

Purchase Conditions - English

We do business based on our General Conditions of Purchase.

1. General

The following conditions of purchase alone apply to our purchase orders and transactions. In the event that the supplier's sale conditions deviate from the following conditions, the supplier's conditions shall only be deemed as accepted if they are confirmed in writing by us. The unconditional acceptance of deliveries and services or payment for these deliveries and services does not constitute consent to the supplier's sale conditions. Our 50 010 works standard also applies to the purchase of production materials.

2. a) Purchase order/order confirmation

Our purchase orders must be issued in writing. They are valid without a hand-written signature provided a comment to that effect is included on the order form.

The supplier is obligated to accept the purchase order in the same way within 2 weeks. After this period, we are entitled to revoke the purchase order.

All conditions, specifications, standards and other documents enclosed with or listed in the purchase order are part of the purchase order.

The supplier must consider the purchase order a business secret and treat it confidentially. The supplier is liable for all damages that we may incur as a result of violation of the aforementioned obligation.

b) Framework agreement

Where a written framework agreement exists with the supplier regarding specific deliverables, we waive the requirement for an order confirmation in purchasing or requesting these deliverables. Individual purchase orders within the framework agreement become valid if the supplier does not reject them within 5 business days of receipt. An order confirmation that deviates from the purchase order only becomes valid if we confirm it in writing. Requests in accordance with the agreed delivery schedule do not require any confirmation.

c) Requirement planning

The quantities specified in the delivery schedule for the first 3 months are released for production. The quantities up to the 6th month are used for material planning only. In the event of cancellation for technical or other reasons, the supplier can demand that we assume the material costs for transfer of the material if the supplier demonstrates that the purchase of the material was necessary in order to adhere to the delivery schedule and that an alternative use is not possible. The assumption of further costs is excluded.

d) Remote data transfer

If a remote data transfer link is set up to the supplier, the requirement for a written form is waived for the purchase orders/requests specified under point b). However, any legally binding declaration that deviates from or supplements the framework agreement must be provided in writing.

Changes to the deliverable

If we request a change to the deliverable, the supplier must inform us immediately in writing of any higher or lower prices and effects on the delivery schedule, and provide evidence of these changes.

Force majeure

Production disruptions due to unavoidable events (force majeure, e.g. strikes) entitle us to withdraw from purchase orders; if we do not withdraw from the purchase orders, all events for which we are not responsible and which prevent us from being able to accept shall prolong the delivery and payment times in accordance with the length of the delay.

Delivery time

Agreed delivery dates and deadlines are binding. If the supplier is responsible for exceeding these deadlines, the supplier shall be deemed to be in arrears without further notice. The supplier must inform us immediately of any foreseeable delays to deliveries.

In the event of a delay to delivery, we are entitled to statutory claims, especially regarding compensation for damage we incur as a result of said delay. Additional costs, particularly in the case of necessary expenses for coverage purchases, shall be borne by the supplier. The unconditional acceptance of the late delivery does not constitute a waiver of claims to compensation.

Delivery

The supplier must specify the purchase and order number in all correspondence relating to a purchase order. All shipping documents must include the details specified by us, in particular the order number, order line, commission number, schedule number, dimensions, quantities and weight per line. Costs incurred through failure to comply with our shipping requirements must be borne by the supplier. Unless proven otherwise, the values ascertained during our goods receipt inspection prevail in relation to the number of items, weights and measurements.

Unless agreed otherwise in writing, all deliveries shall be carried out ex works.

Partial deliveries shall be subject to our approval and shall be marked as such in the shipping documentation.

The deliveries shall be suitably packaged and shipped in accordance with the general regulations regarding haulage and shipping. We are not responsible for costs related to transportation insurance and packaging. Where the supplier is obligated to take the packaging back in accordance with packaging legislation, the supplier shall assume the costs for the transportation and further processing of the packaging.

Invoicing and payment

The supplier shall submit the invoice for each delivery or service separately to the actual delivery. The wording on the invoice must match the wording on the order and must bear our order number. The exact designation of our ordering department and the date of the order must be indicated on the invoice. Invoices not bearing this information shall be returned and do not bring about any due date for payment. The invoice payment period commences on the business day following receipt of a proper, verifiable invoice or delivery of the goods or service, whichever is later.

