

## KME Italy S.p.a.

### GENERAL CONDITIONS FOR PURCHASE OF GOODS AND SERVICES

**1. Orders.** Orders of goods and services (hereinafter "Orders") issued by KME Italy S.p.A. (hereinafter "KME") are valid only if prepared in writing. They shall take effect and become binding only upon receipt by KME of Supplier's written Order confirmation (hereinafter "Orders Confirmation"), which shall arrive also by fax or mail within 10 (ten) calendar days as of the Order date. Anyway, if the Supplier didn't show any written intention to refuse the Order within the abovementioned deadline, it will be deemed as accepted by the same Supplier.

These general conditions of purchase (hereinafter "Conditions", also available on KME website [www.kme.com](http://www.kme.com)) are an integral and essential part of the Order together with any other special conditions of the same Order. They shall also prevail on any other general or particular different conditions of the Supplier, which could be applied only if specifically approved in writing by KME.

The execution of the Order by the Supplier is considered in any case as acceptance of these Conditions without reservation. Quotations of goods/services are binding for the Supplier and shall not entail any remuneration.

**2. Prices, invoicing, and transport documents.** Prices indicated in Orders are fixed and are not subject to review. Unless otherwise indicated in Orders, prices mean prices for goods free at KME warehouse or any other place indicated in the Order, inclusive of packaging, transport, insurance, and of any other cost connected with execution of the Order. If sold on a carriage-forward basis, goods must be put under the "best tariff" heading; any higher expenses stemming from erroneous declarations are at Supplier's charge. Goods' invoices and transport documents must be received at addresses respectively shown in Orders and must indicate:

- full Order number,
- a description and quantity of supplied goods;
- transport document's date and reference number and
- detailed price.

If the requirement under letter a) is not observed, invoices shall not be accepted and, consequently, sent back to the Supplier; if the requirements under letters b), c) and/or d) are not observed, invoices will be considered as not received and, consequently, relevant payment terms will not start until KME receives proper written documents from Supplier.

**3. Terms of delivery.** Terms of delivery indicated in Orders for delivery of goods or performance of services are mandatory and essential and, in order to ascertain the compliance with them, will be considered as valid the date of arrival of goods at the place of destination or the date of performance of services, as indicated by transport documents. Unless otherwise agreed in writing, timing specified in Orders may not be changed. Early deliveries shall not be permitted unless previously agreed and in any case they shall not give any benefit to the Supplier. Unless otherwise

indicated in Orders, in case of delay in delivery due to any reason (except in case of proven *force majeure*, which must be promptly communicated in writing by the Supplier, as stated by following art. 16) but not depending on KME, a penalty equal to 1% of the total price of the supply will automatically be applied for each week of delay, without any need of further notifications. This penalty shall not exceed 5% of the supply's total price, without prejudice of any higher damage. In any case KME shall be entitled to cancel the Order and early terminate the purchase contract, ex art. 1456 Italian Civil Code, due to the breach of the Supplier by simple written notice to the latter and to claim for damages.

#### 4. Shipments, packaging and preservation of goods.

Shipments are carried out at the risk and peril of the Supplier, that shall take out adequate insurance coverage at his own expense, valid until arrival of goods at the place of destination. Any costs deriving from the need to speed up transport in order to meet delivery's deadline shall be entirely borne by the Supplier. Specifications concerning packaging and general conditions for preservation of goods shall be indicated in the Order. Supplier undertakes to supply goods in adequate packaging, in full compliance with the nature of the goods, the means of transport and the goods destination, according to current regulations about waste, including dangerous waste, in a way acceptable to usual carriers and able to assure delivery of goods in perfect condition at the place of destination. Packaging's essential elements are both countermark and labelling, which shall visibly, legibly and indelibly indicate the goods' place of origin, by also including the following information: purchase Order number, content of the package, net and gross weight expressed in kg, places of loading and destination. Packaging will not be returned to the Supplier, unless otherwise agreed upon.

#### 5. Passing of ownership of goods and transfer of risk.

**Acceptance.** Unless otherwise envisaged in Orders, passing of ownership and transfer of risk take place upon delivery of goods to KME at the place of destination. Any retention-of-title clause inserted by the Supplier shall be considered as not inserted.

