

## General Terms and Conditions of Delivery

of

**KATHREIN Broadcast GmbH**  
**Ing.-Anton-Kathrein-Str. 2**  
**83101 Rohrdorf**  
**Germany**

(hereinafter referred to as "Supplier")

for use in business transactions with companies.

### **1. Scope of application**

- 1.1. Deliveries and services by the Supplier shall be provided exclusively in accordance with the following general terms and conditions of delivery, unless otherwise agreed in individual contracts.
- 1.2. The application of any general terms and conditions (such as conditions of purchase) of the Customer, in particular an exclusion of the retention of title and a interdiction of offsetting counterclaims, is hereby expressly contradicted, irrespective of whether such general terms and conditions are part of orders, order confirmations, specifications or similar documents. The Customer waives all other rights that would enable him to invoke his general terms and conditions. Any deviations shall require the Supplier's written confirmation.
- 1.3. This document, together with all other documents agreed between the Supplier and the Customer, constitutes the entire and exclusive agreement between the parties with respect to the delivery of goods and/or the performance of services by the Supplier to the Customer.

### **2. Offers and conclusion of contract**

- 2.1. Offers of the Supplier shall be subject to change without notice, this applies in particular to price lists and cost estimates of the Supplier. Only and solely when the Supplier has given its written confirmation shall a contract for the scope of delivery and service obligations be concluded with the Customer.
- 2.2. The packing units (PUs) quoted in the price lists are minimum order and delivery quantities.
- 2.3. The Supplier reserves all rights without restrictions to cost estimates, drawings and other documents. The Customer may not make such documents accessible to third parties without the Supplier's written consent. If no contract is concluded between the Customer and the Supplier, the Customer shall return or delete the drawings and other documents belonging to the Supplier's offers immediately and completely on request and shall destroy or delete any copies to the extent actually possible and legally permissible.

**3. Prices**

- 3.1. Unless otherwise agreed in individual contracts, the prices valid at the time of conclusion of the contract shall apply.
- 3.2. The prices shall apply without assembly or installation, free carrier (FCA Incoterms 2010), and exclusive of statutory value added tax and other statutory taxes and duties. All prices are quoted in euros. Any taxes incurred for the purchase of the goods and services shall be borne by the Customer.
- 3.3. The Supplier reserves the right to charge any additional expenses incurred in the case that receiving station are difficult to access. Special packaging, e.g. for air or sea freight, shall be charged at cost price.
- 3.4. The Supplier shall be entitled to invoice the Customer for new taxes and duties and to adjust the prices in accordance with the general development of costs on the basis of the implementation of, e.g., new climate, safety and environmental protection requirements which come into force after conclusion of the contract.
- 3.5. Unless a fixed price has been specified for a specific period or otherwise agreed in writing with the Supplier, all prices of the Supplier can be adjusted to the general development of costs.

**4. Retention of title**

- 4.1. Until all claims against the Customer arising from the business relationship have been met, including any balance claims, the delivered goods shall remain the property (reserved goods) of the Supplier. If the values of all security interests to which the Supplier is entitled exceed the amount of all secured claims by more than 10 per cent, the Supplier shall release a corresponding part of the security interests at the Customer's request; on releasing such security interests the choice between them shall be at the Supplier's discretion.
- 4.2. If the delivered goods are subject to retention of title, the Customer shall be prohibited from pledging them or assigning them as security. A resale of the goods shall only be permitted in the ordinary course of business and only subject to the condition that the Customer receives payment from his Customer or makes the reservation that title shall not be transferred to his Customer until the latter has fulfilled his payment obligations.
- 4.3. In the event that the reserved goods should be sold, the Customer shall hereby already assign his future purchase price claim from the resale against his Customers - including any balance claims - to the Supplier by way of security, without the need for any special declarations at a later date. If the reserved goods are resold together with other items without an individual price having been agreed for the reserved goods, the Customer shall assign to the Supplier, with priority over the other claims, that part of the total price claim which corresponds to the invoiced price of the reserved goods. If a legitimate interest is substantiated, the Customer shall provide the Supplier with the necessary information and hand over the necessary documents in order to assert his rights against his Customer. Until revoked, the Customer shall be entitled to collect the assigned claims from the resale. For important reasons, including but not limited to default

