

# Kröner-Stärke GmbH General Conditions of Purchase (03/2022)

## § 1 General – Scope of the Agreement

(1) Our Conditions of Purchase are applicable to the exclusion of any others. We will not recognize a supplier's conditions which conflict with, or deviate from, our conditions of purchase, unless we expressly agreed in writing to accept their validity. Our Conditions of Purchase are applicable even if we accept the supplier's delivery without reservation and we were aware that the supplier's conditions conflict with, or deviate from, our Conditions of Purchase.

(2) All agreements between us and the supplier for the purpose of carrying out this contract are to be set out in writing in this contract.

(3) Our Conditions of Purchase are only applicable to transactions with entrepreneurs pursuant to § 310 paragraph 1 German Civil Code.

## § 2 Offer – Offer Documents

(1) We retain ownership rights to, and copyrights on, recipes, work procedures, illustrations, drawings, calculations and other documents.

(2) They may not be made available to third parties without our explicit written permission.

(3) They are to be used exclusively for the production related to our order. After the order is completed, they are to be returned to us without being requested to do so.

(4) They are to be handled confidentially regarding third parties; the provisions of § 9 (4) give further details.

## § 3 Price – Conditions of Payment

(1) The price shown in the order is binding. Unless there is a written agreement otherwise, the price includes delivery "free domicile" (our address), including packaging. There needs to be a separate agreement if the packaging is to be returned.

(2) Included in the agreed-upon price is the statutory value added tax and any transportation duties unless we have agreed in writing to something different.

(3) Our exact order number needs to appear on all invoices. If the supplier does not do this, we are not responsible for a delay in the processing [of the invoice], unless the supplier produces evidence that he was not responsible for the missing order number.

(4) Unless we agree in writing otherwise, we will pay the purchase price with a 2% discount within 14 days, calculated from the date of delivery and receipt of the invoice, or we will pay net within 30 days after receiving the invoice.

(5) We have the right to make setoffs and withhold payments as permitted by law.

## § 4 Delivery Schedule

(1) The time period for delivery shown in the order is binding.

(2) The supplier is obligated to inform us in writing without delay if circumstances occur or he becomes aware of circumstances which will result in him being unable to meet the agreed-upon delivery schedule.

(3) In case of a delay in delivery, we have the right to statutory claims. In particular, we have the right, if delivery does not take place within a reasonable time period, to demand damages, instead of performance, and rescission of the contract. If we demand damages, the supplier has the right to produce evidence that he was not responsible for the breach of duty.

## **§ 5 Passing of Risks – Documents**

(1) The delivery is to take place “free domicile” (free to our address) unless the parties have agreed in writing otherwise.

(2) The supplier is obligated to show our exact order number on all shipping papers and bills of delivery. If he does not do this, we are not responsible for a delay in processing.

## **§ 6 Inspection for Defects – Liability for Defects**

(1) We are obligated to inspect the goods within a suitable time period for any deviations in quality and quantity. A complaint about the deviation is timely if it is given to the supplier within five working days, calculated from the date the goods are received or, if the defects are hidden, calculated from the time they are discovered.

(2) We have full rights to all the statutory claims for defects. In any case we have the right to demand, at our option, that the supplier corrects the defect or that he delivers new goods. We expressly reserve the right to compensation for damage, in particular compensation for damages instead of performance.

(3) We have the right to correct the defect ourselves, with the supplier bearing the cost, if there is danger in delay or if there is a special urgent need.

(4) The statute of limitations runs for 36 months after the passing of risk, unless a different agreement about this is concluded.

## **§ 7 Product Liability – Warranty – Indemnity – Product Liability Insurance**

(1) To the extent that the supplier is responsible for product damage, he is obligated to identify us at the first request for claims for damages brought by third parties, since the cause is in his organization and area of control, and he is liable himself vis-a-vis third parties.

(2) If the supplier delivers products to us which are intended, either unprocessed or after processing with other products, to be sold as organic (labeled as coming from organic agriculture), the supplier warrants within his liability without fault that they are suitable for this and that, in particular, there is no reason to presume that statutory provisions were not met regarding permissible labeling of organic products.

