



General Terms and Conditions of Business – MAPAL Dr. Kress KG (Purchasing)

1. Scope of application

- (1) All contractual agreements concerning the delivery of already existing movable objects or movable objects that are to be manufactured or produced, the transfer of rights or the delivery of other objects to us (collectively referred to here as 'purchasing deals') will be concluded by us exclusively on the basis of the following terms and conditions of purchase.
- (2) Terms and conditions of the Supplier that deviate from or go beyond our own terms and conditions (especially as formulated in the Supplier's General Terms and Conditions of Business) shall not form part of the contractual agreement except with our express written consent. No actions of ours (such as acts of acceptance or payment) associated with execution of the contract may be taken as a basis for presuming our consent to conditions deviating from our own terms and conditions of purchase.
- (3) Our Terms and Conditions of Purchase shall likewise apply, in the most recent valid version, to all future purchasing deals, provided that deals of the same nature are in question.
- (4) Our Terms and Conditions of Purchase apply to all companies of the German MAPAL Group, unless agreed to the contrary. A list of the associated companies of the MAPAL Group may be found on our website.

2. Conclusion of contractual agreements, contractual modifications

- (1) All declarations relating to the conclusion of a contractual agreement require to be expressed as a minimum requirement in written form, in accordance with the provisions of § 126b BGB [the German Civil Code]. The same shall hold good for any later modifications or additions. Oral agreements of any kind – including subsequent modifications and additions – shall only be binding when confirmed by us in writing. Implied contractual agreements are fundamentally excluded.
- (2) We remain bound by our offer to conclude a purchasing deal (order) for a period of 2 weeks from the dispatch date. Requests for delivery based on order and delivery planning will become binding if the Supplier does not decline the order within three working days from the date of receipt.
- (3) Any documentation handed over to the Supplier in connection with the order (for example technical drawings, other technical documents, samples or models) remains our property and exclusively subject to our rights of disposal and use. The documentation must be returned to us promptly, if the Supplier does not accept our order within the deadline specified in section 2 (2) above. The same shall hold good for software and software components handed over by us. As an alternative to the return of the software, deletion shall be a permissible option; the deletion must be confirmed in writing.



- (4) Orders are to be promptly confirmed by the contractor. The order confirmation must show the order number. If the order confirmation has not been received by the ordering party within a period of 8 days, we reserve the right to cancel the order at no cost to ourselves.

3. Delivery dates and execution of the contract

- (1) The goods must be delivered duty paid (DDP in accordance with Incoterms® 2010) to the MAPAL works specified by us as the recipient; delivery and customs charges shall be at the cost and risk of the Supplier. Agreed dates and deadlines shall be regarded as binding. The definitive factor for meeting delivery dates and deadlines shall be the receipt of the goods at the works we have specified as the recipient. Acceptance of a delayed delivery shall not constitute a waiver on our part of any indemnification claims. This shall apply until the payment in full of the remuneration owed by us for the service in question.
- (2) In case of failure to observe agreed dates, the relevant statutory provisions shall apply. The Supplier shall be obliged to notify us promptly in writing if circumstances occur or become detectable from which it appears that the agreed dates can no longer be adhered to. In this connection the Supplier shall state the reason and the likely duration of the delay. Partial deliveries shall not be regarded as complying with an agreed deadline under the terms of this section, except where expressly agreed to the contrary.
- (3) The Supplier may only appeal to the failure to receive documents which we were due to deliver when he has sent a written reminder, and still has not received the documents within a reasonable term. The obligation to adduce proof shall be incumbent on the Supplier. Proof must be submitted in writing against submission of appropriate documentary evidence.
- (4) In relation to item quantities, weights and dimensions, the values determined by our incoming goods inspection and/or quality assurance departments shall be definitive (subject to reservation in respect of other forms of proof).
- (5) Only the amounts and item quantities that have been ordered will be accepted. Deliveries of excessive or reduced quantities shall only be permissible subject to prior agreement with us. If partial deliveries have been agreed, the outstanding quantity remaining should be stated.
- (6) Dispatch notices, package labels, delivery notes and invoices must include the order numbers and other identifying marks of our orders, as well as our material numbers where appropriate. The invoice must not be attached to the consignment.
- (7) Transport accessories and packaging must be taken back by the Supplier when requested by us, and are to be collected from the contractually agreed point of delivery.
- (8) The contractually agreed services are to be performed by the Supplier in person. Third parties may only be involved subject to our consent.



