

# Knorr-Bremse Group Terms and Conditions of Purchasing and Ordering ("GTC")

Applies for all contractual relationships between Companies, public law entities with special funds (hereinafter referred to as „Supplier“) and affiliate Companies of the Knorr-Bremse Group (hereinafter referred to as „Purchaser“, Supplier and Purchaser each a „Party“ and together „Parties“).



## § 1 Applicable Terms

1. The legal relationship between the Supplier and the Purchaser shall be governed exclusively by the following GTC. Any different, contrary or additional terms of the Supplier are excluded. The Purchaser hereby expressly rejects them. Any different, contrary or additional terms of the Supplier shall become an integral part of the contract only if and to the extent that the Purchaser has given express written approval of their validity.

2. This requirement for approval shall apply in every case, for instance even if the Purchaser executes the contract unconditionally while being aware of the Supplier's terms. The unconditional acceptance of goods or services (hereinafter referred to consistently as "goods/services") or undisputed payment by the Purchaser in particular shall not constitute acceptance of the terms of the Supplier.

3. The GTC shall also apply for all future transactions with the Supplier.

## § 2 Ordering

1. Supply contracts (purchase orders and confirmations) and release orders (*Lieferabrufe*) must be in text form (including email, fax, EDI, Web EDI).

2. Any ancillary agreements and amendments must be confirmed by both Parties in text form in order to be valid. The priority of individual agreements (§ 305b BGB) remains unaffected.

3. Any cost estimates shall be binding and free of charge.

4. The Purchaser may demand reasonable changes of the goods/services in terms of construction and design. The consequences of such changes, in particular with regard to additional or lower costs and delivery dates, shall be mutually and reasonably regulated between the Parties.

5. Should the Supplier fail to accept an individual order within two weeks of the order date, the Purchaser shall be entitled to cancel the order.

6. Release orders only specify quantities and dates in accordance with the framework agreement/delivery contract. If release orders deviate from the framework agreement/delivery contract, the Supplier may object in writing within 5 business days.

7. The Purchaser's "Quality Management Guideline for Procurement" in the version valid at the time of conclusion of the supply contract is an integral part of the supply contract. Upon request, this guideline will be provided to the Supplier in text form.

## § 3 Prices, Payment

1. Without special agreement, all prices for deliveries are FCA "Free Carrier" (according to Incoterms 2012) including packaging. Should the Supplier undertake installation or assembly, he shall, failing a written agreement to the contrary, bear all necessary additional costs.

2. The Supplier shall pay within 60 days of the due date of the payment claim and after receipt of a proper invoice and provision of the service. Different, longer payment terms may be agreed in writing in individual cases, provided that they are not grossly disadvantageous within the meaning of § 271a BGB, taking all circumstances into account. All payments are subject to invoice verification.

3. Should early delivery of the goods/services (hereinafter referred to as "consignment") be accepted, any claim for payment shall become due not earlier than on the agreed date of payment, in case of doubt not earlier than the agreed delivery date; § 286 III BGB remains unaffected. The right to assert compensation claims for additional costs, in particular with regard to storage costs is reserved.

## § 4 Delivery and Delivery Dates, Late Delivery, Penalty

1. Any agreed delivery dates and terms shall be binding. Decisive for on-time delivery shall be the date the goods are received at the delivery address (place of performance) agreed with or designated by the Purchaser. Failing an agreement to the contrary, delivery shall be

made FCA "Free Carrier" (according to Incoterms 2020). In all other respects the Supplier shall coordinate delivery with the carrier of the Purchaser.

2. Partial deliveries and early deliveries are not permitted unless expressly agreed to in writing by the Purchaser.

3. Acceptance of late deliveries without reservation shall not be deemed to be a waiver of any claims to which the Purchaser is entitled due to late delivery.

4. Should the agreed delivery dates not be met, the statutory provisions shall apply. Should the Supplier anticipate difficulties that may prevent him from delivering on time or in the agreed quality, he shall notify the Purchaser thereof immediately in text form, stating the reasons. In addition, in case of fault of the Supplier, the Purchaser shall be entitled to demand payment of liquidated damages amounting to 0.5% of the value of the late goods/services per started week of delay up to a maximum of 5% of the entire value of the order. The liquidated damages shall be set off against any claims for damages due to late delivery. The Purchaser reserves the right to claim the lump-sum compensation, but no later than upon full payment of the final invoice.

