



Delivery and Payment Terms of KaMo GmbH

1. Scope of these Terms

1.1. All our deliveries and services (subsequently referred to as: deliveries) will occur exclusively in accordance with the subsequent delivery and payment terms. We do not recognise terms of the customer which contradict our terms or deviate from them.

1.2. The terms will remain in force for all future contracts with the customer as well as for future supplies and services rendered to the customer without being repeatedly referred to.

2. Conclusion of the Contract

Our offers are made without obligation. They will only become binding once an order will be confirmed by us in writing. Orders, amendments and additions to the contract need to be submitted to us in writing. Orders submitted by telephone or in any other form will be considered accepted once we confirm the order in writing or we ship or hand over the goods.

3. Installation

3.1 If the contract includes the installation of the supplied goods at the site of the customer's business, the customer shall inform us of the technical and spatial conditions for the installation. The customer specifically shall inform us of the technical requirements that the supplied product will have to conform to in order for it to be compatible with the machines used by the customer.

3.2 If the contract includes the installation of the supplied goods at the site of the customer's business, the customer shall provide the necessary staff and equipment at his own expense.

3.3. If we incur additional expenses due to the customer's violation of his obligations under clauses 3.1 and 3.2, we may invoice these additional expenses to the customer. They will be invoiced at the prices valid at the time based on our tariffs, but at a minimum at cost price plus an additional 20% for administration and staff plus expenses.

3.4. We are not liable for errors during the installation if those are caused by faulty products provided by the customer or if the installation was performed by the customer himself. For this purpose we explicitly refer to the VDI guidelines regarding the installation which shall serve as the state of the technology. We refer you to our website where you will find a link to VDI.

3.5. If delivery of our products outside of the Federal Republic of Germany is requested, the customer shall inform us at his own expense of the legal, official and other requirements which may be applicable to the object to be delivered.

4. Delivery and Passing of Risk

4.1. The place of performance for all our delivery obligations is our factory, our business site or the respective distribution centre – the manufacturer's factory in the case of third-party deals – at which the goods will be handed to the first carrier for shipment to the customer.

4.2. The customer carries the risk for the delivery. Unless otherwise specified, the risk will pass to the customer no later than when we will have handed the goods to the carrier. The passing of risk will also take place if we perform the delivery, accept other obligations to be performed at the site of

delivery or if we assume the costs of the delivery. If the customer requests and pays for it, we shall obtain the insurance requested by the customer.

- 4.3. If the customer or a carrier commissioned by the customer will pick up the goods, the risk will pass to the customer when the goods will be loaded up. In these cases, the customer bears the sole responsibility and liability for the loading and unloading being safe during the operation and the transport. If we participate in this, it will happen upon the customer's request and at the customer's risk. The customer indemnifies us of all claims which may be launched against us for damages caused by the loading not having been safe during the operation or the transport. The customer also indemnifies us of potential disadvantages and/or expenses which we may incur if he or the carrier commissioned by him will violate regulations of the Law about the Transport of Goods.
- 4.4. If the delivery will be delayed due to circumstances for which the customer is responsible, the risk will pass to the customer when he will receive the notification about us being ready to ship the goods.
- 4.5. Partial deliveries are permitted if they are customary in the trade or they are based on the amount and/or material characteristic of the good to be supplied. In the cases of manufactured goods or standard packaging goods, we are entitled to supply less or more as is customary in the trade, but at least at 10%.

