



KONICA MINOLTA

## General Purchase Conditions of Konica Minolta Business Solutions Europe GmbH and of Konica Minolta Business Solutions Deutschland GmbH

- valid as from 11.04.2016 -

### 1. Scope

- 1.1 Unless otherwise agreed in writing, these General Terms and Conditions shall apply to all supplies of goods or services to Konica Minolta Business Solutions Europe GmbH or Konica Minolta Business Solutions Deutschland GmbH (hereinafter called Konica Minolta).
- 1.2 If these General Terms and Conditions are incorporated in a contract, they shall also apply to all contracts of the same kind which are concluded with the contracting party in future.
- 1.3 Any General Terms and Conditions of the contracting party shall not form part of the contract, even if Konica Minolta did not expressly object to their validity at the time of conclusion of the contract. Any General Terms and Conditions of the contracting party shall not form part of the contract, even if Konica Minolta did not expressly object to their validity at the time of conclusion of the contract.

### 2. Basis of the cooperation, Supplier Code of Conduct

- 2.1 The contracting party is obliged to take into consideration and comply with the basic principles and standards set out in Konica Minolta's Supplier Code of Conduct (SCoC). The SCoC can be obtained from the website [www.konicaminolta-agb.de](http://www.konicaminolta-agb.de) or, in the event that it is not available on this site, requested from Konica Minolta by post, by e-mail ([recht@konicaminolta.de](mailto:recht@konicaminolta.de)) or by telephone (on +49 (0) 511/7404-630).
- 2.2 The SCoC forms the basis of the agreement between Konica Minolta and the contracting party. Any infringement of the basic principles and standards set out in the SCoC shall represent a major infringement of the contractual relationship. In the event of a suspected infringement of the SCoC (e.g. negative media reports), Konica Minolta is entitled to request information about the relevant circumstances.
- 2.3 Konica Minolta is entitled to terminate without notice for extraordinary reasons individual or all contractual relationships with contracting parties which demonstrably do not comply with the SCoC and do not attempt to or do not implement improvement measures after Konica Minolta has set a reasonable time limit for this.

### 3. Offers, orders

- 3.1 The preparation of offers and cost estimates by the contracting party shall be free of charge for Konica Minolta. Cost estimates for work and services shall be binding with a permissible tolerance of 20%.
- 3.2 Assignments, orders and delivery call-offs, as well as their changes and additions shall only be valid if they are effected in writing, by fax or by e-mail. Oral agreements shall only be valid if they are confirmed in writing, by fax or by e-mail.
- 3.3 Orders and delivery call-offs within the framework of order and call-off planning shall become binding if the contracting party does not object to them within two working days after their receipt.

### 4. Service and delivery conditions

- 4.1 Agreed service and delivery dates and/or periods shall be binding. The service and delivery conditions shall be deemed to have been satisfied if the due services are furnished at the agreed location or the ordered goods are delivered to the agreed delivery address. Konica Minolta shall be informed immediately if delays are anticipated or have occurred.
- 4.2 In the event of a culpable delay in performance or delivery by the contracting party, Konica Minolta shall be entitled
  - a. to assert a claim for 2% of the net order amount for each commenced week and a maximum of 5% of the net order amount in general as a contractual penalty. In the event of identical creditor interest, the contractual penalty shall be offset against any damage caused by delay and/or
  - b. withdraw from the contract in the event of service or delivery delays of more than 10 days and cancel all corresponding orders free of charge.
- 4.3 All services and supplies shall comply with legal conditions, especially the valid safety and environmental protection regulations, including the safety recommendations and standards of the responsible German technical committees or technical associations (e.g. VDE, VDI, DIN). All services and supplies shall comply with legal conditions, especially the valid safety and environmental protection regulations, including the safety recommendations and standards of the responsible German technical committees or technical associations (e.g. VDE, VDI, DIN).
- 4.4 Imported goods shall be delivered duty paid. The contracting party shall be obliged to provide statements or information required in this respect at his own expense, permit the customs authorities to carry out inspections and supply any necessary official documents. On request, the contracting party shall also be obliged to inform Konica Minolta about any licensing obligations for (re)exports of the supplied goods according to German, European and American export and customs regulations and the export and customs regulations of the country of origin of the goods and services.
- 4.5 If standard software is permanently transferred in return for a one-off payment, the contracting party shall be obliged
  - a. to provide Konica Minolta with executable software in the object code on a commercially available data carrier or by means of online transmission and to grant Konica Minolta a non-exclusive, irrevocable and perpetual right without restrictions in terms of content or place within the meaning of Sections 69c and 69d of the German Copyright Act (UrhG);
  - b. to also provide, for each software copy, printed or printable German documentation which enables a program user with average ability to install and update the software without the assistance of the contracting party.