Delivery and passing of ownership shall not constitute acceptance of goods by KME. Any acceptance of goods expressed at the time of delivery shall always mean "conditional acceptance". Acceptance of goods shall always be subject to a positive outcome of inspection and/or check performed without any constraint in terms of form and/or term by KME or on its behalf, their compliance with specifications, absence of defects, and suitability for use. Acceptance of goods/services by KME doesn't exempt the Supplier from the liabilities of the goods/services offered, and isn't a wave to its own rights. Weighing, measuring or counts performed upon arrival of goods at KME's factories are binding for the parties.

**6. Supply of services.** The Supplier undertakes to perform services indicated in the Order by fully complying with the object of the contract and with all applicable and in force laws and regulations, in particular those concerning industrial safety and health, workers' safety and environment quality (EHS). The Supplier must comply to the previous prescriptions at his own cost and risks and under his responsibility.

Particularly, the Supplier will respect the followings:

- provide all technical/administrative documentation proving his professional suitability to perform goods/services belonging to the type specified in the Order;
- carefully inform his own employees on specific risks related to activities and places where such activities will take place;
- monitoring and ensure that his employees and/or partners' behaviour comply with the current applicable safety plans;
- equipping his employees with all necessary equipments in order to perform services, providing to each of them personal protection devices required from time to time.

The Supplier declares under his own exclusive responsibility the compliance with all applicable provisions of law referring to his employees and guarantees the full compliance with remuneration, contribution, social security, healthcare and insurance obligations. To this purpose, the Supplier will deliver to KME all written documents (i.e. DURC) requested by KME in order to prove the compliance with all applicable laws concerning workers' rights, and the Supplier undertakes to keep the aforesaid documents valid for the whole period of Order's execution in favour of KME.

The Supplier will be able to subcontract the supply of services, partially or totally, only upon previous written authorization by KME, failing which KME reserves the right to withdraw the Order and claim compensation for damages. In case of supply of services by a Supplier's third subcontractor, the same Supplier will be responsible to KME for all subcontractor's activities, as they were performed by the Supplier itself.

In any case, the Supplier undertakes to deliver to KME all documents proving the professional suitability of its subcontractors in the same manner the Supplier has to do, and to include the Conditions in subcontractors' agreements.

**7. Warranty.** The Supplier's term of warranty is 24 (twenty-four) months as from delivery of goods and/or performance of services at the place of destination and the term for reporting defects, either evident or hidden, is 15 (fifteen) days as of the date of discovery, except for any longer term settled by the Supplier. The Supplier guarantees that goods/services supplied/performed comply with specifications indicated in the Orders and with the most recent "state of the art"; the Supplier also guarantees that goods comply with *pro-tempore* in force applicable regulations, and

particularly to current UE regulations concerning products safety, that have CE markings and safety devices, are of perfect quality, are free from design and/or manufacture and/or functioning defects and of any other defects, have all necessary spare parts and are perfectly suitable for the use they were supplied.

In case of supplies of services, of production lines restructuring and of installation of new production lines, the Supplier undertakes to deliver: all certifications proving the compliance of facilities with applicable laws, documentation referring to analysis and specific assessments of risk, performed in compliance with particular conditions set out in the Order, and also the Italian guide for use and maintenance.

#### 8- Incorrect or faulty goods.

In case of non-compliance or of defects in goods supplied to KME, such goods shall have to be immediately withdrawn and replaced by the Supplier at its own risk and expense at the same place of destination. In absence of corrective actions by the Supplier, within 15 (fifteen) days from KME's notification about defective/non-compliant goods, KME reserves the right, at its sole discretion, to immediately buy goods from another supplier, charging the Supplier with storage and delivery expenses, possible higher price and any other cost. Without prejudice, in any case, of KME's right to ask, at its own discretion, the Supplier for a price reduction of non-complying/defective goods, or - in case non-compliance and/or defectiveness of goods compromise their functionality and constitute a Supplier's breach of obligations deriving from the Order - to terminate the contract for breach by simple written notification to the Supplier and to ask for damages compensation.

#### 9. ENVIRONMENTAL PROTECTION. HAZARDOUS SUBSTANCES.

The Supplier undertakes - in the production of goods and in the performance of services indicated in Orders - to minimize negative effects of its own activities upon humans and environment, by adopting proper technical measures to reduce emissions. In this respect, the Supplier shall set up organizational procedures in agreement with KME in order to limit any environmental/acoustic pollution. Moreover, the Supplier shall develop, according to its own capacities, a quality system as well as a procedures certification system with reference to applicable environmental laws.

