



## General Terms and Conditions (General T&Cs)

### Preliminary remarks / Scope of application

These General Terms and Conditions (hereinafter General T&Cs) of KREBS & RIEDEL Schleifscheibenfabrik GmbH & Co. KG, Bremer Str.44, 34385 Bad Karlshafen (hereinafter "we", "us" or "ourselves") apply exclusively to companies within the meaning of Section 14 of the *Bürgerliches Gesetzbuch (BGB)* (German Civil Code) i.e. natural persons or legal entities, which, in respect of the purchase of goods, are acting in the performance of their commercial or independent professional activities (hereinafter referred to as "Purchaser").

These General T&Cs apply exclusively to all contracts concluded between ourselves and the Purchaser concerning the delivery of goods. Differing terms and conditions of purchase or other differing terms and conditions of the Purchaser shall not apply unless we have expressly acknowledged them in writing. Our silence regarding such differing terms and conditions or the acceptance of payments by the Purchaser shall in particular not be deemed consent, also not in the case of future contracts or within the framework of individual purchase orders.

These General T&Cs shall also apply to all future transactions with the Purchaser, insofar as these are legal transactions of a related nature.

### Art. 1 Quotations and conclusion of contracts

1.1 Our quotations are subject to change and are not binding, unless a binding period is specified in our quotation. An order is accepted only when all technical details have been clarified and it has been confirmed by us in text form (order confirmation). We can accept/confirm purchase orders of the Purchaser within a period of up to 2 weeks. In all other cases, the contract shall be concluded by delivery of the goods. If an order confirmation is provided, this alone shall govern the content of the contract, in particular the scope of delivery and date of delivery.

1.2 Information on dimensions and weights contained in our printed material, as well as illustrations and general descriptions, are not binding for the final form of execution of our deliveries. The dimensions and qualities specified in the order confirmation, having regard to the relevant European and international standards, alone are decisive. The Purchaser is responsible for the documents provided by it (drawings, templates, samples etc.).

1.3 We shall only be obliged to deliver from our own stock (obligation to deliver from stock). The assumption of a procurement risk or a procurement guarantee must be expressly given in text form.

1.4 Estimates of cost, drawings and other documents provided by us shall remain our property and are subject to our copyright. They may not be made accessible to third parties without our prior written consent.

### Art. 2 Prices and payment

2.1 Our prices are quoted in EURO net, ex works (EXW Incoterms 2010), i.e. excluding packaging and excluding the respectively applicable statutory value added tax. The packaging shall become the property of the Purchaser. Any customs duties, charges, taxes and other public charges, unless otherwise agreed in writing, shall also be borne by the Purchaser.

2.2 Payments shall be due net within 30 days of the invoice date. Payment periods shall be deemed met if the amount is at our disposal within the period. Default interest of 9 percentage points above the respectively valid base interest rate shall be charged. The right to assert higher damage caused by default is reserved.

2.3 Deliveries to Purchasers unknown to us shall entitle us to modify the terms of payment, in particular to obtain advance payment.

2.4 Any deterioration in the Purchaser's solvency that becomes known to us, failure to grant a trade credit insurance limit or any delay in payment, also from other contracts, shall entitle us to demand the immediate payment of outstanding claims or to obtain advance payment from the Purchaser.

2.5 The Purchaser shall have no right of retention unless it is based on the same contractual relationship. Set-off against disputed claims or claims which have not been recognised by declaratory judgment shall be excluded. We shall have the right to avert the exercise of a right of retention by provision of security, also by guarantee.

### Art. 3 Delivery time and quantity, force majeure, excess and short deliveries

3.1 Delivery dates shall be stated by us in calendar weeks (Week) and shall mean, unless otherwise agreed with the Purchaser in text form, that the goods shall be made available by us for collection in that Week. Delivery dates specified by us shall be deemed to be only approximate and non-binding, unless a fixed delivery date has been agreed in text form. Delivery dates shall not commence until the date of receipt of our order confirmation by the Purchaser. Delivery dates shall be extended by the period during which the Purchaser is in default with its contractual obligations (e.g. provision of necessary documents, approvals, releases etc.).

3.2 Partial services and partial deliveries shall be admissible to a reasonable extent and having regard to the Purchaser's interests. Admissible partial deliveries shall be treated as individual orders in respect of performance and terms of payment.

