

## GENERAL PROCUREMENT CONDITIONS KWT Milieu BVBA

### 1. General

Together with the conditions mentioned in the order, these General Procurement Conditions are an integral part of any agreement where KWT Milieu BVBA acts as the buyer or client. Except under specific circumstances after explicit written approval from KWT Milieu BVBA, these General Procurement Conditions have priority over all other contradictory or restrictive conditions implemented by the seller, supplier or service provider (counter party), irrespective of whether they are disputed by KWT Milieu BVBA. These General Procurement Conditions will be deemed to have been accepted once work on an order is started.

### 2. Order

- a. Orders issued by KWT Milieu BVBA are seen as proposals to purchase goods from the counter party or proposals for the counter party to supply services to KWT Milieu BVBA, with such proposals then being subject to these General Procurement Conditions.
- b. Orders will expire if they are not unconditionally accepted by the counter party within 7 days. A longer validity period will apply if KWT Milieu BVBA explicitly extends the validity of the order.
- c. Changes to the order and/or the applicable General Procurement Conditions will only bind KWT Milieu BVBA if they have been accepted in writing by KWT Milieu BVBA.
- d. Orders by KWT Milieu BVBA will be regarded as a comprehensive reflection of the agreement with the counter party.

### 3. Delivery

- a. Ordered good must be supplied, on the date or within the period mentioned in the order, to the delivery address mentioned by KWT Milieu BVBA.
- b. If KWT Milieu BVBA has not mentioned a specific date or period, the counter party must duly notify KWT Milieu BVBA about the date of delivery in advance. In all cases, delivery must take place within a reasonable time frame.
- c. If the counter party realises that delays could be encountered in executing the order and/or delivery, the counter party must immediately notify KWT Milieu BVBA of this in writing, while also mentioning the expected length of the delay and the circumstances that caused it. Without prejudicing that mentioned above, the delivery dates and periods mentioned by KWT Milieu BVBA are essential and breaches will not be accepted. KWT Milieu BVBA is entitled to regard such breaches as contractual defaults.
- d. Unless agreed otherwise in advance, deliveries will only be received on working days from Monday to Thursday between 08:00 o'clock and 16:00 o'clock and on Friday between 08:00 o'clock and 15:00 o'clock.
- e. All goods deliveries must be accompanied by a consignment note or another document, which contains a description of delivered goods and a reference to the concerned order.
- f. The counter party must punctually supply KWT Milieu BVBA with instructions and other information that KWT Milieu BVBA needs to receive the goods in question.
- g. If, due to special circumstances, KWT Milieu BVBA is unable to receive the goods at the agreed time, the counter party must, upon request from KWT Milieu BVBA, postpone the delivery for a reasonable period determined by KWT Milieu BVBA.
- h. Ordered goods must be delivered in a single consignment, unless agreed otherwise. KWT Milieu BVBA is entitled, without prior notification, to return non-agreed partial deliveries to the counter party at the cost and risk of the latter.
- i. Purchased goods must be supplied in the quantities mentioned in the order. If more or fewer goods are delivered than initially agreed, KWT Milieu BVBA is entitled to refuse the surplus and/or return it to the counter party at the latter's cost and risk, or refuse the delivery altogether if too few goods are delivered.
- j. Unless agreed otherwise, the counter party must make sure - without charging extra costs - that delivered goods are accompanied by instructions for use and product information in Dutch, French and English.

#### **4. Inspection and acceptance**

- a. KWT Milieu BVBA is always authorised to perform checks, or have checks carried out by a third party, on the progress of orders, the quality of ordered goods in general and correct compliance by the counter party with its obligations in the agreement, which includes obligations originating from these General Procurement Conditions.
- b. KWT Milieu BVBA will not be deemed to have accepted any delivered goods until it has been given a reasonable period of time after delivery to perform an inspection on the delivered goods.
- c. Acceptance of delivered goods does not relieve the counter party of the guarantee obligations referred to article 8 of these General Procurement Conditions.

#### **5. Packaging and transport**

- a. Goods must be properly packaged by the counter party and secured so they reach the place of delivery in good condition when transported in a normal manner, and can be unloaded there in a safe manner.
- b. KWT Milieu BVBA is not obligated to return the packaging or packaging material to the counter party, irrespective of whether or not the delivered goods have been accepted.
- c. The counter party is responsible for ensuring compliance with national, international and/or supra-national regulations concerning packaging and transport.
- d. KWT Milieu BVBA is prepared, to the best of its knowledge but without liability on its part, to advise the counter party about packaging and transport and the accompanying regulations and provisions.
- e. KWT Milieu BVBA is entitled to not accept the delivered goods if provisions 5.a to 5.d have not been met.

