

General Terms and Conditions of Purchase (GTCP) of Gloning Krantechnik GmbH

I. Validity of the General Terms and Conditions of Purchase

1. These General Terms and Conditions of Purchase shall apply exclusively to the purchase of products and/or services of any kind by Gloning Krantechnik GmbH.
2. These General Terms and Conditions of Purchase shall apply to the exclusion of the supplier's Terms and Conditions of Sale and Delivery – even if the supplier should refer to its terms and conditions of business in order confirmations, on delivery notes or invoices – unless Gloning Krantechnik GmbH expressly agrees to their validity in writing.
3. Similarly, Gloning Krantechnik GmbH shall not be bound if the supplier's terms and conditions of business deviate from statutory provisions, irrespective of the content of these General Terms and Conditions of Purchase. Insofar as these General Terms and Conditions of Purchase do not comprehensively regulate the legal relationship between the parties, the statutory provisions shall apply.

II. Conclusion of the contract

1. Orders and agreements are only binding if they have been made or confirmed in writing by Gloning Krantechnik GmbH. Gloning Krantechnik GmbH shall receive confirmation in writing that the order has been accepted immediately upon receipt. If the confirmation of the supplier deviates from the order or enquiry of Gloning Krantechnik GmbH, the supplier must specifically identify this deviation as such. Illustrations and drawings accompanying the confirmation of the supplier as well as quantity, dimension and weight specifications of the supplier shall be binding in principle.
2. Order confirmations made by the supplier and not specifically highlighting deviations from the order by Gloning Krantechnik GmbH shall remain without effect with regard to the deviations, without the need for an objection or complaint by Gloning Krantechnik GmbH. In particular, neither the actual taking delivery of the goods, the payment for such goods or any other conduct of Gloning Krantechnik GmbH or silence on its part shall give rise to any belief by the supplier in the relevance of its deviations.
3. Changes to the contract shall require written confirmation from Gloning Krantechnik GmbH.
4. In return for reimbursement of the reasonable expenses incurred by the supplier, Gloning Krantechnik GmbH shall be entitled to change the specifications for the goods to be delivered or to cancel the contract after its conclusion. In the event of a partial cancellation, the supplier shall also be reimbursed for the profit lost on a pro rata basis.

III. Price and payment conditions

1. If, in exceptional cases, the prices are not agreed in advance, they shall be stated in the order confirmation and shall be binding. Gloning Krantechnik GmbH reserves the right of objection and withdrawal.
2. The submission of offers is always free of charge. No remuneration shall be granted for any visits, drawing up of plans and the like, unless otherwise agreed in advance.
3. The agreed prices are fixed prices (plus VAT) and are to be understood as free delivery to place of use, including packaging and freight costs as well as other corresponding taxes, customs duties or fees.
4. If it has been expressly agreed in writing that Gloning Krantechnik GmbH shall bear the transport costs, the mode of transport most favourable to Gloning Krantechnik GmbH shall be chosen.
5. All costs incurred until handover to the carrier, including loading and excluding carriage, shall be borne by the supplier. The agreement on the place of performance shall not be affected by the type of pricing. Gloning Krantechnik GmbH reserves the right to acknowledge excess or short deliveries.
6. Unless otherwise agreed in writing, Gloning Krantechnik GmbH shall pay within thirty (30) days after delivery and receipt of the invoice less 3% discount or within sixty (60) days net.
7. Gloning Krantechnik GmbH may deduct from the payment of the purchase price amounts owed by the supplier to Gloning Krantechnik GmbH. Gloning Krantechnik GmbH will pay disputed amounts only after final clarification of the dispute.

IV. Environmental and accident protection regulations

The contractor is obliged to take all necessary precautions for environmental protection and accident prevention with the delivery item and to take into account all official and legal requirements. Gloning Krantechnik GmbH is entitled to demand a certificate from the responsible employers' liability insurance association, which must show that all regulations for the prevention of accidents have been complied with.