3.3 If, for reasons for which we are not responsible, we do not receive a delivery from our subcontractors for us to provide contractual deliveries which are due from us, despite proper and sufficient stocking in terms of quantity and quality, correctly or in due time, or events of force majeure occur of significant duration (i.e. of longer than 14 calendar days), we shall notify the Purchaser in text form in due time. In such case, we shall have the right to postpone the delivery for the duration of the obstruction or to rescind the contract in whole or in part for that part not yet fulfilled if we have met our foregoing information obligation and have not assumed a procurement risk. Strikes, lock-outs, official intervention, energy shortages and shortages of raw materials, transport bottlenecks through no fault of our own, company obstructions through no fault of our own, e.g. due to fire and water damage, and damage to machinery, and any other obstructions which, when considered objectively, were not culpably caused by us, shall be deemed equivalent to force majeure.

3.4 If a delivery date has been agreed with binding force and the agreed delivery date is exceeded as a result of events in accordance with para. 3.3 above, the Purchaser shall have the right, after a reasonable extension of time has elapsed without effect, to rescind the contract for that part not yet fulfilled. Further claims by the Purchaser, in particular claims for damages, shall be excluded in such case if we have met our foregoing information obligation.

3.5 Delivery of call orders must be taken in full within 12 months of order placement, unless otherwise agreed in writing.

3.6 The delivery quantity may exceed or fall short of the order quantity by an appropriate number of items corresponding to the usual production tolerances and requirements but by a maximum of 10%.

### Art. 4 Passing or risk

4.1 The risk of accidental loss and accidental deterioration of the goods shall pass to the Purchaser, also in the case of partial deliveries, at the latest when the delivery item is made available for collection by the Purchaser, a forwarding agent, carrier or third party otherwise designated to carry out the shipment.

4.2 If the delivery or service is delayed due to circumstances, for which the Purchaser is responsible, or if the goods are shipped at the Purchaser's request at a later date than the agreed delivery date, the risk shall pass to the Purchaser upon notification that the goods are ready for shipment. In addition, we shall have the right in the above-mentioned cases to store the goods at the Purchaser's risk of loss and deterioration of the goods and to invoice the costs incurred for this at 0.5% of the net invoice amount of the stored goods for each full week or part thereof. The stored goods shall be insured only at the Purchaser's specific request at its expense. This shall not affect the assertion of further rights. The right is reserved for the Purchaser to prove that no costs or substantially lower costs (more than 10% lower) have been incurred.



### Art. 5 Retention of title

5.1 We shall retain title to the goods sold until all our present and future claims arising from the purchase contract and a current business relationship (secured claims) have been paid in full.

5.2 The goods subject to retention of title may not be pledged to third parties nor assigned as security until the secured claims have been paid in full. The Purchaser must notify us immediately in writing if and to the extent that third parties access the goods belonging to us.

5.3 In the event of the Purchaser's conduct in breach of contract, in particular non-payment of the purchase price due, we shall have the right to rescind the contract in accordance with statutory provisions and to reclaim the goods on the basis of retention of title and rescission. If the Purchaser fails to pay the due purchase price, we may assert such rights only if we have previously set the Purchaser a reasonable period for payment without effect or if such setting of a deadline is irrelevant in accordance with statutory provisions.

5.4 The Purchaser is authorised to resell and/or process goods subject to retention of title in the ordinary course of business. In such case, the following provisions shall apply in addition:

5.5 The Purchaser herewith assigns to us now as security all claims against third parties arising from the resale of the goods resp. in the amount of our co-ownership share, if any, pursuant to para. 5.1 above. We accept the assignment. The obligations of the Purchaser stated in para. 5.2 shall also apply in relation to the assigned claim.

5.6 The Purchaser remains authorised in addition to ourselves to collect the claim. We undertake not to collect the claim as long as the Purchaser meets its payment obligations towards us, is not in default in payment, no application has been made to institute insolvency proceedings and there is no other deficiency in the Purchaser's ability to pay. If this is the case, however, we can require the Purchaser to inform us of the assigned claims and their debtors, to provide all information necessary for collection, to deliver the related documents and to notify the debtors (third parties) of the assignment.

5.7 If the value of the securities exceeds our claims by more than 10%, we shall release securities of a corresponding amount at our option at the Purchaser's request.

### Art. 6 Warranty

6.1 Statutory provisions shall apply to the Purchaser's rights in the event of material defects and defects of title (including incorrect delivery and short delivery), unless otherwise stipulated below.

6.2 The basis of our liability for defects is the agreement reached concerning the quality of the goods. Our product descriptions, designated as such, which were provided to the Purchaser prior to its order or included in the contract in the same way as these General T&Cs shall be deemed the agreement concerning the quality of the goods.