#### **6. Transfer of ownership and risk**

- a. Ownership and risks associated with goods will transfer to KWT Milieu BVBA once the goods have been accepted by KWT Milieu BVBA after delivery, also if KWT Milieu BVBA is unable to receive the goods at the agreed time, whereby the delivery is postponed.
- b. Materials, moulds, stamps, auxiliary materials and tools supplied to the counter party by KWT Milieu BVBA, or produced by the counter party under the responsibility and instruction of KWT Milieu BVBA, will always remain the property of KWT Milieu BVBA, also if these goods are processed or incorporated into other goods. Mould, stamps and all other goods supplied to the counter party by KWT Milieu BVBA, or tools produced by the counter party under the responsibility of KWT Milieu BVBA, can never be used by the counter party when performing activities for third parties.

#### **7. Joint and several liability concerning social security and tax**

The counter party must release KWT Milieu BVBA from all liabilities concerning social security and tax owed by the counter party, its supplier(s) or sub-contractor(s).

#### **8. Warranty**

The counter party guarantees KWT Milieu BVBA that all delivered goods:

- 1. will be suitable for their intended purpose;
- 2. are of good quality and free of design, material and production errors;
- 3. comply with the mentioned or agreed specifications and/or the provided samples;
- 4. comply with all legal requirements relating to the delivered goods and their delivery.

#### **9. Shortcomings**

- a. KWT Milieu BVBA retains the right to submit complaints about the quality of supplied goods to the counter party if manufacturing or material defects are encountered, although this must be done within a period of 12 months - or a longer agreed period - after the shortcoming has been discovered.

b. If a complaint is submitted, payment obligations relating to the amount invoiced for the concerned goods will be suspended, if payment has not already been made, and any payment discounts will remain valid.

#### **10. Breaches and indemnity**

a. If the counter party fails to honour its obligations as part of the agreement established by the parties, KWT Milieu BVBA will, without prejudicing all other rights and recourse at its disposal, be entitled to - without prior notification - either fully or partially suspend its obligations towards the counter party or to request compliance with the concerned agreement. In addition, in case of serious breaches by the counter party, KWT Milieu BVBA retains the right to terminate the agreement by way of a written statement and without prior notification of breach or legal intervention. The counter party must be informed by way of registered letter about the choice made by KWT Milieu BVBA.

b. In case of breach on the part of the counter party, KWT Milieu BVBA will be entitled to request the counter party to compensate all damage, costs and interest, and to request already paid sums for not-yet-delivered goods to be reimbursed.

c. If KWT Milieu BVBA terminates the agreement, it can decide to return already delivered goods at the cost of the counter party, or to fully or partially retain them. If KWT Milieu BVBA returns delivered goods to the counter party, the counter party is obligated to reimburse KWT Milieu BVBA for all already made payments. The counter party is responsible for all risks associated with transport. If KWT Milieu BVBA decides to fully or partially retain already delivered goods, then KWT Milieu BVBA will pay a proportionate part of the agreed price to the counter party.

d. If KWT Milieu BVBA decides to enforce compliance with the agreement, the counter party will be obligated to still deliver the concerned goods, without charging extra costs, or to replace delivered but rejected goods at its own risk and costs, or to make any accompanying improvements.

e. If the counter party does not perform effectively within the reasonable period determined by KWT Milieu BVBA, or if - bearing in mind the safety and continuity of KWT Milieu BVBA's products - there are insufficient opportunities for the counter party or a party acting on behalf of the counter party to make the required improvements or replacements, then KWT Milieu BVBA will be entitled to have the improvement or replacement carried out in another manner at the expense of the counter party, without the need for prior notification.

f. If the counter party still delivers goods or services in order to comply with the agreement, these goods or services will be subject to the provisions in these General Procurement Conditions.

g. The counter party must fully indemnify KWT Milieu BVBA against all claims made towards KWT Milieu BVBA, as well as losses, damage, costs, etc. incurred by KWT Milieu BVBA due to or in relation to:

1. actions or negligence by the counter party or third parties it has deployed to execute the order;
2. any breaches in the guarantee offered by the counter party for the delivered goods;
3. any breaches in the intellectual property rights of third parties, unless such breaches have been caused by the specifications and instructions provided by KWT Milieu BVBA;
4. legal product liability;
5. all costs that KWT Milieu BVBA must reasonably incur to convince the counter party to comply with the agreement, or to compensate for the damage it has suffered, must be paid by the counter party.