V. Delivery date

1. All agreed deliveries shall be interpreted in accordance with INCOTERMS 2000.
2. The supplier shall not be entitled to make partial deliveries or render partial services without the prior written consent of Gloning Krantechnik GmbH.
3. The agreed delivery dates are binding. Delivery before the agreed delivery date is only permissible with the prior written consent of Gloning Krantechnik GmbH. If the supplier realises that it will not be able to meet a delivery date, it must inform Gloning Krantechnik GmbH immediately and without prompting, in order to enable other arrangements to be made thereafter.
4. After delivery and successful completion of the corresponding tests or agreed acceptance, the service shall be deemed to have been rendered, provided that the prescribed requirements that are decisive for the quality and execution have been fulfilled and Gloning Krantechnik GmbH has received the documentation to be supplied by the supplier.

VI. Default of delivery and performance

1. The supplier is obligated to notify any recognisable delivery delays immediately in writing, stating the reasons and the expected delivery time delay.
2. If the delivery date is culpably exceeded, the supplier shall owe a contractual penalty of 0.3% of the purchase price from the calendar day of the delay in delivery, but not more than 15% of the purchase price. Payment of the contractual penalty shall not avert the obligations to perform in accordance with the contract or to compensate for the damage still arising.
3. If the supplier is in default with its performance, Gloning Krantechnik GmbH shall be entitled, after expiry of a reasonable period of grace that it sets, to demand, at its discretion, subsequent delivery and damages for delivery not made or not made as owed or damages in lieu of performance and to withdraw from the contract.
4. Gloning Krantechnik GmbH reserves the right to claim further damages in excess of the contractual penalty.

VII. Rights in the case of defects

1. The supplier warrants that all deliveries/services comply with the state of the art at the time of delivery, the relevant legal provisions and the regulations and guidelines of authorities, trade associations and professional associations in terms of their quality and durability and – insofar as handed over – the requirements in drawings and specifications of Gloning Krantechnik GmbH. If deviations from these regulations are necessary in individual cases, the supplier must obtain the written consent of Gloning Krantechnik GmbH. Its obligation to subsequent performance shall not be restricted by this consent.
2. The supplier undertakes to use environmentally friendly products and processes for its deliveries/services and also for subcontracted or ancillary services of third parties – within the scope of economic and technical possibilities. The supplier is liable for the environmental compatibility of the delivered products and packaging materials and for all consequential damage resulting from a breach of its statutory disposal obligations. At the request of Gloning Krantechnik GmbH, the supplier shall issue a certificate of quality for the delivered goods.
3. If the delivery/service is defective, the supplier shall remedy the defect immediately and free of charge, including all ancillary costs, which also include dismantling and installation costs, at the discretion of Gloning Krantechnik GmbH, either by repair or by replacement of the defective parts. In addition, Gloning Krantechnik GmbH is entitled to the statutory claims.
4. If the supplier does not fulfil its obligation of subsequent performance within a reasonable period set by Gloning Krantechnik GmbH, Gloning Krantechnik GmbH may take the necessary measures itself or have them taken by third parties at the expense and risk of the supplier, without prejudice to its obligation of subsequent performance. In urgent cases, Gloning Krantechnik GmbH may carry out the rectification itself or have it carried out by a third party after consultation with the supplier. Minor defects may be remedied by Gloning Krantechnik GmbH itself without prior agreement, in the interest of undisturbed production, and the expenses may be charged to the supplier, without this affecting the supplier's obligation to subsequent performance. This shall also apply if there is a risk of unusually excessive damage.
5. In the event of recourse, Gloning Krantechnik GmbH shall be entitled to demand compensation from the supplier for the expenses incurred due to the defectiveness of the delivery/service, which Gloning Krantechnik GmbH had to bear in relation to its customer.
6. Unless otherwise agreed in individual contracts, claims for defects shall become statute-barred in accordance with the statutory provisions after five years in the case of an item that has been used for a building in accordance with its customary manner of use and otherwise after two years after acceptance of the delivery item by Gloning Krantechnik GmbH or handover to the third party named by Gloning Krantechnik GmbH at the place of receipt or use prescribed by Gloning Krantechnik GmbH.

