



CONDITIONS OF PURCHASE  
OF  
KRONOSPAN LUXEMBOURG S.A.

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## Article 1- Scope of validity

Our conditions of purchase apply exclusively. Contradictory conditions or conditions of the supplier which deviate from our conditions will not constitute part of the contractual relationships.

The conditions of purchase are to be applied to all our orders and business relationships which are made after the supplier has taken knowledge of these conditions. The supplier will accept these conditions by executing the orders, among other things.

Annotations and changes to orders, invitations to tender, our conditions of purchase etc. are only valid provided they have been confirmed expressly in writing by us.

Only written agreements are legally binding. Verbal agreements and agreements by telephone must be confirmed by us in writing to be valid. Electronic data transfer (email or fax) are also considered to be in the written form. The receipt of deliveries and/or services will not constitute acceptance by us of the conditions of the supplier.

These conditions of purchase apply to all companies of the Kronospan Luxembourg S.A. Group. The following companies in particular belong to the Kronospan Luxembourg S.A. Group:

1. Kronospan Luxembourg SA
2. Kronospan Energy SA

This list is not limitative.

## Article 2 - Prices and conditions of payment

Unless expressly stated otherwise in the order, the prices are fixed (DDP according to Incoterms 2010).

Therefore, price rises made between conclusion of the contract and delivery shall be borne unilaterally by the supplier.

If the prices are not agreed beforehand, the contract will only come into effect once the prices, which must be stated on the order acceptance, have been accepted by us in writing.

Amendments and/or additions to existing orders (amendment or subsequent orders) will be subject to the same conditions and must be settled under the same conditions as the principal order. Discounts, guarantees, delivery dates etc. given on the principal order will also apply to amendments and subsequent orders.

Unless otherwise agreed in writing, payment of invoices is to be made when the goods and invoice have been received between the 1st and the 15th of the month on the 30th of the month and when the goods and

invoice have been received between the 16th and the 30th/31st of the month on the 15th of the following month with 3% discount or net within 90 days after receipt of the goods and invoice.

Payment on account may only be made against presentation of a bank guarantee on first demand, without any right to contest, valid from when the payment is made for up to at least 6 weeks after the agreed delivery date. The costs of the bank guarantee are to be borne unilaterally by the supplier. We reserve the right to refuse acceptance of bank guarantees or to have them confirmed again in writing by the issuer without stating our reasons.

In the event that the agreed delivery date is not observed, the guarantee must be automatically extended by at least one week before expiry of the originally agreed duration of the guarantee. If this is not carried out or is delayed, our recourse to the guarantee originally provided by the supplier can in no way be considered abusive.

For partial invoices, a 10% non-refundable covering reserve will be deducted.

On presentation of partial invoices and the final invoice, a period for verification of 90 days must be granted, without the invoice being deemed accepted on the basis of Article 109 of the Commercial Code. Otherwise, the conditions of payment agreed in the order will apply.

### Article 3 -Delivery date and delivery

#### Paragraph 1 - Non-observation of the delivery date

Delivery date: The delivery date stated on the order is unconditionally binding. Failure to comply with this means we are entitled to choose to demand payment of the contractual penalty without prior formal notice and a) to demand subsequent delivery with rescheduling of the delivery date, or b) to withdraw from the contract, without the supplier acquiring any claims against us. Further legal and/or contractual rights are expressly reserved.

The supplier will not only be responsible for any delay attributable to him, but also for that for which a third party directly or indirectly commissioned by the supplier is responsible.

Penalty/Contractual fine: In the case of late delivery, and in accordance with the above conditions concerning delivery date and especially without prior formal notice, we are entitled to demand a lump-sum contractual penalty at 1% of the delivery value for each late day started but no more than 15% of the total delivery value.

This contractual penalty is solely set in order to guarantee compliance with the delivery date by the supplier and serves as lump-sum compensation for damages caused by the missed delivery date. Claims for damages which arise from total failure to deliver or non-compliance with other obligations in the contract are expressly reserved.

Additional period of delivery: In the event that the agreed delivery dates cannot be met, a binding delivery date must be offered immediately so that we can decide whether the order is to remain valid. If so, the supplier will be notified that we insist on his duty to deliver and that an additional period of delivery is fixed; claims for payment of a penalty and further legal and/or contractual rights will however remain unaffected.

Early delivery: Early delivery may only take place with our written consent. An accepted early delivery made with our consent will not affect the payment period tied to the planned delivery date.

In the case of orders on call we are not obliged to take delivery of equal quantities at equal intervals.

#### Paragraph 2 - Defective delivery

Aside from non-compliance with the delivery date regulated in Article 3 Paragraph 1, if the supplier does not fulfill one or more of his obligations arising from the contract, we will, notwithstanding other rights arising from these conditions of purchase or legal provisions, be entitled after serving formal notice on the supplier:

- a) to withdraw from the contract;
- b) to pass the remaining work or deliveries to a third party whilst complying with the remaining contents of the contract.