(3) If the supplier provides us with agricultural or other products, for instance food additives or processing aids, which can be used in processing food, these are considered to be intended for use as food, unless we have expressly agreed otherwise in writing. Regarding these products, the supplier warrants that they conform to the legal provisions regarding food, so that we can use them for the production of food which may be sold in the member

states of the European Union and that they do not need to be labeled according to the GMO labeling regulations.

(4) If the supplier supplies us with machines or replacement parts, he is obligated to conform to statutory provisions, particularly the provisions regarding accident prevention, for use in our plant.

(5) Regarding his liability if there is a damage claim within the meaning of Paragraph 1 and 2, the supplier is also obligated to reimburse for expenses which are incurred by, or in connection with, a product recall which we carry out. We will inform the supplier of the content and scope of the recall measures, to the extent that it is possible and reasonable, and will give him an opportunity to comment. Our rights to other statutory claims are not affected.

(6) The supplier is obligated to maintain insurance with an insured amount €10 Million per claim, as a flat rate, which covers the obligations under Paragraph 1 – 5. If we have a right to further claims for damages, these remain unaffected.

## **§ 8 Protection Rights**

(1) The supplier guarantees that no third party rights within Federal Republic of Germany will be violated in connection with his delivery.

(2) If a third party raises a claim against us here, the supplier is obligated to indemnify us against these claims at the first written request. We are not entitled to enter into any agreement with the third party, in particular not reach a settlement agreement, without the approval of the supplier.

(3) The supplier's obligation to indemnify extends to all expenses which we were required to incur because of, or in connection with, a third party's claims.

## **§ 9 Reservation of Title – Provision of Material – Tools – Confidentiality**

(1) If we provide goods or parts to the supplier, we retain title. The supplier will process or alter our material for us. If our secured goods are processed with other objects which do not belong to us, we acquire co-ownership rights in the new items, corresponding to the value of our items (purchase price plus value added tax) in relationship to the value of the other processed items at the time of the processing.

(2) If the goods we provide are inseparably mingled with other items which do not belong to us, we acquire co-ownership rights in the new items, corresponding to the value of our items (purchase price plus value added tax) in relationship to the value of the other items at the time they were co-mingled. If the items of the supplier are considered the main ingredient in the co-mingled product, it is agreed that the supplier will transfer ownership to us on a pro rate basis; the supplier will hold safely for us the property owned exclusively by one owner or jointly.

(3) We retain ownership of the tools; the supplier is obligated to use them exclusively for processing the goods we ordered. The supplier is obligated, at his own cost, to ensure the tools at their replacement value against loss caused by fire, water and theft. The supplier also hereby assigns to us all of the claims to compensation arising from the insurance. We hereby accept the assignment. The supplier is obligated to carry out in a timely manner, at his own cost, all of the maintenance, inspections, upkeep and repairs needed for the tools. He is to inform us of any breakdown; if he negligently fails to do this, we preserve any right to bring claims for damages.

(4) The supplier is obligated to keep in strict confidence with all recipes, work procedures, illustrations, drawings, calculations and other documents and information. They may be disclosed to third parties only with our explicit approval. The confidentiality obligation continues to apply after this contract is terminated. It expires if and to the extent that the manufacturing knowledge contained in the illustrations, drawings, calculations and other documents handed over is recognized as common knowledge.

(5) Upon the request of the supplier, we will agree to release the security interests to which we are entitled under Paragraph (1) or (2) above, at our option, to the extent that their value exceed more than 10% of the purchase price of all of our secured goods not yet paid for.

## **§ 10 Jurisdiction – Place of Performance**

(1) If the supplier is a merchant, the court having jurisdiction is in the circuit where our place of business is located; we nevertheless have the right to bring legal action against the supplier in a court where he is domiciled.

(2) Our place of business is the place of performance unless this is changed with the order.

(3) It is deemed to be agreed upon that the law of the Federal Republic of Germany is applicable to the above provisions.

## **§ 11 Code of Conduct**

The Code of Conduct is a part of our Terms and Conditions of Purchase and can be viewed on our website [www.kroener-staerke.de](http://www.kroener-staerke.de).

## **§ 12**

If individual provisions of these Conditions of Purchase are or become invalid or are not practicable, the validity of the remaining provisions will not be affected.