VIII. Product liability

1. The supplier shall indemnify Gloning Krantechnik GmbH against all claims arising from non-contractual product liability, insofar as the damage was caused by a defect in the subject matter of the contract delivered by the supplier.
2. In the aforementioned cases, the supplier shall assume all costs and expenses, including the costs of any legal action or recall action. In all other respects, the statutory provisions shall apply.

IX. Infringement of industrial property rights and copyright

The supplier shall guarantee that the products do not infringe any patent, trademark, copyright or design rights of third parties. In the event of infringement, the supplier shall indemnify Gloning Krantechnik GmbH against any legal disputes and claims brought against Gloning Krantechnik GmbH or its customers in this regard. Furthermore, the supplier shall assume all costs, damages or expenses incurred by Gloning Krantechnik GmbH in this regard.

X. Secrecy

The contractor is obliged to keep all information that we provide to it for the execution of the order – as long as and to the extent that it is not demonstrably public knowledge – as well as all commercial and technical documents strictly confidential and to treat them as business secrets. In particular, drawings, models, samples and tools may not be published, reproduced, used for any purpose other than the purpose of the order or made accessible to third parties without our written consent. The contractor is liable without limitation for damages resulting from a breach of this obligation.

XI. Assignment, set-off and right of retention

1. An assignment of claims against Gloning Krantechnik GmbH is only permissible if Gloning Krantechnik GmbH has given its prior written consent to this. This also applies to silent cessions.
2. The supplier shall not be entitled to offset claims against Gloning Krantechnik GmbH without their prior consent – unless the claim is undisputed or has been legally established.
3. Rights of retention of the supplier shall be excluded, unless they are based on the identical contractual relationship.

XII. Liability and insurance

1. The supplier shall indemnify Gloning Krantechnik GmbH against damages and claims arising from personal injury and property damage caused by the supplier and against all actions, claims, proceedings, damages, costs and expenses incurred as a result thereof. In no event shall the parties be liable for damages resulting from loss of production, loss of profit or for any other pecuniary loss, except in case of intent or gross negligence.
2. The supplier shall maintain sufficient liability insurance to cover any liability claims arising from the performance of the contract. The sum insured here shall be at least two million EURO (EUR 2,000,000.00) or the equivalent value in another currency. Upon request, the supplier shall provide Gloning Krantechnik GmbH with its insurance policies or the insurance policies of any of its sub-suppliers. All changes regarding the insurance must be communicated to Gloning Krantechnik GmbH immediately without undue delay. The obligation to maintain insurance shall have no effect on the legal liability of the supplier or sub-supplier.

XIII. Sub-suppliers

The supplier may not pass on the order or parts of the order to any sub-supplier without the prior written consent of Gloning Krantechnik GmbH. The sub-supplier shall guarantee that it shall fulfil the same obligations as the supplier, in particular with regard to quality standards and insurance. Gloning Krantechnik GmbH may terminate the order immediately if the supplier violates this clause.

XIV. Applicable law and place of jurisdiction

The place of jurisdiction for all disputes arising from these Terms and Conditions or from a purchase contract is the registered office of Gloning Krantechnik GmbH. Notwithstanding the foregoing, Gloning Krantechnik GmbH shall also be entitled to bring an action before the court where the supplier has its registered office.

XV. Partial ineffectiveness

Should provisions of these General Terms and Conditions of Purchase be or become invalid, the remaining terms and conditions shall remain valid. The parties are required to replace the invalid provision with a legally valid provision that comes as close as possible to the economic sense and purpose of the invalid provision.

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