

GENERAL TERMS AND CONDITIONS OF KERB-KONUS-VERTRIEBS-GMBH

These Terms and Conditions apply to the sale and supply of our products. Any deviations from these Terms and Conditions of Sale, in particular the applicability of customers' terms and conditions of purchase, are subject to our written approval. In case of doubt, any change to our Terms and Conditions of Supply and Payment shall be deemed unintended.

1. Offers, Orders

Our offers are submitted without engagement. Orders shall only become binding upon us when confirmed in writing by the general management or once the goods have been delivered.

2. Prices

Prices shall be as indicated in the price list valid on the day of delivery.

3. Force Majeure

In the event of Force Majeure or other obstacles to our ability to deliver for which we cannot be held responsible – including circumstances and events which cannot be prevented despite management with due care and diligence – we shall be released from our obligation to deliver and without giving rise to any claims for damages. Cases of Force Majeure include, among others, transport obstructions, plant interruptions, delays in the delivery of raw materials, actions by public authorities and any type of industrial conflict.

The customer shall be entitled to revoke the order should we be unable to complete it within a reasonable period of extension of the original deadline.

4. Delay in Acceptance

If the customer delays acceptance, we shall be entitled to cancel the contract following expiry of an extension of the original acceptance period granted by us of no more than 14 days and to claim damages. In the event of a delay in acceptance, we shall be entitled to invoice an increased price for the goods on the day, if applicable, to the customer. By way of damages, we shall be entitled to charge a flat rate of 5 % of the net turnover lost without the need to provide further evidence. Any further-reaching claims to damages shall remain unaffected in this case.

5. Delivery

We shall use our best efforts to adhere to delivery deadlines; any delivery dates promised are non-binding, however. In the event of Force Majeure or other obstacles to our ability to deliver for which we cannot be held responsible (see Section 3 above), the delivery deadline shall be extended by the period of impairment.

The customer shall be informed of the occurrence and probable duration of the impairment without delay.

Both Parties shall be entitled to revoke an individual order without giving rise to claims of compensation, should the delivery be delayed by more than one month. In the event of non-fulfilment of deadlines, the customer shall only be entitled to cancel the contract if we can be held responsible for non-adherence to the deadline and provided that he has granted us a reasonable extension. We shall be entitled to make partial deliveries.

6. Delivery: ex works, Packaging

Deliveries shall be made ex works Amberg. Shipment shall be at the customer's risk and expense even in cases where our own vehicles are used. The shipping route and methods shall be determined by us according to our best judgement; we assume no liability, however, for choosing the cheapest shipment type. Packaging shall be invoiced by us at cost and is non-returnable.

7. Terms of Payment

Unless otherwise agreed, payment of the purchase price shall be made without any deductions immediately on receipt of the invoice in cash or by direct debit or bank transfer.

We reserve the right to accept acceptance credits and bills of exchange in each individual case. Bills of exchange, cheques and direct debits are only deemed to constitute payment once credited to our bank account. Discount charges and other costs shall be borne by the customer.

The customer shall only be entitled to offset amounts against our invoice if his counterclaim is not in dispute or is legally enforceable.

The customer shall not be entitled to exert a right of retention from previous or other transactions within the current business relationship.

If the agreed payment period is exceeded, the customer shall be automatically in default. In this case, we shall be entitled to charge interest on arrears of 8 % above the applicable basic rate of interest; we reserve the right to assert higher claims for damages. At the same time, all payment obligations towards us shall fall due, and we shall perform any subsequent deliveries against cash payment only.

In the case of circumstances which serve to reduce the customer's creditworthiness, we shall be entitled to revoke the delivery contract or assert a right to termination for good cause unless the customer provides us with security within a period determined by us.

Any respite based on the acceptance of bills of exchange shall become

invalid; the customer shall be obliged to pay cash against return of the bill of exchange.

8. Reservation of Title

We reserve title to the goods delivered until fulfilment of all our claims towards our customer from the business relationship. The inclusion of individual claims in an open account and the establishment and recognition of balances shall not affect this reservation of title. The goods shall only be disposed of within the framework of ordinary business activities. Any claims against third parties derived from such transactions shall be assigned to us by way of security. In the event of a resale against cash, the proceeds shall take the direct place of the goods, and the proceeds shall be transferred without delay. Any attachments of third parties with regard to goods subject to reservation of title shall be notified to us without delay.

The reservation of title also extends to products at their full value which are created as a result of the processing, mixing or combination of our goods. In this context, we shall be deemed a manufacturer which is released from all its obligations by the customer. If third party title rights are created as a result of the processing, mixing or combination with goods of third parties, we shall be granted co-ownership in the newly created products in the ratio of the invoiced value of the processed goods.

Objections and protests against our right to recover possession or the claims assigned to us in consequence are excluded. We shall be entitled to enter the warehouse of the customer either ourselves or by commissioning third parties on our behalf to seize the goods subject to reservation of title.

We shall release the existing security at our discretion to the extent in which its value exceeds by more than 20 % the claims to be secured.

9. Warranty

The customer shall examine the goods to a reasonable degree immediately on receipt. Any complaints about defects shall be made within 14 days following receipt. The goods shall be stored and handled properly until examination. Goods shall only be returned with our agreement. We shall be entitled to excess or short shipments of up to 10 % at identical prices. Series production shall be performed on machines with proven capability and with statistically controlled processes. In-process inspections shall be performed based on SPC quality control charts.

Our goods shall be deemed free of defects if they correspond to the agreed specifications on transfer of risk. If no specifications have been agreed with the customer, the goods shall be considered free of defects if their condition on transfer of risk corresponds to the customary condition of goods of the same type, and which the customer can expect according to the type of goods. We are not obliged to perform anything other than the delivery of defect-free goods.

The customer shall only be entitled to the delivery of defect-free goods by way of subsequent performance. Should a substitute delivery be impossible or should a substitute delivery fail, or if the substitute delivery is refused in bad faith or unduly delayed for reasons for which we can be held responsible, the customer shall be entitled, at his discretion, to demand a reduction of the purchase price or to cancel the contract.

For our assembly devices and machines, we shall warrant defect-free material, good workmanship and proper functioning when used properly for a period of 12 months. Any repairs and changes by the buyer shall annul our warranty. If substitute delivery is recognized by us, it shall only be made for the defective unit in its original form.

If expenses increase due to the fact that our goods have been conveyed to a different location following delivery, and if this relocation does not correspond with the intended use of the goods, any claims for such increased expenses are excluded. Unless a damage has been caused by us by intent or gross negligence or violation of one of our material duties, our liability shall be limited to the amounts covered by our business and product liability insurance: 10 million EUR per insured event for personal injury and/or property damage (blanket).

10. Severability

Should individual stipulations of the agreement between us and our customer be or become invalid or contestable, this shall not affect the validity of the remaining stipulations. The remaining stipulations shall, in contrast, be interpreted in line with the economic intention which was pursued with the invalid or contestable stipulation.

11. Place of fulfilment, Legal Venue

Place of fulfilment for all payments is Amberg. The law of the Federal Republic of Germany shall apply with the exception of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).

If the customer is a merchant entered in the commercial register, the legal venue shall be Amberg or, at our discretion, his general venue. Amberg shall be the exclusive legal venue for claims against a customer who has either moved his place of residence or his habitual abode from the area of applicability of the German Code of Civil Procedure (ZPO) or whose place of residence or habitual abode is not known at the time of legal assertion of our claims.