The Supplier declares and guarantees that chemical substances contained in goods indicated in Orders comply with REACH regulation and are comprised in the European list of chemical substances. In any case, the aforesaid goods shall not have to contain any of the so called SVHC chemical substances (Substances of Very High Concern) and limited by Montreal Protocol. It shall be a Supplier's responsibility to keep itself pre-emptively updated with reference to periodic inclusion of new substances in the SVHC list available on the web site <http://www.echa.europa.eu/>.

KME reserves the right to ask for Supplier's specific declarations on the above. Each chemical

substance or product introduced in KME's premises shall have to be accompanied by "Material Safety Data Sheets" (MSDS), in compliance with EU Directive. At its own discretion KME reserves the right to deny the authorization to admit chemical substances/products. Moreover, in case detectors at entrance of KME's premises ascertain the radioactivity of goods, KME shall refuse supplies of goods containing radioactive substances. In such a case, storage expenses as well as the return to Supplier of goods containing the said substances shall be entirely borne by the same Supplier.

#### 10. Performance of works and safety at work.

If Orders envisage the execution by the Supplier of services at any KME's sites, the same Supplier complies with KME's applicable internal regulations, and in particular undertakes to strictly comply with EHS procedures, whose Supplier hereby expressly confirm to know. The Supplier shall have to cooperate and coordinate with KME in order to minimize interferential risks, by also complying with the so called Document for Interferential Risk Assessment (DUVRI) attached to the Order Confirmation and/or to the service contract, if any, that the Supplier shall have to return to KME duly signed for acceptance before entering to KME's sites; the Supplier shall also have to appoint a representative having necessary powers and experience to ensure correct management of activities to be executed at KME's sites and able to guarantee the respect of EHS requirements and procedures as well as maintenance of discipline during the performance of such activities. In order to allow, upon Supplier's own responsibility, the entrance of Supplier's employees and/or partners to any of KME's sites, the same Supplier has to previously provide all the technical and administrative documentation mentioned in the previous Art. 6 and undertakes to deliver in advance a complete nominative list of its own partners and/or employees, together with identification documents' details and/or entrance visa or residence permit, issued by the Authorities in accordance with immigration laws. The Supplier acknowledges and accepts that is under its sole responsibility to maintain the validity of all the above-mentioned documents. The Supplier's and/or subcontractors' employees and/or partners shall have to wear an identification badge completed with photo ID indicating their own personal data and the related company to which they belong.

KME shall deliver to the Supplier specific information concerning KME's site, and in particular concerning the area in which activities shall have to be performed. It is prohibited to the Supplier to use devices and areas for materials storage different from those indicated by KME without the latter's previous written authorization. The Supplier shall perform services by using its own materials and devices for loading and transport, by delivering prior to the access to KME's site a complete list and documents proving the compliance with applicable laws. The utilization by the Supplier of KME's devices and materials is not permitted, unless specific

prior written approval of KME. In case of breach of KME's internal EHS regulations and procedures, the same KME reserves the right to request, at its own discretion, that Supplier removes or replaces Supplier's employees and/or partners that have infringed provisions concerning safety and/or rules of conduct. Repeated infringement of the abovementioned provisions will lead to the termination *ipso iure* of the Order for breach by means of a simple written notification to the Supplier, without prejudice of any right of KME to claim compensation for damages.

**11. Access to Supplier's facilities. Controls on materials and equipments.** In order to allow KME to control qualities of supplied goods and verify the correct performance of services indicated in the Order, the Supplier, upon previous notice from KME, shall have to periodically grant to KME and/or to its appointed the access to all places (of the Supplier or of its subcontractors) intended to Order's performance, in which goods are produced or stored in deposit and to all places in which services are executed. Such entries shall not release Supplier from any of its obligation. Moreover, the Supplier shall be subject to inspections and periodical controls, either at its own premises or at KME's sites in which services indicated in the Order are performed to the aim of verify the effective compliance with regulations and KME's EHS procedures, among which: works at height exceeding 1,2 m., lifting operations, DPI, hot working, working with pressurized liquids etc.. The maintenance of KME's Supplier status shall also depend by results of said audits.