6.3 If the quality has not been agreed, the goods shall be free from material defects if they are suitable for the use provided for in the contract. Furthermore, the goods shall also be free from material defects if they have the properties which the Purchaser can expect in accordance with the product description given by us. In this regard, it shall suffice if the product description was provided to the Purchaser after conclusion of the contract (in particular together with the goods). However, we assume no liability for public statements made by other manufacturers or other third parties (e.g. statements in advertisements).

6.4 No warranty shall be given for application defects which have arisen as a result of carelessness, incorrect handling or natural wear and tear. Such a warranty can be derived neither from our information documents nor instructions for use, nor from oral customer service advice. The Purchaser resp. user of our grinding wheels must rather in any case satisfy itself of the possible use of the grinding wheels supplied for the application area intended by the Purchaser resp. user.

6.5 The Purchaser's claims for defects require that the Purchaser has complied with its statutory obligations to inspect and give notice of defects (Sections 377, 381 HGB [German Civil Code]). If a defect becomes apparent during the inspection or later, we must be notified of this immediately. Every notification must be made in writing. Negotiations concerning any notices of defects shall not constitute our waiver of the objection that the notice was not timely, objectively unfounded or otherwise insufficient. If the Purchaser fails to make such notification, the goods shall be deemed to have been approved, unless it is a defect which was not recognisable during the inspection. In addition, Section 377 et seq. HGB shall apply.

6.6 Obvious damages sustained during transport or other defects already recognisable upon delivery must also be confirmed by the deliverer's signature on the respective transport document when delivery is accepted. The Purchaser shall ensure that a corresponding confirmation is provided.

6.7 If the delivered item is defective, we can first choose whether to provide supplementary performance by remedying the defect (rectification) or by delivering an item free from defects (replacement delivery). Our right to refuse the selected type of supplementary performance subject to statutory requirements shall remain unaffected. We shall bear the expenses necessary for the purpose of supplementary performance, in particular transport, travel, labour and material costs. In the event of a replacement delivery, the Purchaser must return the defective item to us in accordance with statutory provisions.

6.8 If supplementary performance has failed or a period to be set by the Purchaser for supplementary performance has expired without effect or is irrelevant in accordance with statutory provisions, the Purchaser can rescind the purchase contract (rescission) or reduce the purchase price (reduction). However, a right of rescission shall not exist in the case of a negligible defect. Upon declaration of rescission resp. reduction, the Purchaser's claim to delivery of an item free from defects shall not apply.

6.9 Claims for defects shall become statute-barred within one year after the risk passes pursuant to Art. 5 of these General T&Cs. This shall not apply in the cases pursuant to para. 7.2 of these General T&Cs. In such case, statutory time limits shall apply.

6.10 The Purchaser's claims for damages resp. compensation for wasted expenditure shall exist only in accordance with Art. 7.

### Art. 7 Liability

7.1 Unless otherwise stated in these General Terms and Conditions, including the provisions set forth below, we shall not be liable, in the case of violation of contractual and non-contractual obligations, for claims by the Purchaser for damages or for reimbursement of expenses, for whatever legal reason, and/or in the case of violation of obligations arising from the purchase contract and from tort.

7.2 The above exclusion of liability shall not apply

- aa) in the case of own intentional or grossly negligent breach of duty and intentional or grossly negligent breach of duty by our legal representatives or vicarious agents;
- bb) in the case of violation of material contractual obligations; material contractual obligations are obligations, the fulfilment of which defines the contract, and on which the Purchaser may rely;
- cc) in the event of injury to life, limb and health, also by legal representatives or vicarious agents;
- dd) in the case of default if delivery and/or service by a fixed date was agreed;
- ee) where we have assumed a guarantee for the quality of the goods or the existence of an outcome of performance or a procurement risk;
- ff) in the case of liability under the *Produkthaftungsgesetz* [German Product Liability Act] or other mandatory statutory basis for liability.

7.3 In the event that we or our vicarious agents are responsible only for slight negligence and none of the cases in aa), cc), dd), ee) and ff) of para. 7.2 above exist, our liability shall be limited in amount, also in the case of violation of material contractual obligations, to the foreseeable damages typical for the contract at the time the contract was concluded.

7.4 Any further liability shall be excluded.

7.5 Exclusion resp. limitation of liability pursuant to para. 7.1 to 7.4 above and para. 7.6 shall apply to the same extent for the benefit of our executive and non-executive employees and other vicarious agents as well as subcontractors.

7.6 If the Purchaser is entitled to claims for damages in accordance with this Art. 8, these shall become statute-barred upon expiry of the limitation period pursuant to para. 6.9 of these General T&Cs unless there are mandatory statutory limitation periods to the contrary, such as in the case of recourse against suppliers pursuant to Section 445b BGB. Para. 8.2 of these General T&Cs shall apply *mutatis mutandis*.