## KONICA MINOLTA

- 4.6 Konica Minolta shall be entitled to copy standard software obtained online to a data carrier. The right to distribute the software copy thus embodied shall be the same as if it were purchased on a data carrier.
- 4.7 If software ordered by Konica Minolta is subject to certain licensing conditions which restrict or supplement the utilisation rights according to Item 3.4, the contracting party shall be obliged to inform Konica Minolta accordingly by submitting the licensing conditions prior to the conclusion of the contract. Otherwise, the licensing conditions shall not be valid.
- 4.8 The commissioning of negotiators or subcontractors shall require the permission of Konica Minolta. The commissioning of negotiators or subcontractors shall require the permission of Konica Minolta.
- 4.9 The contracting party shall guarantee that their employees will be paid a wage that complies with the requirements of the version of the "German law for regulating a general minimum wage" (Mindestlohngesetz - German Minimum Wage Law) that is currently valid.

### **5. Place of performance, ownership**

- 5.1 The place of performance shall be the place where the services have to be furnished or the goods delivered in accordance with the terms of the contract. Up until the delivery of the goods at the place of performance, the contracting party shall bear the risk of their damage, loss and accidental destruction.
- 5.2 When the goods are handed over or the services are accepted, Konica Minolta shall acquire unrestricted title to the ordered goods and services. Any requested or extended reservation of title shall be excluded.
- 5.3 Materials and equipment provided are and shall remain the property of Konica Minolta. They shall be marked as such by the contracting party and shall be stored and administered separately. If materials and equipment are processed, transformed and combined or mixed with other products, this shall take place in the name and for the account of Konica Minolta. Konica Minolta shall acquire sole ownership of the new item. If processing, transformation or combination is carried out using items belonging to several owners, Konica Minolta shall acquire a co-ownership share in the new item corresponding to the value of the materials and equipment in the proportion of the value of all items used in production. If Konica Minolta acquires a co-ownership share in the new item, the contracting party shall transfer his co-ownership share in the new item subject to the condition precedent of payment to Konica Minolta. Irrespective of the ownership of the new item, the contracting party shall be responsible for its safekeeping free of charge.
- 5.4 Konica Minolta shall retain the right of ownership and copyright to documents that are handed over to the contracting party during execution of the contract. The documents may only be used for the purpose for which they were handed over to the contracting party and shall be returned at any time at the request of Konica Minolta with all copies and duplicates.

### **6. Warranty**

- 6.1 Unless otherwise agreed in the following provisions, liability for material or legal defects shall be based on the legislation of German law.
- 6.2 The plea of late notification of defects shall be excluded if an obvious defect is notified within two weeks after delivery or a hidden defect is notified within two weeks after its discovery by Konica Minolta.
- 6.3 Konica Minolta shall have the right to choose the type of supplementary performance. The contracting party may only refuse to accept the chosen type of supplementary performance if this involves disproportionate costs for him.
- 6.4 If the contracting party does not immediately start to rectify the defect after being requested to do so, Konica Minolta shall be entitled in urgent cases, especially to avert acute dangers or avoid greater damage, to rectify the defect or have it rectified by third parties at the expense of the contracting party.
- 6.5 The limitation period for warranty claims shall be extended by the time between the notification and rectification of the defect if the defect is eliminated through repairs. If the defect is rectified by supplying a new product, the new limitation period shall start on the date of subsequent delivery.