4. Force majeure

- (1) Force majeure, unavoidable operational disruptions, civil disturbance, intervention by the authorities and other inevitable occurrences of similar nature shall release us from the obligation of taking delivery punctually for as long as the conditions prevail. During such incidents and within two weeks from the time of their coming to an end we shall be entitled – without prejudice to any other entitlements – to withdraw from the contractual agreement either in whole or in part, provided that these incidents are of not inconsiderable duration and have made it impossible to take delivery of the goods, and MAPAL has consequently decided that it is necessary to procure the goods elsewhere. This regulation shall likewise apply in the case of labour disputes.
- (2) Claims on the part of the Supplier to counterperformance or indemnification are excluded in such cases.

5. Prices

- (1) The prices stated in the order are binding. They shall not be subject to any subsequent modification.

6. Terms and conditions of payment, offsetting and assignment

- (1) We pay invoices either within 14 days (a 3% discount being deducted) or within 30 days without a discount. This period shall start at the time when both the invoice and the goods have been received by us and/or the other contractually agreed services have been performed in full. Payments are made subject to reservation based on scrutiny of the invoice.
- (2) Payments do not imply any recognition that the delivery or service is in compliance with the terms of the contract. In cases of disrupted service we shall be entitled, until such time as the situation has been rectified, to withhold payment in whole or in part.
- (3) Claims on us may be offset against our claims only when the counterclaims are uncontested or have been established at law.
- (4) The Supplier's claims on us may only be assigned to another party with our express written consent.

7. Liability for defects

- (1) The Supplier hereby guarantees that the deliveries and services are in keeping with the agreed specifications, and not subject to any defects which cancel out or reduce their effectiveness for purposes of regular use or the use envisaged under the contract. The object of the service/delivery must conform to the present state of the art in terms of design and materials.
- (2) The Supplier shall be obliged to observe the laws, ordinances and regulations of the Federal Republic of Germany and those in force in the EU, and to carry out the service/delivery in



compliance with the technical regulations, standards and guidelines in force at the time of conclusion of the contractual agreement for the given order. The services and/or deliveries must in particular comply with the generally recognised rules of safety technology and occupational medicine, the relevant DIN and ISO regulations and regulations for the avoidance of industrial accidents, the relevant requirements of environmental conservation and the various legal ordinances promulgated in these areas. Regulations which must be complied with in particular include the EU directive on substances tending to depletion of the ozone layer (EC Directive 1005/2009), the EU directive on certain fluorinated greenhouse gases (EC Directive 842/2006), the EU directive on the registration, evaluation and authorisation of chemicals (REACH Directive, EC Directive 1907/2006), the EU directive on batteries and accumulators (Directive 2006/66/EC) and the currently applicable limiting values of the Restriction of Hazardous Substances directive (Directive 2011/65/EU). The Supplier further undertakes to ensure that the products or goods supplied meet all the labelling requirements of the relevant EU directive (EC Directive 1272/2008 – CLP Ordinance). In particular, non-EU suppliers are obliged to ensure that their contracting partner has registered the products or goods supplied in the appropriate classification and labelling directory in accordance with articles 39–42 of the CLP Ordinance.