5. Notwithstanding clause 4.1, the Supplier shall bear the performance risk until acceptance of the Purchaser or their agent at the location, to which the goods shall be delivered in accordance with the contract.

6. The Supplier undertakes to maintain an effective, documented quality management system and to carry out a risk-appropriate outgoing goods inspection. An inspection of incoming goods only takes place with respect to outwardly visible defects and/or deviations in kind or quantity of the goods. The Purchaser will give notice of such defects immediately. Notice of any other defects will be given as soon as those are determined in the ordinary course of business. Insofar the Supplier waives objection of late notification. In the event of a justified defect complaint, the Purchaser will charge the supplier a one-time fee for the additional expense to process the error. The amount of the fee depends on when the error is discovered:

- If the defectiveness of the good/service is discovered during inspection of incoming goods, the fee will be EUR 100.
- If the defectiveness of the good/service is discovered afterwards, the fee will be EUR 250.

The aforementioned fees shall be levied irrespective of any other claims on the part of the Purchaser; in particular, the Purchaser reserves the right to file any claims for damages or subsequent performance. The Purchaser reserves the right to claim the fees, but no later than upon full payment of the final invoice.

7. The Purchaser shall have the unrestricted, irrevocable and freely transferable right to use any software included in the scope of delivery, including any attendant documentation, in accordance with the intended use of the goods/services under the contract. They may also make a safety copy thereof without any express agreement.

8. If required and on demand of the Purchaser, the Parties will agree to the establishment of a consignment warehouse.

## § 5 Secrecy

1. Any information made accessible by the Purchaser shall not be disclosed to third parties insofar as it is not demonstrably known to the public. The information remains the exclusive property of the Purchaser and shall only be made available to those employees within the Supplier's company that are necessary in the performance of the contract and who have been put under an obligation to secrecy themselves. With the exception of deliveries to the Purchaser, such information may not be duplicated or used for commercial purposes without the prior written approval of the Purchaser. On request of the Purchaser, all information originating with the Purchaser, no matter what kind or in what form, shall be immediately and completely returned to them or destroyed in connection with a written declaration to that effect.

2. The Purchaser reserves all rights in such information (including copyright and the right to intellectual property applications). Insofar

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as the Purchaser has acquired such information from third parties, this reservation also applies for the benefit of such third parties.

3. The Supplier may neither use themselves nor offer or deliver any products to third parties that have been manufactured on the basis of the Purchaser's documents, drawings, models and the like or on the basis of confidential specifications of the Purchaser or by means of their tools or copies thereof.

4. The Purchaser may use any documents provided to them by the Supplier. The Purchaser is entitled to reproduce and use such documents for training and maintenance purposes and, by agreement in individual cases, for other purposes.

5. The Supplier may only use their business connection for advertising purposes with the prior written consent in text form of the Purchaser.

### § 6 Inventions, Industrial Property Rights

1. The Supplier grants the Purchaser the rights of use necessary for the contractual use of the goods/services (non-exclusive/transferrable/unlimited in terms of space and time). The Purchaser shall receive exclusive rights to work results developed on behalf of the Purchaser (foreground) in return for appropriate remuneration. Background rights shall remain with the Supplier; simple rights of use shall be granted to the extent necessary for use.

2. The Supplier is aware that the products of the Purchaser are being used world-wide. They shall inform the Purchaser immediately, at the latest within 5 working days, of any of its own or licensed property rights and property right applications known to them or recognizable after reasonable examination which relate to the subject matter of the goods/services and which may impair the manufacture, delivery or contractual use in the countries of use specified in the contract/specification or in countries in which the Purchaser delivers, uses, or distributes. To the extent legally permissible, the notification shall be made in compliance with the Supplier's existing confidentiality and licensing obligations. If full disclosure is prohibited by contract, the Supplier shall at least disclose the existence of the right, the item concerned and, to the extent permissible, the licensor, and shall, if necessary for the contractual use of the goods/services, seek approval. Further warranty and indemnification obligations (in particular due to legal defects) remain unaffected.

### § 7 Packaging, Delivery Note, Invoice, Country of Origin of Goods

1. The goods shall be packaged according to the provisions of the packaging handbook of the Purchaser. Upon request, this shall be provided to the Supplier in text form.