#### **11. Force majeure**

a. Neither party will be deemed liable towards the other, or be deemed to be in breach, in case of delays or inability to execute the agreement, if the delay or inability has been caused by circumstances beyond the control of the claiming party.

b. The party that claims force majeure in such situations, must mention this to the other party as soon as possible, in writing, while also providing the accompanying reasons.

c. From that moment, execution of the parties' obligations will be suspended for the duration of the force majeure.

d. Parties have the opportunity to terminate the agreement, without paying any form of compensation to the other party, if the force majeure continues or if it is reasonably certain that it will continue for a period of at least 45 calendar days.

e. Without prejudicing the general validity of previous provisions, the following conditions may justify claims of force majeure: government measures or strike action.

## **12. Prizes**

- a.** Prices of ordered goods exclude the applicable VAT, which will be paid by KWT Milieu BVBA if the invoice of the counter party mentions VAT, and include all costs relating to packing, packaging, transport, insurance and delivery of goods to KWT Milieu BVBA and all rights and taxes other than VAT.
- b.** All agreed prices, including prices for materials delivered by the counter party, are fixed and cannot be increased for any purpose or reason without prior written consent from KWT Milieu BVBA. In this case, price increases also include increases the counter party wishes to implement due to increased salary costs, material costs and raw material costs, even if such increases are permitted by the government.
- c.** If the orders of KWT Milieu BVBA do not mention prices, the counter party will not charge KWT Milieu BVBA a price that is higher than the price it would charge a similar buyer under the same economic conditions.
- d.** KWT Milieu BVBA is entitled to all discounts for immediate payment, bulk purchases, etc., which are normally awarded by the counter party, irrespective of whether this was agreed in advance.

## **13. Payment**

- a.** The counter party is entitled to send an invoice to KWT Milieu BVBA on or after the day that purchased goods are accepted, with every invoice explicitly referring to the order of KWT Milieu BVBA.
- b.** KWT Milieu BVBA will not make any advance payments, unless stated otherwise in the order. In case of advance payment, all advance payments will be regarded as loans to the counter party and KWT Milieu BVBA will be entitled to request a bank guarantee until the whole order has been completed.
- c.** Payment for delivered goods must take place within the period determined in the order or - if delivery is delayed in accordance with art. 3.g of the General Procurement Conditions - within the same period once the postponed delivery has taken place.
- d.** If a payment period has not been mentioned in the order of KWT Milieu BVBA, KWT Milieu BVBA will pay the invoice within 30 days of it being received. If KWT Milieu BVBA makes payment within 8 days of the invoice being received, a payment discount of 2% will be applied to the gross value of the invoice.
- e.** KWT Milieu BVBA is entitled to deduct any amounts that the counter party may still owe KWT Milieu BVBA from its payments.

## **14. Confidentiality**

- a.** Unless prior written consent has been obtained from KWT Milieu BVBA, the counter party will not inform third parties of the order or any know-how it gains when executing the order, or use it for purposes - in its own benefit or that of third parties - other than the execution of the order.
- b.** The counter party must afford KWT Milieu BVBA clear use of and free access to the delivered goods.

## **15. Termination of agreement**

- a.** KWT Milieu BVBA is entitled, by sending written notification to the counter party, to fully or partially cancel any orders that have not yet been unconditionally accepted by the counter party.
- b.** KWT Milieu BVBA is entitled, without any form of legal intervention, to terminate any agreement without any form of liability towards the counter party, if the counter party is declared bankrupt or if full or partial seizure is imposed on assets, possibly belonging to the counter party, which are intended for the execution of the agreement.
- c.** KWT Milieu BVBA is entitled to terminate the agreement with immediate effect, without any form of liability towards the counter party, if the counter party stops its business or activities or transfers them to a third party.

## **16. Transfer**

The counter party must personally execute the order and the counter party is not entitled to transfer its rights and/or obligations, as stipulated in the agreement with KWT Milieu BVBA, to a third party without prior written consent from KWT Milieu BVBA.



**17. Validity**

All other provisions will not be affected if one or more of the provisions in these General Procurement Conditions are deemed invalid by a qualified body.

**18. Applicable Law and place of Jurisdiction**

**a.** All agreements with the counter party, any subsequent agreements and these General Procurement Conditions are exclusively subject to Belgian law. Applicability of the Vienna Convention (Vienna Sales Convention of 11 April 1980 on Contracts for the International Sale of Goods) and the New York Convention of 14 June 1974, on the Limitation Period in the International Sale of Goods, has been excluded.

**b.** All disputes originating from these agreements and the General Conditions will be exclusively settled by courts in the judicial district of Antwerp, region Turnhout, and the Court of Appeals in Antwerp if applicable, unless prescribed otherwise by the law.