in payment, or other reasons that suggest that the payment claim is at risk, the Supplier shall be entitled to revoke the Customer's collection authority. In addition, the Supplier may, after prior warning observing a reasonable notice period, disclose the assignment by way of security, utilise the assigned claims and demand that the Customer disclose the assignment by way of security to his Customer.

- 4.4. The Customer may process, transform or mix or combine the reserved goods with other items. Such processing, transformation, mixing or combination (collectively: processing) shall be performed for the Supplier. The Customer shall store the new items with the care of a prudent businessman. Such new items shall be deemed to be reserved goods. In the event of processing with other items not belonging to the Supplier, the Supplier shall be entitled to co-ownership of the new item in the amount of the share resulting from the ratio of the value of the processed reserved goods to the value of the other processed goods at the time of processing. If the Customer acquires sole ownership of the new item, he shall grant the Supplier co-ownership of the new item created by processing in the ratio of the value of the processed reserved goods to the other processed goods at the time of processing. In the event of a sale of the new item, the Customer shall assign his claim from the resale against his Customer with all ancillary rights to the Supplier by way of security, without requiring a separate further declaration. However, the assignment shall only apply to the amount corresponding to the value of the processed reserved goods invoiced to the Customer. The portion of the claim assigned to the Supplier shall be satisfied with priority. Clause 4.3 shall apply *mutatis mutandis* with regard to the collection authority and the requirement for its revocation. If the Customer combines the reserved goods with real estate or movable property, he shall also assign to the Supplier, without any further special declaration being required, his claim to which he is entitled as remuneration for the combination, together with all ancillary rights, by way of security in the amount of the ratio of the value of the combined reserved goods to the other combined goods at the time of combination.
- 4.5. In the event that a third party asserts rights by attaching, seizing, encumbering or otherwise encroaching on the reserved goods the Supplier must be notified without undue delay.
- 4.6. In the event of breaches of obligations by the Customer, including but not limited to default in payment, the Supplier shall be entitled, after the expiry of a reasonable grace period granted to the Customer for performance, to withdraw from the contract and to take back the goods: The Customer shall be obliged to surrender the goods. Any outstanding discounts/bonuses shall no longer apply. The taking back or assertion of the retention of title or the seizure of the reserved goods by the Supplier shall not constitute a withdrawal from the contract unless the Supplier expressly declares this.

## **5. Terms of payment**

- 5.1. Unless otherwise agreed or stated in the invoice, claims shall be due immediately and payment must be made no later than 14 days after receipt of the invoice, without any deduction.
- 5.2. The Customer may only set off such claims which are undisputed or have been legally established.

- 5.3. The Supplier shall be entitled, without prejudice to further claims, to suspend further deliveries in the event of payment arrears until all due claims arising from the business relationship have been settled or to make further deliveries only against advance payment.
- 5.4. In the event of a default in payment, the Supplier shall be entitled to charge default interest at the statutory rate as well as reminder fees.
- 5.5. If the Customer continues to default on payment for goods or services even after the receipt of suitable payment reminders, the Supplier shall be entitled to terminate the contract without notice. Upon termination, all outstanding claims as well as accrued interest and all costs incurred by the Supplier in connection with the termination of the contract shall become due immediately.