2. The Purchaser shall be provided with a delivery note and a separate invoice regarding each consignment. These must contain the Supplier number, date and number of the order and/or release order and purchase agreement, quantity and material number, the tariff classification code (HS-Code), number and date of the delivery note, gross and net weights listed separately, additional data of the Purchaser (e.g. point of discharge) as well as the agreed price per unit. A packing slip with a list of contents and order number must be enclosed with each consignment.

3. Should the invoice refer to several different orders, the information under 7.2 shall be listed separately for each order. The invoice may only refer to the delivery note.

4. The Supplier shall comply with the applicable requirements in the currently valid version of national and international export, import, customs, and foreign trade law (foreign trade law) and shall provide all necessary evidence in a complete, accurate, and timely manner. This also includes the obligation to indicate the correct export control classification number (including the US, EAR, or ITAR classification) on all delivery notes, as well as the number or reference of a valid export license and any distribution restrictions. The Supplier shall obtain the necessary export licenses, permits, approvals, and clearances at its own expense and shall ensure that the respective performance item does not contain any prohibited products and/or services that are covered by the foreign trade law applicable to the Purchaser. The Supplier shall ensure that (i) all goods/services to be delivered are used by the Purchaser in accordance with the order and

(ii) delivery to the Purchaser takes place at the agreed time. The Supplier shall provide the Purchaser with all information and data in text form that the Purchaser requires to comply with foreign trade law for export, import, and re-export no later than two weeks after the order and in any case before delivery, as well as immediately in the event of changes. Upon request, the Supplier shall provide verification evidence and assist with official inspections. Changes or the discontinuation of declarations/proofs must be communicated to the Purchaser in writing without delay. In the case of an existing export license, the Supplier must provide the Purchaser with a copy of this document, which contains all relevant information and reservations, in particular, but not limited to, with regard to re-export.

5. The Supplier undertakes to fulfill the safety and reliability requirements issued by the customs authorities for the certification as an "Authorized Economic Operator" (AEO) (or equivalent). In case the Supplier is not certified as AEO and is not yet applying for it, he shall provide a separate safety declaration. The Supplier shall inform the Purchaser if safety or reliability requirements are not met or if their strict observance can no longer be ensured.

6. Notwithstanding any other provisions, the Supplier shall be liable to the Purchaser for, and indemnify them against, all damages, losses and liabilities incurred by the Purchaser due to a breach of the aforementioned obligations by the Supplier.

### § 8 Force Majeure

Any force majeure, strikes or lockouts, disruption of operations through no fault of their own, riot; official governmental actions and other unavoidable events entitle the Purchaser - irrespective of their other rights - to withdraw from the contract in full or part, provided these events result in a significant reduction of his needs and last for a significant period of time.

### § 9 Liability for Defects

1. Unless agreed otherwise below, the statutory provisions regarding defects of quality and title shall apply.

2. The Purchaser may choose the manner of subsequent performance.

3. Should the Supplier fail to start immediately with the repair of the defect within a period to be determined by the Purchaser, the Purchaser shall be entitled at the Supplier's expense to carry out the repair himself or have it carried out by a third party. Should the Purchaser, due to special urgency and in particular in defense against impending risks and/or substantial damage, be unable to notify the Supplier of the defect and the impending damage and to set a time limit, he shall be entitled to remedy measures without setting a time limit.

4. The warranty shall expire 24 months after ultimately being put into service by the end customer, at the latest, however, 36 months after delivery to the Purchaser. It shall be extended by the period during which the defective delivery/service cannot be used as intended due to the defect. The limitation period for claims for defects shall also be suspended if the Purchaser checks for the existence of a defect themselves.

5. For parts repaired or replaced within the warranty period, the warranty period shall start anew upon completed subsequent performance. However, this shall only apply if the volume, duration and costs of the repairs or subsequent deliveries are not merely insignificant.

6. The Supplier guarantees that a specific good/service will not have a serial defect for a period of 48 months after delivery. A serial defect shall exist if the Purchaser and the Supplier jointly determine based on the type of damage and the cause of damage that a damage may occur in all delivered goods/services of the same product or a certain quantity of the delivered series of goods/services (batch). Nonetheless, a serial damage shall exist if the same damage is determined during the warranty period in at least 2% of all delivered goods/services of the same product or a certain quantity of the series of goods/services (batch). To calculate the damage rate, all similar damages shall be considered with respect to the type of damage

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and/or the cause of damage that are determined within a period of maximum 48 months from the occurrence of the similar damages.

