At our request the buyer is obliged to send samples of the defective products back to us.
- 10.2. If Products are produced based on drafts, or drawings of the buyer or us, our warranty shall be limited to the fact that it has been designed in accordance with the written agreed instructions or in accordance with the pattern released by the buyer. In this cases warranty for the efficiency/operability and warranty of fitness of the products for the specified usage mentioned by the buyer shall be excluded.

- 10.3. Any disputes between buyer and us about quality, delivery or any other complaint submitted by buyer shall not give buyer the right to suspend payment.
- 10.4. Returning the defective goods, except samples of defective goods required by us, is not admitted without our prior written approval. In case goods should nevertheless be returned all resulting costs, caused to us, are to be reimbursed. Acceptance of the returned goods does not grant buyer any claims or other legal consequences. Also, our examination of the defect does not entitle buyer to any claims or legal consequences. The risk for the usability of the goods for a certain purpose or in a certain way is borne by buyer unless we have made a different written promise. For claims resulting of such written promises the provisions of article of this General Terms and Conditions shall be applicable and in force.
- 10.5. If components are used, which we buy in behalf of the buyer or which are supplied by the buyer, the buyer is obliged in cases when defects of the components appear at first to approach the producer of these components. We herewith assign our warranty claims concerning these components to the buyer. When a defect of the component appears, the buyer has to inform us immediately. We will forward to the buyer the name and the address of the producer of this component. In cases the buyer is a merchant we are allowed to demand that the buyer at first juridical claim against the producer of the components, provided that a juridical action is not unreasonable and provided that the juridical action against the producer of the components are not due to lack of funds factual worthless. Failure of juridical action or if due to lack of funds of the producer of the components a juridical action is unreasonable for the buyer, the buyer is entitled to assert a warranty claim.

11. Warranty and Liability

- 11.1. The warranty period shall be 6 months after delivery of the products.
- 11.2. For any claim raised and accepted – whereas for quality and construction the pattern which was released from the buyer is decisive, when such pattern exist - we will either reduce the price or replace the effective products or return the purchase price, whichever is preferable to us.
- 11.3. We are only liable subject to mandatory law, currently for act of gross negligence and intent. Other claims of whatever nature, under whatever title, in particular, claims for compensation of indirect damage or consequential damages, lost profit or several losses, which arise by the buyer or a third party are expressly excluded. In cases the buyer is claimed by third parties the buyer will hold us harmless against these claims.

12. Product Liability

Relevant claims against us for compensation, by the contract or third parties under the heading "product liability" in accord with the product liability law, are excluded, unless those entitled to compensation prove that the fault was caused within our sphere of responsibility, and that it was at least caused by serious negligence.

13. Reservation of Ownership

- 13.1. Until the full discharge of all financial obligations including interest and costs of the buyer towards us, we reserve the right of ownership to the goods we supply. The buyer may further process or re-sell the goods, which are subject to retention of title by us, in the normal course of business; provided, however, that pledging or protective conveyance of the goods may only be made upon prior written approval from us. Our retention of title shall also extend to such products as may result from further processing of the goods. By processing, mixing or reconstructing the joint product with other products, not our property, we gain shared ownership of the resultant product in proportion of the monetary value of the joint product and other component products at the time of processing. It is the duty of the buyer to store and control the resultant product with appropriate care.
- 13.2. The buyer hereby assigns to us now, in the event of resale, all debts including all ancillary rights and collateral security, accruing to him in respect of his buyers from the resale of the purchased goods, and we hereby accept the assignment. The buyer, upon demand, shall disclose to us the names and addresses of his buyers as well as the accounts receivable and amounts due resulting from such sales.

Unless revoked by us and without prejudice to our sole title in the assigned receivables, the buyer may collect the receivables assigned to us in his own name, but for our account.

14. Legal Succession and Assignment

Orders are binding for the legal successor of the buyer or the seller. The rights and obligations as determined in the Agreement and these General Terms and Conditions may not be assigned by either the buyer or us without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The above mentioned will not apply in case of assignment by the buyer or us to its legal successor(s). Such an assignment will be valid upon the notification of other party in writing (including e-mail).

15. Place of Fulfilment, Applicable law

15.1. The place of performance is agreed to be the place of the EKR-GROUP which delivers the products, even when the transfer of the products is carried out at another place.

15.2. Place of jurisdiction for all disputes arising out or in connection with a contract or agreement is at our option the appropriate court with jurisdiction for the respective EKR-GROUP or the registered business address of the buyer.

15.3. These General Terms and Conditions and all contracts and agreements shall be governed by and interpreted in accordance with the material law of the respective EKR-GROUP.

16. Arbitration

All disputes arising out of or in connection with this General Terms and Conditions or a contract or agreement shall, if the buyer's registered seat is outside of the European Union and nothing in the contrary is agreed in written form, finally settled according to the Rules of arbitration of the International Chamber of Commerce (Paris) by one or more arbitrator(s) appointed with the said Rules. The Place of arbitration shall be Bratislava, Slovakia.

17. Salvatorius Clause

In the event that one of the provisions should, for whatever reason, be void or invalid, this shall not affect the validity of the other provisions. The contracting parties undertake to replace the invalid regulation with a valid one which comes closest to the economic intent of the invalid regulation.