## **6. Delivery**

- 6.1. Unless expressly agreed otherwise, delivery shall be free carrier (FCA Incoterms 2010) to the Supplier's place of delivery.
- 6.2. Unless otherwise agreed, delivery dates shall only be for planning purposes and shall not be binding on the Supplier and shall be indicated by the Supplier to the best of its discretion and complied with as far as possible.
- 6.3. Partial deliveries shall be permissible insofar as they are not unreasonable for the Customer. In addition, the Supplier shall be entitled to have delivery obligations performed by third parties.
- 6.4. If collection is delayed due to circumstances for which the Supplier is not responsible, the Customer shall bear the costs for additional expenses to a reasonable extent. If delivery cannot be made in full due to any act or omission by the Customer, such deliveries shall be deemed to have been delivered and the Supplier shall be entitled to charge for the cost of interrupted or partial deliveries and storage of the goods until delivery.
- 6.5. At the Supplier's request, the Customer shall be obliged to declare within a reasonable period of time whether it will withdraw from the contract due to the delay in delivery or insist on delivery.

## **7. Installation**

The following provisions shall apply to installation, unless otherwise stipulated in individual contracts:

- 7.1. In the case of installation by the Supplier, the Customer shall bear the costs and provide the following in good time:
  - 7.1.1. all earth-moving and construction work and other ancillary services not specific to the Supplier's trade as well as the necessary skilled and unskilled labour, materials and tools;
  - 7.1.2. the equipment and materials necessary for installation and commissioning such as scaffolds, lifting equipment and other devices, fuels and lubricants;

- 7.1.3. energy and water at the site of use, including connections, heating and lighting;
- 7.1.4. sufficiently large, suitable, dry and lockable rooms at the installation site for the storage of machine parts, equipment, materials, tools, etc. and adequate work and recreation rooms for installation personnel, including sanitary facilities appropriate to the circumstances; in addition, the Customer shall take the same measures to protect the property of the Supplier and the installation personnel at the construction site as he would take to protect his own property;
- 7.1.5. protective clothing and protective gear required due to the special circumstances of the installation site.
- 7.2. Prior to the start of installation, the Customer must - even without any specific request to do so - provide necessary information on the site, concealed power, gas and water lines or similar installations as well as the necessary statics-related information.
- 7.3. Prior to the start of set-up or installation, the materials and equipment required for the work to begin must be available at the set-up or installation site and all preliminary work prior to set-up must have progressed to such an extent that set-up or installation can be started as agreed and implemented without interruption. Access roads and the set-up or installation site must be level and cleared.
- 7.4. Set-up and installation shall not include ancillary work that falls outside the scope of the Supplier's trade. The Supplier shall be entitled to engage third parties to perform set-up and installation work.
- 7.5. If set-up, installation, or commissioning are delayed due to circumstances for which the Supplier is not responsible, the Customer shall bear to a reasonable extent the costs for waiting time and any additional travel required by the Supplier or the installation personnel.
- 7.6. The Customer shall provide the Supplier with weekly confirmation of the hours worked by installation personnel as well as confirmation of the completion of set-up, installation, or commissioning without delay.
- 7.7. If the Supplier demands a formal acceptance of delivery after completion, the Customer must perform this within two weeks. Such formal acceptance shall be deemed equivalent to the Customer's allowing the two-week period to elapse or to the delivery being put to use - where applicable after completion of an agreed trial phase.

## **8. Transfer of risk and place of performance**

- 8.1. The risk shall pass to the Customer in accordance with the FCA Incoterms provisions (Incoterms 2010). The risk shall also pass to the Customer if the goods have not been collected by the Customer on the agreed collection date or if there is a delay in receipt, unless the Supplier is responsible for this.

- 8.2. In the case of assembly and installation, the risk shall pass to the Customer on the day of integration in his own business. The risk shall also pass if the trial operation is delayed for reasons for which the Customer is responsible or if the Customer is in default of receipt for other reasons.