In each case the additional costs arising from such action, including especially a possible price difference between the order value from the supplier and the price at which the services are completed will fall in full to the contractor.

We are not obliged to issue an invitation to tender for substitute performance or to check the reasonableness of the prices and we will have discretion on whether to award the substitute performance at lump-sum prices, unit prices or as scheduled work.

#### Paragraph 3 - Dispatch

Unless otherwise expressly agreed, dispatch is at the supplier's cost and risk. The supplier will be solely responsible for the consequences of incorrectly prepared dispatch documents or incomplete accompanying documentation and notes. An advice note or delivery note must be packed with every delivery on dispatch.

Additional costs arising from early dispatch or partial deliveries such as for freight, packaging etc, are to be borne by the supplier, provided these deliveries were not expressly required by us, and we have not expressly declared ourselves prepared to bear the costs.

#### Paragraph 4 - Taking delivery of the goods

With the exception of plant and insofar as we have not agreed any express and deviating conditions with the supplier, the taking delivery of the goods and the transfer of risk is regulated by DDP Incoterms 2010.

In the case of plant, delivery will be taken and the risk transferred following receipt, in the presence of both parties, of a handover report and the commissioning of the completed and functional plant.

In the case of weight differences, the weight recorded by our scales will be decisive for the calculation.

Where it is agreed that the goods are to be delivered from the premises of the supplier, the street address of the supplier is considered to be the agreed delivery address.

#### Paragraph 5 - Commencement of insolvency proceedings

In the event that insolvency proceedings are commenced against the supplier's assets, we are entitled to withdraw from the contract without giving notice, and without the supplier being entitled to any claims against us.

#### Article 4 - Examination for defects and guarantees

We are entitled to make a claim based on open or concealed defects within a reasonable period. 30 days from taking over the service is reasonable for open defects, and 60 days from discovery of the defect for concealed defects. Concealed defects include in particular defects that are only detected when the item is used either due to the nature of the packaging or the work process.

The simple taking over of a defective product will in no way count as approval; guarantee rights and other claims remain unaffected by the taking over of the goods and unasserted claims.

The period of guarantee for the contractual object, especially material, labour and function in 4-shift operations, is 3 years from taking delivery of the plant, unless the supplier's statutory periods of guarantee observe longer periods. Taking delivery means the express and positive acceptance of the completed and functional plant following inspection performed by ourselves. Notwithstanding the above, we are entitled to choose to demand either rectification of the defect or a replacement delivery within a period fixed to the supplier. The supplier will also be responsible for all indirect or direct damage

caused by the defect or consequences of the defect incurred by us from the further processing or use of the supplied, defective goods. All costs resulting from the safe-keeping or storage or return of defective goods are to be borne by the supplier.

The supplier undertakes at such a time in particular to rectify at his own cost all defects which occur in this period as quickly as possible and to restore the functionality of the contractual object. We have the optional right, without the supplier deriving any rights of his own, to organize a substitute performance or repair by a third party while preserving possible further settlement against the supplier, and at our own discretion insist on a retroactive revocation of the contract, price reduction, improvement and supplement for the omission without consultation but through the unilateral setting of a time-limit with the supplier. Following a replacement delivery or rectification of a defect, the above agreed warranty and guarantee periods start again for the replaced parts, for a further period of 3 years from a successful replacement delivery or rectification of the defect.

Moreover and notwithstanding the above clauses and statutory regulations, the supplier is also liable under the Product Liability Act (Loi du 21 avril 1989 relative à la responsabilité civile du fait des produits défectueux) for all damage or injury, without any deduction, which arises for us to persons, to the defective object or to other objects as a result of a defect in the supplied goods. He undertakes to hold us harmless in the case of a claim.

An unasserted claim based on a defect can in no way affect claims made based on the Product Liability Act. The supplier undertakes in all cases to inform us on request of the manufacturer and/or importer within 3 weeks and to provide us with all other information necessary to make a claim.

For the duration of the guarantee period a liability reserve of 5% of the total amount of the order (rounded up to the nearest 1000 euro) is to be issued which can be discharged by a bank guarantee.

#### Article 5 - Pass on of orders

The rights and duties arising from our orders as well as the execution of our orders may only be passed on with our written consent. This applies in particular to any planned assignment of an order or part of an order to a subcontractor by the contractual party.

The assignment by the supplier of his claims from a contract with the supplier may only be made with our express written consent. We are entitled in all cases to pay the supplier as the original creditor and receive discharge .

#### Article 6 - Property rights

The supplier guarantees that the use of the goods supplied by him does not infringe directly or indirectly domestic or foreign property rights or other rights which

enjoy special legal protection. He indemnifies us and our customers against all claims which may result from infringement of such rights.