7. The Supplier shall bear the costs incurred by the Purchaser due to defective delivery of the goods/services, in particular costs for handling, transport traveling, labour, material, installation and modification, recall costs together with preventative exchange costs, costs for an incoming goods inspection that exceeds the ordinary scope as well as costs the Purchaser has to bear for their customers due to statutory obligations.

8. In case of culpable defect of title, in particular in case of infringement of third party industrial property rights, the Supplier shall indemnify the Purchaser and their customers from all claims by third parties and shall compensate all costs the Purchaser incurs due to a necessary and appropriate legal defense in connection with the infringement of third party rights. In respect of defects of title a period of limitation of 7 years applies.

9. Should the Purchaser take back any products manufactured and/or sold by them due to defects of the goods/services delivered by the Supplier, or should the remuneration of the Purchaser have been lowered or shall claims be made on them in other ways, the Purchaser reserves the right to recourse against the Supplier. This also includes compensation for the expenses incurred by the Purchaser.

### § 10 Other Liabilities

1. Should the Purchaser be subjected to product liability claims, the Supplier shall indemnify them insofar and to the extent that the damage was caused by a defect of the goods/services. However, in case of tortious liability this shall only apply if the Supplier is at fault. The Supplier shall bear the burden of proof, provided the cause of the damage lies within the scope of his responsibility. In these cases the Supplier shall bear all costs and expenses, including the costs for bringing an action.

2. The Supplier undertakes to take out and prove that they are covered by public liability insurance for damages under extended product liability as well as for the costs of any recall action, such insurance to be taken out with a certified insurer within the EU. The sum insured shall be no less than EUR 5 million each for personal injury, property damage and extended product liability and recall costs.

3. The Supplier shall be liable for measures taken by the Purchaser in defense against damages (e.g. recall action) insofar as they are obligated to do so under the law and/or contract.

### § 11 Third Party Industrial Property Rights

1. The Supplier warrants that no third-party industrial property rights are in conflict to the contractual use of the goods/services.

2. Insofar as the Supplier is at fault for the infringement of industrial property rights, they shall indemnify the Purchaser from all third-party claims made against them in and out of court, including any costs incurred by the Purchaser for a necessary and appropriate legal defense resulting from an infringement of industrial property rights. The Purchaser is obliged to notify the Supplier in text form if claims are asserted against them for infringement of property rights. The Supplier shall support the Purchaser to the necessary extent in defending against claims asserted by third parties.

3. Furthermore, the Parties shall notify each other immediately of any infringement risks and alleged cases of infringement and shall afford each other the opportunity to jointly counteract any corresponding claims.

### § 12 Assignment and Set-Off

1. The Supplier may not assign their claims against the Purchaser nor have these collected by third parties without prior approval in text form, which may not be refused unreasonably. § 354a BGB remains unaffected.

2. The Supplier is only entitled to offset undisputed or legally established counterclaims. They are only entitled to a right of

retention insofar as it is based on claims arising from the same contractual relationship.

3. The Purchaser may withhold or set off payments based on his counterclaims.

### § 13 Retention of Title

1. Any extended or wider retention of title on the part of the Supplier shall require an express separate agreement to be effective.

2. Any materials provided by the Purchaser shall remain his property and may only be used for the intended purpose. Any processing of materials and assembly of parts is carried out on behalf of the Purchaser. The Purchaser shall have co-title in the products manufactured using his materials and parts in proportion of the value of the materials provided by him to the value of the overall products, which the Supplier shall keep for him.

### § 14 Quality and Documentation

1. The Supplier shall meet state-of-the-art of science and technology standards, safety provisions and agreed technical specifications for his consignments. For this purpose they shall establish an appropriate quality management that complies with internationally recognized market standards and provide evidence of this upon request by the Purchaser.

2. The Supplier shall record in his quality documentation for all products, when, how and by whom a quality inspection ensuring defect-free production was carried out. These records shall be kept for 15 years as of the last time the Purchaser placed the final product on the market and shall be provided to the Purchaser if required. The Supplier shall be entitled to shorten the retention period if he can exclude any risk to life and health in the use of the products. The Supplier must impose the same obligations on its upstream suppliers to the extent permitted by law.