7.7 There is no connection between the reversal of the burden of proof and the foregoing provisions.



### Art. 8 Export control / Product approval / Import regulations

8.1 In the absence of any contractual agreements to the contrary with the Purchaser, the delivered goods are intended for placement on the market for the first time within the Federal Republic of Germany or, in the case of delivery agreed outside the Federal Republic of Germany, to the agreed country of first delivery (*first country of delivery*).

8.2 The export of certain goods by the Purchaser from there can be subject to authorisation e.g. because of their nature or their intended purpose or final destination. The Purchaser itself shall be obliged to check this and to comply strictly with the relevant export regulations and embargos for such goods, especially of the European Union (EU), Germany resp. other EU Member States and, if applicable, the USA or Asian or Arab countries and all third countries concerned, if the Purchaser exports the goods supplied by us or has them exported.

8.3 The Purchaser shall in particular check and ensure, and, at our request, provide proof to us that it complies with applicable export and import control regulations of the Federal Republic of Germany, the European Union and the United States of America (USA) as well as all other relevant regulations and, for example, that the goods provided are not intended for use in armaments, nuclear facilities or weapon technology and are not supplied to companies and persons specified on the Denied Persons List (DPL) or the Warning and Terrorist List of the USA, the EU or other third countries concerned.

8.4 Goods supplied by us may only be accessed and used if the above-mentioned checks and assurances have been carried out resp. provided by the Purchaser; otherwise the Purchaser must refrain from carrying out the intended export and we shall not be obliged to perform.

8.5 Where goods supplied by us are passed on to third parties, the Purchaser undertakes to oblige such third parties in the same way as specified in para. 8.1 to 8.4, and to notify them of the need to comply with these legal provisions.

8.6 The Purchaser shall at its expense ensure, where delivery outside the Federal Republic of Germany is agreed, that the goods to be supplied by us comply with all national import regulations of the first country of delivery, unless we have expressly assumed this obligation.

8.7 The Purchaser shall indemnify us against all damages and expenses resulting from the culpable violation of the foregoing obligations pursuant to para. 8.1 to 8.5.

### Art. 9 Data protection

9.1 The Purchaser's data necessary for order processing shall be processed and stored pursuant to the *Bundesdatenschutzgesetz* ("BDSG") [German Federal Data Protection Act] and the General Data Protection Regulation ("GDPR"). All personal data of the Purchaser shall be treated confidentially. The Purchaser shall have a right to access and a right to rectification, blocking and erasure of the data stored.

9.2 We refer in addition to our Privacy Policy, which can be found at <https://www.krebs-riedel.de/> under the "Privacy Policy" tab.

### Art. 10 Choice of law and place of jurisdiction / Arbitration tribunal, text form

10.1 These General T&Cs and all legal relationships between ourselves and the Purchaser shall be governed by the law of the Federal Republic of Germany, to the exclusion of all international and supranational (contractual) legal systems, in particular the UN Sales Convention (CISG).

10.2 All disputes between ourselves and the Purchaser arising from and in connection with these General T&Cs shall be settled exclusively, at our option, either before an ordinary court of law (local or regional court) having jurisdiction in Bad Karlshafen / Federal Republic of Germany or, in accordance with the following provisions, an arbitration tribunal in accordance with the following provisions. In the event of litigation as defendant, i.e. the assertion of claims by the Purchaser against ourselves, we shall be obliged to inform the Purchaser of our choice of competent court (ordinary jurisdiction or arbitration tribunal) at any time upon first request but in any case before the Purchaser takes legal action. In the event that the arbitration tribunal is chosen, a final decision on the disputes shall be made according to the Arbitration Rules of the International Chamber of Commerce (ICC). The arbitration tribunal shall comprise three arbitrators, whereby one arbitrator shall be designated by each party and the two arbitrators designated by the parties shall then jointly appoint a representative as third arbitrator. An arbitration award made can, on application of a party, be declared enforceable by the competent national court. There is no appeal against the award of the arbitration tribunal. The award shall also include a decision on the costs of the proceedings including the remuneration of the arbitrators. Place and place of jurisdiction of the arbitration tribunal is Frankfurt-on-Main, Germany. The arbitration proceedings shall be conducted in English.

10.3 Amendments to and modifications of these General T&Cs or contracts concluded under these General T&Cs shall only be valid when given in text form. This shall also apply to the requirement of text form itself. The precedence of an individual agreement pursuant to Section 305b *BGB* shall remain unaffected by this.

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