## **9. Force majeure**

- 9.1. In the case of force majeure events, such as war, strike, shortage of raw materials, fire, intrusion of water or other circumstances and similar events which are unforeseeable or unavoidable for the Supplier, as well as in the event of virus and other attacks by third parties on the Supplier's IT system, insofar as these have occurred despite the observance of customary care for protective measures, in the case of impediments caused by applicable national and international regulations of foreign trade law or due to other circumstances for which the Supplier is not responsible, the delivery period shall be extended by the duration of the impediment in addition to reasonable time for recovery of operations. This shall apply *mutatis mutandis* where the said events occur to a supplier of the Supplier.
- 9.2. If one or more events of force majeure occur during the term of the contract, the Supplier shall be entitled to extend the term of the contract by a period equal to the cumulative number of days on which force majeure has occurred during the original term.
- 9.3. The Supplier shall inform the Customer of the new delivery dates as soon as possible. In the event of a significant delay of the delivery dates or complete impossibility of delivery, both the Supplier and the Customer shall be entitled to terminate the contractual relationship for this reason.

## **10. Receipt and incoming inspection**

- 10.1. The Customer shall receive the delivered goods, even if they have minor defects.
- 10.2. On receipt of the goods, the Customer shall immediately indicate any obvious shortages and damages in transit on the consignment note.
- 10.3. The Customer shall notify the Supplier of obvious defects in the goods within 7 days of receipt of the goods.
- 10.4. The Customer shall notify the Supplier of concealed or hidden defects within 7 days of their occurrence or his becoming aware of the defect.
- 10.5. The aforementioned deadlines are final deadlines. If they are not complied with, the goods shall be deemed approved with the respective defects.

## **11. Claims for material defects**

- 11.1. Unless otherwise agreed, the Supplier shall deliver goods of a quality standard that is customary in the trade.

- 11.2. If there is a material defect at the time of transfer of risk, the Customer may demand supplementary performance from the Supplier within a reasonable period of time. The Supplier shall, at its discretion, either remedy the material defect within such reasonable period of time or deliver a new item. If supplementary performance should fail, the Customer may withdraw from the contract or reduce the purchase price.
- 11.3. Claims for defects shall be subject to a limitation period of 12 months from transfer of risk. This shall not apply if the Supplier has fraudulently concealed the defect, has given a guarantee relating to a quality of the item or in a case where section 438 para. (1) no. 1 and no. 2 of the German Civil Code (*Bürgerliches Gesetzbuch - BGB*) applies.
- 11.4. If the notice of defect by the Customer is unjustified, the Supplier shall have the right to invoice the Customer for any expenses incurred.
- 11.5. Rights of recourse of the Customer against the Supplier pursuant to section 478 of the German Civil Code (*Bürgerliches Gesetzbuch*) shall only apply to the extent that the Customer has not contractually granted his Customer rights that go beyond the statutory rights in respect of defects.

## **12. Intellectual property rights**

- 12.1. Unless otherwise agreed, the Supplier shall be obliged to deliver the goods free of industrial property rights and copyrights of third parties (hereinafter referred to as “property rights”) only in the country of the place of delivery. If a third party asserts justified claims against the Customer due to the infringement of industrial property rights by deliveries made by the Supplier and used in accordance with the contract, the Supplier shall be liable towards the Customer within the period specified in clause 11.3 as follows:
- 12.1.1. The Supplier shall, at its discretion and at its expense, either obtain a right of use for the deliveries concerned, modify them in such a way that the property right is not infringed, or replace them. If this is not possible for the Supplier on reasonable terms, the Customer shall be entitled to the statutory rights of withdrawal or reduction.
- 12.1.2. The Supplier's obligation to pay damages shall be governed by clause 13.
- 12.1.3. The aforementioned obligations of the Supplier shall only apply if the Customer immediately notifies the Supplier in writing of the claims asserted by the third party, does not acknowledge an infringement and leaves all measures of defence and settlement negotiations to the Supplier's discretion. If the Customer discontinues the use of the delivery for reasons of damage reduction or other important reasons, he shall be obliged to point out to the third party that the discontinuation of use does not imply any acknowledgement of an infringement of property rights.
- 12.2. Claims of the Customer shall be excluded insofar as he is responsible for the infringement of property rights.