3. Furthermore reference is made to clause 2.7 with regard to quality and documentation.

### § 15 Compliance

1. Any persons carrying out work in performance of the contract on the premises of the Purchaser shall observe the applicable safety and environmental protection regulations. Any liability for accidents that happen to these persons on the Purchaser's premises shall be excluded. The exclusion does not apply to damages resulting from injury to life, limb, or health. In the case of other damages, the Purchaser is liable for intent and gross negligence, as well as for simple negligence in the event of a breach of essential contractual obligations; in the latter case, liability is limited to the foreseeable damage typical for this type of contract.

2. The Supplier shall fulfill all human rights and environmental due diligence, prevention, remedial, documentation, and reporting obligations applicable to it and the respective goods/services in accordance with the applicable legal and official requirements. The Purchaser's "Code of Conduct for Suppliers" in the version valid at the time of conclusion of the contract (<https://www.knorr-bremse.com/en/company/compliance/compliance-documents-and-policies/>) is an integral part of the contract; upon request, this will be provided to the Supplier in text form. The testing, verification, audit, and sanction mechanisms of the "Code of Conduct for Suppliers" shall take precedence; further legal rights and obligations remain unaffected. The Supplier shall immediately inform the Purchaser of any significant violations or suspected cases relating to the subject matter of the contract.

3. The Supplier shall at its own cost and expenses implement and maintain appropriate technical and organizational measures to protect information, systems, and data relevant to the supply of goods or services against unauthorized access, loss, manipulation, or disclosure. These measures shall be aligned with recognized industry standards (e.g. ISO/IEC 27001) and shall be reviewed regularly and updated in accordance with the current state of the art. Where the Supplier engages subcontractors for the performance of the contract, the Supplier shall ensure that equivalent information

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security measures are applied to such subcontractors. The Supplier shall notify the Purchaser without undue delay of any actual or suspected security incident that may affect the Purchaser's information, systems, or the fulfillment of contractual obligations, and shall cooperate reasonably in order to minimize the impact and resolve the root cause.

### § 16 Replacement Parts and Availability

Unless otherwise agreed, the Supplier is obliged to supply replacement parts on reasonable terms for the period of normal technical use, but for at least 15 years following the last delivery of the initial equipment. The Supplier is entitled to supply substitute products. In the case of substitute products, the Supplier must ensure compatibility with previously supplied items, including functionalities, specifications, connections, interfaces, external form and physical dimensions. Compliance with statutory standards must also be ensured.

### § 17 Final Provisions

1. Place of jurisdiction for all disputes arising directly or indirectly from contractual relationships that are based on these GTC shall be Munich. Furthermore, it shall be at the Purchaser's discretion to bring action before a court at the Supplier's place of business, the Supplier's branch office or at the place of performance.
2. The contractual relationship shall be governed exclusively by the applicable law of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG). Only the German version of the GTC is binding; the English version is a non-binding translation.
3. The right to extraordinary termination without notice for good cause remains unaffected. Good cause shall be deemed to exist in particular if one Party breaches the contract so seriously that the other Party cannot reasonably be expected to continue the contract, for example in the event of significant breaches of an agreed code of conduct or repeated breaches of contract. If remedial action is possible, a reasonable period of time shall be set for the breach of contract to be remedied before termination without notice, and this period shall be allowed to elapse without result. The Purchaser may also terminate the contract without notice if the proper performance of the contract is jeopardized by a significant deterioration in the Supplier's financial situation, in particular if (i) the Supplier suspends their payments on a more than temporary basis, (ii) agreed guarantees are not provided, or (iii) the opening of insolvency proceedings is rejected for lack of assets.
4. Unless a stricter form is required by law, declarations by the Parties may be made in text form; text form is also satisfied by e-mail, digital portals, or (simple) electronic signatures. If the law or the Parties require written form, this may be replaced by a qualified electronic signature; a wet-ink signature is then not required. Stricter legal formal requirements (e.g., notarization) remain unaffected.
5. Should any provision of these GTC and of the other concluded agreements be or become invalid, this shall not affect the validity of all other provisions of these GTC. The Parties undertake to replace such invalid provision with a valid provision that as closely as possible reflects the economic purpose of the invalid provision.