He is also liable where we are concerned for any additional direct or indirect damage which could result from such infringement. Any legal disputes which result with a third party for this reason are at his risk and cost.

#### Article 7 - Observation of statutory and official regulations

The supplier declares that all regulations and obligations set out in the Act of 28 December 1988 (« Loi réglementant l'accès aux professions de commerçant, d'industriel, ainsi que certaines professions libérales ») in particular must be fulfilled.

When ordering equipment, machine parts or complete plant these must conform to the currently applicable version of our "Technical Guidelines", which the supplier confirms he has received and noted, as well as the laws and regulations valid in Luxembourg including all environmental and safety at work regulations, as well as the relevant ISO standards (where not available, the relevant DIN standards), and the guidelines to mechanical engineering and the electrical industry (VDM).

For deliveries which require a final inspection by the "Organismes agréés" or other appointed authorities, the relevant inspection certificate must be provided without request. The costs of the inspection are to be borne unilaterally by the supplier.

If user instructions, work drawings, operating instructions etc, are necessary or usual for the sector and the maintenance of the delivered object, these shall form an essential part of the order and must be delivered no later than delivery of the object.

If the supplier doesn't fulfill one or more of the legal rules, Kronospan can cancel the order, contract, with immediate effect and without any compensation or retribution to the supplier.

#### Article 8 - Reservation of ownership

Insofar as we provide parts to the supplier, we reserve ownership. Processing or restructuring is performed by the supplier on our behalf.

In the case of processing or combining, we shall acquire co-ownership of the new object as a ratio of the value of our object to the other processed objects at the time of processing.

#### Article 9 - Confidentiality

The supplier declares to treat as confidential, not to make available to a third party and not to utilize any information which he receives or has received from us in the course of drawing up a contract or in the course of performing a contract and which was not in the possession of the supplier before negotiating discussions with us regarding this contract.

Any publications of the fact that the supplier has concluded a contract with us or regarding the application itself requires our written consent.



#### Article 10 - Insurance

The supplier undertakes to provide proof of liability insurance of at least € 10 million in the form of a certificate of insurance cover. This liability insurance must cover personal injury, property damage and pecuniary damage.

For installation work, the supplier undertakes to take out, in addition to the liability insurance, adequate installation insurance but at least to the sum of € 10 million, whereby existing objects on our or another party's property are included.

This undertaking applies to the supplier as well as all third parties commissioned by him directly or indirectly.

#### Article 11 - General

No kind of reimbursement is paid for visits, the drawing up of plans, drafts or suchlike. Utilization of our order for advertising purposes by the supplier is not permitted.

Manuscripts, diagrams, drawings and patterns etc. made available to the supplier remain our property. They must be returned once the order has been delivered.

The supplier commits himself not to poach either staff we employ or installation/erection companies witch deal with us directly. A breach of this rule will be penalized by € 50.000,--.

We may offset all claims against the supplier's claims, including where we have acquired these claims through assignment from the Kronospan Luxembourg S.A. Group and companies belonging to the Kronospan Group.

#### Article 12 - Force majeure

Neither of the contractual parties is liable for damage attributable to force majeure, especially riot, strike, lockout or non-liable operational interruptions. The burden of proof rests with the party who cites force majeure.

If the delivery or commissioning is consequently delayed, the performance time is extended accordingly.

Each contractual party has the right however to withdraw from the contract in whole or in part in such a case of delayed performance time with the exclusion of any claims for damages.

The contractual parties shall inform each other regarding the start and end of such an obstruction as soon as possible.

Article 13 - Place of performance, jurisdiction and applicable law

The place of performance for all deliveries and services is the relevant receiving works as set out in Article 4 Paragraph 4; the exclusive place of jurisdiction for all disputes arising from these contractual conditions between us and the supplier is the courts of Luxembourg city, Duchy of Luxembourg; the contract and any disputes arising thereof are subject to Luxembourg law.

Application of the UN Sales Convention, such as the United Nations Convention on Contracts for the International Sale of Goods, is consensually excluded.

The invalidity of individual parts of the conditions of purchase does not affect the validity of the remaining parts.

The conditions of purchase exist in German, French and English versions. The original version of the conditions of purchase was drawn up in German. In cases of doubt as to the interpretation and performance of the conditions of purchase, the German version shall take precedence.

The conditions of purchase have been noted and accepted:

Date: Signature & stamp

The above conditions of purchase contain as marked in bold type, limitations and exclusions to the Kronospan's liability, the option of termination or the unilateral postponement of performance of the contract and a jurisdiction clause in favour of Kronospan.

The supplier declares that he has noted these clauses and acknowledges them expressly with his signature below.

(Supplier's signature)

(Date)