- (3) When submitting a sample, the Supplier hereby guarantees that the quality of the goods shall be at least in keeping with the properties of the sample in respect of materials, processing, product characteristics and shelf life.
- (4) Changes in the nature or the composition of the processed materials or in the execution of the design, as compared with earlier deliveries and services of similar nature, must be communicated to us before the start of manufacturing, and shall be subject to our consent. It follows that we are not obliged to investigate deliveries and services after receipt to attest similarity.
- (5) We carry out the scrutiny of incoming goods only in respect of evident defects, damage occurring during transport, completeness of the delivery and identity of the goods. Scrutiny will be carried out to the extent that it is possible and as soon as it becomes possible in the context of regular business operations; the Supplier may receive notifications in this connection from us at any time. Defects that are discovered will be pointed out immediately. Consequently the Supplier waives the objection based on late notification of deficiencies.
- (6) We shall be entitled to standard statutory claims based on deficiencies without any restriction or qualification. In each such case we shall be entitled to call on the Supplier either to rectify the defect or to supply a new article, at our own discretion. We expressly reserve all rights to indemnification, in particular to the right to indemnification in addition to performance of the service agreed.
- (7) Claims based on defects – on whatever legal grounds – shall be subject to a statutory term of limitation 36 months after delivery has taken place. Longer contractually agreed or statutory terms of limitation remain unaffected thereby.
- (8) If the Supplier meets the obligation of subsequent fulfilment through the delivery of replacement goods, the term of limitation shall recommence for the replacement goods delivered from the time of their delivery, unless the Supplier has expressly and pertinently reserved the right, in the context of subsequent fulfilment, of effecting delivery of the replacement goods only as a courtesy to the customer.



- (9) If the Supplier fails to comply with our request to rectify the defect by taking prompt action to this end, in urgent cases (especially with a view to the obviating of acute hazards and/or avoidance of a disproportional degree of damage) we shall have the right to take steps ourselves or ask third parties to carry out the work, in either case at the cost of the Supplier.
- (10) If, as a result of the delivery of contractually agreed goods subject to deficiencies, costs have been incurred (in particular transport costs and tolls, costs of labour and materials or costs associated with a more detailed scrutiny of incoming goods than is customary), these costs shall be the responsibility of the Supplier.

8. Product liability

- (1) In case claims based on product liability should be brought against us by a customer or other third party, the Supplier shall be obliged to release us from any such claims in so far as and to the extent that the damage has been occasioned by a defect in the product delivered by the Supplier and the Supplier is directly liable in relation to third parties. In a case of fault-based liability, on the other hand, this shall only apply when a fault may be imputed to the Supplier.
- (2) In such cases the Supplier shall be responsible for any associated costs and expenses, including the costs of any legal proceedings or product recall campaigns. We will notify the Supplier, so far as is possible and may reasonably be expected, of the content and scope of the product recall campaign that is to be carried out, and give him the opportunity of stating his position. Other legal claims remain unaffected thereby.
- (3) The Supplier shall be obliged to take out adequate employer's liability and product liability insurance policies and maintain them in force for the duration of the contractual agreement, including the statutory term of limitation. If we are entitled to further indemnification claims, these shall be unaffected thereby. On being requested by us, the Supplier shall be obliged to submit to us a copy of the insurance policy currently in force. The same shall apply to the submission of copies of (current) payment instructions for the insurance premiums.

9. Industrial property rights of third parties

- (1) Delivery of the goods and exploitation of the goods by us must not violate the industrial property rights of third parties within the Federal Republic of Germany. We will notify the Supplier of any claims advanced by third parties. We will not acknowledge any such claims for our own part. Thus we empower the Supplier to take appropriate steps, in and out of court, for arriving at a composition with the third party in question.
- (2) In case of any fault-based violation of the industrial property rights of third parties, the Supplier will defend at his own cost against any claims brought against us by third parties and based on goods or services delivered by the Supplier to ourselves. The Supplier thus releases us from all claims based on the use of such industrial property rights, in so far as these may be laid to his account.
- (3) If exploitation on our part of the goods delivered shall be subject to restriction in view of existing industrial property rights of third parties, the Supplier shall be obliged either to obtain the requisite authorisation at



his own cost or to modify or replace the components of the delivery affected, in such a way that exploitation of the goods delivered shall no longer conflict with the industrial property rights of third parties, while at the same time the goods still continue to comply with the conditions of the contractual agreement.

10. Working operations on our plant premises

- (1) Persons who carry out work in connection with execution of the contract on our own plant premises shall be obliged to observe the stipulations of the applicable plant regulations and to comply with the instructions of the management personnel.
- (2) Any liability in connection with accidents on our plant premises is hereby excluded, provided that the accident be not occasioned by deliberate intent to harm or by gross negligence.
- (3) The matter of our plant regulations consists in the applicable safety directives. Observation of these within the plant is absolutely mandatory. Safety instructions issued by our employees or plant safety officers are binding on external service providers.