### **7. Liability, exemption from liability**

- 7.1 In accordance with legal regulations, the contracting party shall be liable for infringements of contractual obligations outside the right of warranty and for fraudulent activities.
- 7.2 The contracting party shall be liable for ensuring that no (intellectual) property rights or industrial property rights of third parties are infringed through the contractual use and any resale of his goods or services by Konica Minolta and shall release Konica Minolta from all corresponding claims of third parties upon the first demand.
- 7.3 If legal action is taken against Konica Minolta on account of product liability, the contracting party shall release Konica Minolta from these claims if the damage was caused by a defect in the goods or services supplied by the contracting party. In the case of fault-based liability, this provision shall only apply if the contracting party is culpable. If the contracting party is responsible for the cause of the damage, the burden of proof shall lie with him.
- 7.4 The contracting party shall indemnify Konica Minolta against all third-party liability claims which are justifiably asserted against Konica Minolta as part of the contractual relationship between them and Konica Minolta in accordance with Section 13 of the Minimum Wage Law in conjunction with Section 14 of the Arbeitnehmer-Entsendegesetz (Employee Secondment Act).

### **8. Invoicing, payment conditions**

- 8.1 Invoices shall be sent to Konica Minolta by separate post, without a duplicate and separately for each order as soon as the goods or services have been supplied.
- 8.2 The invoice must describe precisely the nature, scope and volume of the goods or services that are being delivered, as well as the order number and, if there is one, the item number, as assigned by Konica Minolta, and contain all the statutory information that is required notably under turnover tax law.
- 8.3 Payment shall be made by Konica Minolta either within 30 days of receipt of the invoice.
- 8.4 Payments by Konica Minolta shall not be regarded as confirmation of the contractual supply of goods or services and may also not be interpreted as such.



## KONICA MINOLTA

### 9. Set-off, withdrawal and notice of termination

- 9.1 The contracting party shall only have a right of set-off or a right of retention if the (counter) claims forming the basis of the right have been accepted in writing by Konica Minolta or are final and absolute.
- 9.2 Konica Minolta shall be entitled to cancel any orders or contracts not yet carried out, or to withdraw from the respective underlying contracts, or terminate these without notice, if the contracting party is overindebted or insolvent, the occurrence of insolvency is imminent, a levy of execution is enforced against the contracting party or insolvency proceedings are petitioned on its assets.

### 10. Audit right

- 10.1 Konica Minolta is entitled to inspect the contracting party's company with respect to the following:
- Whether the basic principles and standards set out in Konica Minolta's Supplier Code of Conduct (SCoC) are taken into consideration and complied with by the contracting party (see item 2) and which management systems and/or measures the contracting party has implemented in relation to this;
  - Whether and to what extent, both from a personal point of view and from the point of view of technical and organisational measures and processes, it is ensured that the contracting party can reliably meet its contractual obligations.
- 10.2 The audit right as set out in paragraph 1 includes the right to visit the contracting party's operating facilities, to question employees and to have access to the IT infrastructure and written documents, if and provided that none of the contracting party's obligations relating to data protection law or confidentiality are infringed as a result and no business or trade secrets are disclosed.
- 10.3 Konica Minolta may perform the audit itself or commission a third party (e.g. financial auditor) to do so, who is legally or contractually obligated to maintain secrecy. When the audit is being performed, the contracting party shall make every effort to assist Konica Minolta and/or the person(s) commissioned by Konica Minolta to conduct the audit.
- 10.4 Where there are specific indications of an unsatisfactory situation, an audit may be performed at any time; however, without any specific reason, audits may be performed no more than once per calendar year. Notification of the audit, including the content thereof, must be provided at least three working days in advance, must not take longer than two working days and must be performed during normal business hours.
- 10.5 Each party shall bear the costs and expenses incurred in association with an audit themselves.

### 11. Final provisions

- 11.1 All business or technical information, expertise or experience provided by Konica Minolta shall – as long and if it has not been proved to be public knowledge – be treated as confidential vis-à-vis third parties and must only be made available in the contracting party's business operations to such persons who necessarily have to be called on to execute this contract and have also been obligated to maintain secrecy.
- 11.2 These General Terms and Conditions and all contracts in which they are incorporated shall be subject solely to German law, to the exclusion of the provisions on the conflict of laws and the United Nations Convention on the International Sale of Goods (CISG).
- 11.3 Hanover shall be the place of jurisdiction for all legal disputes arising indirectly or directly from contracts in which these General Terms and Conditions are incorporated. Konica Minolta shall also be entitled, however, to take legal action against the contracting party at the court where it has its registered office or branch, or at the court in the place of performance.
- 11.4 If one clause of these General Terms and Conditions is or becomes invalid or unenforceable, the validity of the other clauses and of the contract concluded on the basis of these General Terms and Conditions shall not be affected thereby.