

\*

This offer is regarded as being accepted if it is not rejected by the management of Kuhn-Baumaschinen GmbH within 14 days. Representatives or commercial agencies are not entitled to sign for Kuhn-Baumaschinen GmbH in a legally binding way or receive money.

Contract completion occurs at the terms and conditions of purchase (TCP) as outlined overleaf. The place of fulfilment and exclusive place of jurisdiction for both contractual parties has been agreed as the city of Salzburg.

# Reverse

## ***Terms and conditions of purchase (TCP)***

### **1. General:**

- 1.1. Kuhn-Baumaschinen GmbH (subsequently referred to as "KB") purchases goods and services solely on the basis of these terms and conditions of purchase. These form an integral element of all contracts of purchase (including equipment being exchanged or machines being returned). They also apply to all further purchases in the future and/or orders as well as associated legal transactions and contracts.
- 1.2. If individual provisions of these TCP violate current or future law, it is solely KB that decides whether the other agreements become invalid. If KB declares the remaining agreements as still being binding, KB may replace the invalid provisions with similar, legally effective provisions.
- 1.3. All bodies and representatives as well as commercial agencies of KB are only obliged to fulfil the provisions outlined in these TCP. Any additional agreements going beyond these and/or amends require the written confirmation of the authorised KB body as listed in the commercial register.
- 1.4. Any terms of the seller which oppose these TCP are not valid unless a mutually agreed amendment has been made according to the formal requirements as outlined in Point 1.3.
- 1.5. Any legal questions which arise concerning the business relationship and the TCP are to be resolved according to Austrian law.
- 1.6. KB informs the buyer that his data will be automatically processed and stored by a computerised system. This processing is for the automation of written correspondence and payment transactions. The data will not be forwarded.

### **2. Prices and payment terms:**

- 2.1. The price stated overleaf includes delivery to the nearest KB used machine branch (5310 Mondsee / 2325 Himberg) and is subject to an additional test upon handover which is to confirm that the condition of the machine corresponds to the used machine offer provided.
- 2.2. The purchase price is due within 14 days after the handover free of defect of the purchased goods in the same condition as stipulated in the inspection report. A requirement of the handover free of defect also includes that all accessories (tools, buckets, shovels, instant coupling system, amongst other things) as listed in the inspection report are delivered at the same time.
- 2.3. The seller's billing must be in accordance with legal requirements and should occur after the handover free of defect of the goods at the earliest.
- 2.4. KB is entitled to choose which of the seller's accounts it transfers payment to with effect of discharging the debt.
- 2.5. KB payments should be credited firstly to capital and then to interest.
- 2.6. The agreement or assertion of a reservation of title through the seller is not permitted.

### **3. Delivery:**

- 3.1. The delivery to KB must be made on the agreed delivery date at the latest and at the seller's expense during KB's business hours. The exact delivery date must be announced at least a week in advance in writing.
- 3.2. The delivery occurs at the seller's expense and risk.
- 3.3. As soon as the seller foresees that a timely and/or due delivery will not be possible he must inform the buyer of this stating the reasons for this and the duration of the delay and establish whether KB still requires the delivery and at what terms. KB must be given at least 14 days' notice to determine whether a delivery is still required and the terms for this.
- 3.4. In the event of a delayed delivery through the seller, KB is entitled to withdraw from the contract without giving a period of grace and demand compensation of any damage arising from this including any lost profit.
- 3.5. If KB is willing to accept a delayed delivery, KB is entitled to deduct KB's standard rental prices from the purchase price from the time of the agreed delivery date.
- 3.6. If collection is through KB, KB is entitled to deduct the local transport costs from the purchase price.

### **4. Acquisition, guarantee and compensation:**

- 4.1. In principle, the handover must occur in the manner outlined in the inspection report from the offer compilation. The seller is entitled to continue to use the machine between the time the offer was made and the agreed delivery whereby all points of the operational instructions and maintenance and service regulations must be carefully followed. It is agreed that the machine may be used for a maximum of 40 hours per calendar week. If it is revealed during the handover that the machine was used for more hours, KB is entitled

to deduct pro rata rental costs from the purchase price. If the agreed number of operational hours has been excessively exceeded, KB is entitled to withdraw from the contract.

- 4.2. KB may make any claims which it is entitled to due to a differentiation in the actual condition at handover and the agreed conditions as stated in the inspection report within four weeks of the handover.
- 4.3. The seller provides guarantee that the object of purchase is solely his property and not burdened with the rights of third parties. Furthermore, he also guarantees that the object of purchase is handed over in the condition as outlined in the inspection report.
- 4.4. KB is entitled to grant short periods of grace for the rectification of any faults and state where this rectification should occur. KB is also entitled to rectify the problems itself and charge the seller an appropriate amount for this.
- 4.5. The seller is obliged to provide full compensation for any consequential damage. The seller is also liable for full damage compensation in the event of slight negligence.

#### **5. Prohibition of assignment:**

- 5.1. The seller may only transfer claims arising from this purchase agreement to third parties with the express permission of KB in accordance with the formal requirements of point 1.3.

#### **6. Special conditions:**

- 6.1. The seller assures KB that the equipment being purchased complete with associated parts is in a condition which corresponds to the age and hours used and that there are no unusual or concealed faults. The object of purchase also includes any technically required and/or pictured/listed accessories.
- 6.2. The seller is obliged to indemnify and hold KB harmless with regard to all claims arising from the Product Liability Act as well as any guarantee or compensation claims of third parties.
- 6.3. If the seller is placing a purchase offer for a machine from KB at the same time as the sale offer, the completion of this purchase agreement between the seller and KB depends on the effectiveness of the purchase agreement for a machine from KB to the seller.
- 6.4. In the event that the purchase agreement between KB and the seller for a machine supplied by KB does not become effective or is dissolved by KB for reasons for which the seller is responsible, the object of purchase remains as security with the right for utilisation in the ownership and the property of KB.
- 6.5. If the seller does not fulfil his obligations arising from this contract fully and on time, KB is entitled to collect the object of purchase and secure this at the expense of the seller.