**12. Payments.** Payments of considerations due for Supplier's goods/services are to be made by KME at terms and conditions indicated in Orders. Different conditions or terms of payment mentioned in the invoice different to those indicated in orders, shall not be considered valid. KME may always offset its debts to the Supplier with receivables, not accrued or otherwise, including future receivables, that KME or another Company of the same industrial group has vis-à-vis the Supplier up to the amount of related invoices (upon request the Supplier will receive information on KME industrial group's structure).

**13. Modifications and cancellations.** When so requested by KME in writing, the Supplier undertakes to promptly modify specifications of ordered goods/services and not yet delivered/performed. The Supplier shall inform KME in a timely manner of any changes in price or timing as a consequence of requested changes. Aforesaid amendments shall be agreed by the parties in writing in a document that amends orders or by the issue of a new order. KME reserves the right of early termination ex art. 1373 c.c. and to cancel orders any time by means of a registered letter with advice of receipt, without paying any penalty to the Supplier.

**14. Cancellation of the Order.** According to Art. 1456 c.c., KME reserves the right to cancel Orders if the following circumstances occur: in case of breach by the Supplier of his

obligations deriving from Orders and/or to the provisions of the present General Conditions (in particular: unjustified and omitted compliance with delivery terms of goods and services; verified defectiveness/non conformity of goods and services deriving from an infringement of Supplier, ascertained and repeated breaches of KME's EHS internal procedures and regulations); state of insolvency, winding up of the Supplier (either compulsory or voluntary), admission to controlled administered procedure, opening of an insolvency procedure; substantial changes to corporate structure, together with control rights (50% of capital stock).

All the rights provided for by the present Article will not affect in any way the exercise of any other rights of KME. Any tolerance of KME with reference to the breach from the Supplier of any obligation provided for and/or consequent to Orders, shall not be considered as conclusive behaviour or anyway confer any right not expressly envisaged in the Order.

**15. Industrial property rights and confidentiality.** All designs, data, systems, operating procedures, figures, drawings and other information that, regardless of their nature and origin, have been communicated by KME to the Supplier or that this latter learned as a result of observation or use of the same, form part of KME's exclusive property, must be treated as strictly confidential; they can be used by the Supplier solely to execute the Order; and they must then be returned to KME without retaining copies. The Supplier guarantees that use by KME of goods/services supplied by the same Supplier does not infringe patents or other third-party industrial property rights and undertakes to hold KME harmless from any third-party demands or actions and to pay for any consequent damage, loss or disadvantage suffered by KME.

**16. Force majeure.** Any strikes, wars, epidemics and natural disasters, or other circumstances not foreseeable and beyond the Supplier's reasonable control, which may oblige it to halt its activity partly or totally, constitute force majeure that exonerate the Supplier from executing orders while such events persist. The Supplier must immediately notify KME of the onset and end of such events, also supplying, at KME's request, certification of the relevant Chamber of Commerce proving the force majeure cause. If execution of orders is reasonably impossible, KME reserves the right to terminate the contract either totally or in part by means of simple written notification to the Supplier. It is understood that KME's payments obligations for goods/services will be able to be satisfied only in the absence of the aforesaid force majeure case and only if national/international restrictive provisions of foreign trade (i.e..embargoes) and/or of payments method do not intervene.

**17. Organisational model pursuant to Italian Legislative Decree 231/2001.** With acceptance of Orders in any form by the Supplier, the principles of conduct applied by KME in compliance with Italian

Legislative Decree 231/2001 and published on KME's web site: [www.kme.com](http://www.kme.com) are to be accepted without any reservations whatsoever by the Supplier, and Supplier undertakes to observe them rigorously in performing its contractual obligations.

**18. Treatment of personal data.** With Orders acceptance, the Supplier expressly confirms to be aware of statement concerning treatment of personal data pursuant to Italian Legislative Decree 196/2003, available on KME's web site: [www.kme.com](http://www.kme.com).

**19. Applicable law. Competent jurisdiction.** All disputes concerning supply/performance of goods/services in favour of KME, even if arising with foreign parties or for goods/services supplied from abroad, shall be governed by current Italian legislation and exclusively settled by the Court of Florence. Nevertheless for proceedings against the Supplier, KME reserves the right, to elect the competent court of the Supplier's place of residence or domicile in Italy or abroad.