11. Supplied accessories

- (1) Substances, parts, containers and special packaging components supplied by us remain our property. They may only be used in accordance with the purpose envisaged. Where substances are processed or parts assembled, this shall be done on our behalf.
- (2) The Supplier hereby agrees that we remain co-owners in respect of the products created using our substances and components in the ratio of the value of the accessories provided to that of the product as a whole, which products will accordingly be held in safekeeping for us by the Supplier.

12. Confidentiality

- (1) Documentation and documents of all kinds which we make available to the Supplier (in the form of samples, technical drawings, models, data and the like), as well as all other items of information made available by us – to the extent that such information is not already a matter of public knowledge – may not be made accessible to third parties and are exclusively to be used for the purpose of execution of the joint contract.
- (2) Any violation of the obligation of confidentiality shall entitle us to give immediate notice of termination of the contractual agreement and to assert indemnification claims based on the damages occasioned thereby.
- (3) Products which have been manufactured based on documentation developed by us (in the form of technical drawings, models and the like) or based on our confidential data or which have been



made with our tools, or tools copied from our tools, may not either be used by the Supplier directly or offered or supplied to third parties.

13. MAPAL Dr. Kress KG – Supplier Code of Conduct

- (1) Along with all other companies of the German MAPAL Group, MAPAL Dr. Kress KG sees sustainability as constituting a crucial pillar of its business processes. As a technology group with high standards of technological expertise, we order raw materials, goods and services from suppliers all over the world, with a view to ensuring the sustainable success of our customers through innovative product and service solutions.
- (2) MAPAL expects of its suppliers that their activities shall comply with applicable national legislation as well as with the principles of the United Nations Global Compact. Our expectations of our suppliers, in particular, include the following specific points:
 - a. Compliance with the currently applicable national statutory provisions in respect of
 - i. fundamental labour rights
 - ii. remuneration and working hours
 - iii. standards of health and safety in the workplace
 - iv. environmental legislation, regulations and standards.
 - b. Avoidance and banning of any kind of child labour in the companies of our suppliers.
 - c. Prohibition of all forms of discrimination
 - d. Prohibition of all forms of slave labour
 - e. Prohibition of bribery and corruption (in particular, our suppliers must ensure that their employees, subcontractors and representatives do not offer, promise or grant any favours to MAPAL employees, or to third parties in a close relationship with them, with the objective of obtaining special privileges in business dealings)
 - f. We expect our suppliers to compete fairly and to have regard to applicable cartel legislation.
- (3) MAPAL Dr. Kress KG expects that its suppliers shall communicate the fundamental principles and requirements described above to their own subcontractors and suppliers, and have regard to these factors likewise in their choice of supplier. Our suppliers shall encourage their own subcontractors and suppliers to observe the standards just described in relation to human rights, working conditions, prevention of corruption and environmental conservation in the course of fulfilling their contractual obligations.

14. Place of fulfilment

- (1) The place of fulfilment is the MAPAL plant designated by us as the recipient of delivery.



15. Severability

- (1) If one or more of the provisions of the present General Terms and Conditions, or of the contract concluded with the Supplier, should prove to be ineffective either in whole or in part, the validity of the remaining provisions shall not be affected thereby. In so far as the ineffective provisions include an effective and appropriate component, the latter shall remain in force. The Supplier hereby undertakes to work with us to formulate an alternative provision, by way of replacement, which shall approximate as closely as possible to the economic results of the clause that no longer applies.

16. Applicable law, court of law

- (1) The contractual relationship with the Supplier shall be subject to German material law. Any application of the Hague Uniform Law for the International Sale of Goods, the UN Convention for the International Sale of Goods (CISG) and other conventions of international sales law is hereby excluded.
- (2) The German courts shall have exclusive international jurisdiction for any legal disputes. Exclusive local responsibility shall be vested in the courts of Aalen or those having jurisdiction for the given place of fulfilment.

Translator's Disclaimer

This text is a translation and as such is not legally binding. In case of doubt, the German original should be taken as definitive.