The payment shall be made at our discretion within 30 days after receipt of the invoice, notwithstanding our right to lodge a complaint at a later date. In the event of an early acceptance of deliverables, the payment period shall begin on the delivery date specified in the purchase order or on the date of invoice — whichever is later. For works agreements or contractually agreed acceptances, the payment period shall not begin before acceptance.

In the event of defective delivery, we are entitled to withhold payment until proper delivery completion, without loss of rebates, discounts or similar payment privileges.

Liability for defects, inspections for defects, quality testing

The supplier carries full responsibility for ensuring that the deliverables are free from material defects and defects of title.

We are entitled to perform recognised spot checks on the deliverables in the regular course of business. The supplier waives the right to raise any objections to the delayed filing of a complaint if notified of a defect discovered in the stated procedure immediately or if notified of a previously undiscovered defect immediately after its discovery.

Where no other written agreement has been made, claims with respect to defects will become time-barred 24 months after commissioning/using the end product.

We are entitled to the statutory claims for defects in full. At our discretion, the supplier shall make an improved delivery or provide a replacement without charge. The supplier is entitled to a maximum of two attempts to provide satisfactory supplementary deliveries. If following our notification of defects the supplier is unwilling or unable to provide satisfactory supplementary deliveries as quickly as is needed to prevent unreasonably high damages, we have the right to rectify the defect ourselves or have it rectified by third parties, and to claim compensation for the necessary costs and expenses. The same shall apply when the supplier has not rectified the defect or fault and a reasonable deadline as specified in our written notification has expired.

We may assign claims arising from liability for defects to other companies within the KION Group.

Quality assurance, product safety

The supplier undertakes to inform us in due time before delivery of any changes to production procedures, material or supply parts for the deliverables, relocation of production facilities or changes to procedures or equipment related to inspection processes for the deliverables or any other measure that may affect the quality and/or safety of the deliverables. Changes to the agreed specifications may only take effect with our approval.

All changes made to the deliverables and all product-related changes in the process chain shall be documented in a product history. Items to be documented include drawing modifications, deviation permissions, procedural changes, changes in testing methods and frequencies, changes in supplier, supply parts and consumables. The product history documentation must be disclosed to us on request.

Product liability

1. In case any claim is made against Cream or its subsidiaries by a customer or other third party on the basis of product liability, the supplier shall indemnify us from such claims insofar as the damage is caused by a defect in a deliverable. The supplier bears all costs and expenses in these cases, including legal costs.

Intellectual property rights

1. The supplier assures that no intellectual property rights of third parties are violated in relation to its delivery. If a third party makes a claim against Cream due to such a violation, the supplier must indemnify Cream from all claims and bear all costs and expenses in relation to the claim.

Rights to documents, models etc.

1. Supplied documents, data, data processing information, software, materials, type-related tools or devices and objects (e.g. samples, models) — hereinafter referred to as "Material" — that we provide to the supplier in order for the supplier to carry out an order remain our property and must be handled and maintained carefully by the supplier and insured at our request. All rights pertaining to these, with the exception of order-related rights of joint use, belong solely to us. Without our written consent, the material must not be used for purposes other than the order-related purposes, and must not be reproduced or made available to third parties. Products produced using this material to our specifications or products in the development of which we have been involved must only be supplied to third parties with our written consent.

If the supplier purchases such material from us or from third parties especially to carry out our order, the regulations stated in paragraph 1 sentences 3 and 4 apply respectively, provided that we will finance the investment and/or that there is an option that allows or obliges us to purchase the material at the very latest after the order has been carried out. The same also applies if the material is the property of the supplier, but if our expertise is entailed or embodied in the material or in products to be manufactured using the material.

Data protection

1. The supplier agrees that we may store on our electronic data processing equipment data relating to the supplier and relating to contracts concluded with it and that we may use such data only for our own purposes.

Applicable law

Dutch law shall apply, with the exception of conflict-of-law rules, the Hague Convention on the Law Applicable to International Sale of Goods, the UN Convention on the International Sale of Goods (CISG) and other conventions.

Venue and place of fulfilment

The venue and place of fulfilment is the registered office of our ordering company.