- 12.3. Claims of the Customer shall also be excluded if the infringement of property rights is caused by particular specifications of the Customer, by an application that was not foreseeable to the Supplier or by the delivery being modified by the Customer or being used together with products not supplied by the Supplier.
- 12.4. In the event of other defects of title, the provisions of clause 11 shall apply *mutatis mutandis*.
- 12.5. Any further claims of the Customer against the Supplier and its vicarious agents due to a defect of title or claims other than those stipulated in this clause 12 shall be excluded.

### **13. Compensation for damages**

- 13.1. The Supplier shall be liable without limitation in the event of intent and gross negligence, for injury to life, limb or health, in accordance with the provisions of the German Product Liability Act (*Produkthaftungsgesetz*) and to the extent of a guarantee assumed by the Supplier.
- 13.2. In the event of an infringement of an obligation that is essential for achieving the purpose of the contract (material obligation) due to ordinary negligence, the Supplier's liability shall be limited to damages that are typical and foreseeable for the transaction in question.
- 13.3. The Supplier shall not be further liability.
- 13.4. The above limitation of liability shall also apply to the personal liability of the Supplier's employees, representatives and executive bodies.

### **14. Confidentiality**

The contracting parties shall be obliged to maintain secrecy over the contents of this contract and all commercial and technical details associated therewith and not to pass on information of this kind to third parties.

### **15. Reservation of performance and obligations of the Customer for imports and exports**

- 15.1. The Supplier's performance of the contract shall be subject to the reservation that there are no impediments to performance due to national and international provisions of export and import law or any other statutory provisions.
- 15.2. The Customer shall comply with the applicable export and import control regulations of the Federal Republic of Germany, the European Union and the United States of America as well as all other relevant regulations.

### **16. International deliveries**

- 16.1. Unless otherwise agreed, international deliveries shall be made against an irrevocable confirmed letter of credit.



16.2. The contracting parties undertake to provide all information and documentation necessary for export/transfer/import. Delays due to export inspections or permit procedures shall invalidate deadlines and delivery times. If necessary permits are not granted, the contract shall be deemed not to have been concluded with regard to the parts concerned; claims for damages shall be excluded to this extent and on account of the said delays in meeting deadlines.

16.3. The Customer shall bear all fees, costs and expenses (including attorney fees) incurred in connection with any legal proceedings against the Customer which are successfully pursued against the Customer in any jurisdiction outside of the Federal Republic of Germany.

#### **17. Binding nature of contract and written form**

17.1. Even if individual clauses should be legally ineffective, this shall not affect the validity of the remaining parts of the contract. This shall not apply if adherence to the contract would constitute an unreasonable hardship for one of the parties.

17.2. Any amendments or additions hereto shall require the written form. This shall also apply to a waiver of this written form requirement.

#### **18. Place of performance, legal venue and governing law**

18.1. The place of performance shall be the Supplier's principal place of business.

18.2. The legal venue shall, at the Supplier's discretion, either be Munich or the Customer's principal place of business, provided that the Customer is a qualified merchant, a legal entity under public law or a special fund under public law.

18.3. These terms and conditions shall be governed by the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

#### **19. Assignment and legal succession**

19.1. The Customer shall not have the right to transfer rights or claims from the contractual relationship to third parties or to assign them to third parties.

19.2. The Supplier is entitled to assign his claims against the Customer to a third party.

19.3. The rights and obligations arising from the contractual relationship shall pass to the respective legal successors of the contracting parties. The Customer shall be obliged to inform the Supplier immediately of any change, in particular of its legal form.

These General Terms and Conditions of Delivery can also be consulted on:  
[www.kathrein-bca.com/en/gtc](http://www.kathrein-bca.com/en/gtc)

Last updated: 23 February 2022