5. Time of Delivery

- 5.1 The time of delivery stated in the offer or the order confirmation is not binding, unless it was explicitly described as binding.
- 5.2 In the case of unforeseeable circumstances which are beyond our influence (e.g. strikes or lock-outs) we may delay the delivery by the time of the obstruction plus a reasonable time to re-start the production or we may withdraw from the contract with regard to the parts of it that have not been fulfilled. This applies irrespective of whether the aforementioned events occurred at our business or that of one of our suppliers. The right to withdraw does not exist if the events will only lead to a short obstruction of our ability to supply.
- 5.3 If the customer or a carrier commissioned by the customer will export the goods, the customer has to exercise the necessary care regarding the filling out of the documents required for customs and market regulation purposes and to hand them over completed and in due time to the agency responsible for authorising or supervising the export of the goods. The customer is liable for the actions by the companies instructed by him or for him, especially for the carriers.
- 5.4 If documents according to clause 5.3 have not been submitted, not been submitted fully or not been submitted in due time and this leads to the loss of deposits and/or other consequential damages, the customer has to reimburse the damages. Beyond this, the customer is liable for any damage which we sustain if goods designated for export will not leave the common customs area within 60 days after acceptance of the export declaration and in an unaltered state in accordance with Art. 7 of EC regulation 899/1999 and/or if these goods will not be imported by a third country within 12 months after acceptance of the export declaration in accordance with Art. 15 of EC regulation 800/1999. The customer is also liable to us for any damage resulting from the re-entry of the goods into the European customs area even after the active finishing of the goods.
- 5.5 The customer is also liable for any action which is detrimental to refunds in the meaning of the market regulation. In this context, the customer is also liable for the actions by the companies instructed by him or for him, especially for the carriers.

6. Prices and Payment Terms

- 6.1. Our prices are meant ex factory, i.e. excluding shipping, packaging, customs, insurance and VAT. If a price is not explicitly agreed, the current tariff is applied. Discounts for cash payment will not apply if our claims are not fully settled.
- 6.2. The purchase price will become due for payment within 10 days after receipt of the invoice, unless otherwise agreed. Payments have to be made in full. Cheques and promissory notes will only be accepted on account of performance; the incurred fees will be borne by the customer. Accepting a promissory note does not mean a delay of the due date of the claim. We retain the right to demand payment in cash after the claim has become due, and we will hand back the promissory note upon receipt of the cash payment.
- 6.3. If our costs will increase due to circumstances beyond our control (like currency fluctuation, changes in customs rates, rise of material or productions costs of more than 5%) we are entitled to claim a proportionally higher price from our customer in writing. In this case, we will lay open the reasons for the increase in costs to the customer upon the customer's request.
- 6.4. The customer may only use uncontested counter-claims or counter-claims confirmed by a court order which cannot be contested anymore to offset against our claims. The customer may also only use such counter-claims as the basis for a right of retention. The customer may not exercise a right of retention which is not based on the same contractual relationship.
- 6.5. If we will learn after the conclusion of the contract that there are protest notes against promissory notes of the customer, that debt collection measures have been initiated against the customer or that the financial situation of the customer has deteriorated in any other way, we may declare claims to be due immediately even if they otherwise wouldn't be due yet or a promissory note or a cheque had been submitted upon these claims, insofar as the aforementioned circumstances jeopardize our receipt of the payment.
- 6.6. Non-compliance with these terms of payment allows us to suspend any delivery and to only supply after prepayment or payment in cash until the arrears will have been paid.

7. Retention of Title

- 7.1. We retain the title for the supplied goods until all our claims against the customer will have been met, insofar as a retention of title is valid according to the applicable law. Upon our request, the customer will support our efforts of protecting our title for the supplied goods in the respective country.
- 7.2. Further rules concerning the retention of title in the Federal Republic of Germany, in France, in Italy and in the United Kingdom are contained in Annexes 1 through 4 to which we refer and which are part of our terms and conditions.

8. Notifications of Defects and Warranty

- 8.1. We exclude any liability for characteristics guaranteed by the manufacturer if we supply products not manufactured by us.
- 8.2. The goods have to be examined immediately after their delivery. Potential notifications of defects have to occur in writing immediately, not later than the end of the 3rd day after the day of receipt. If the customer fails to notify us, the goods shall be regarded as approved, unless the defect which could not have been detected in the examination. If such a defect occurs later, the notification has to occur immediately after the detection of the defect. Otherwise the goods will be regarded as approved also in light of that defect.
- 8.3. In order to enable us to rectify the defect, the customer will first allow us to examine the goods within reasonable time. If the customer does not allow us to perform this inspection within reasonable time, the goods shall be regarded as approved.

8.4. We are not liable for defects arising from the usual wear and tear or from the customer not keeping to our oral and written instructions for the operation. We are also not liable for defects arising from the wrongful use of the goods by the customer or the customer's own repairs which we had not approved.

8.5. In the case of justified notifications of defects, we will according to our own choosing either amend the goods or issue a replacement . If these measures will fail, the customer is entitled to request the rescission of the contract if the defects constitute a major breach of the contract. In all other cases the customer is entitled to request a reduction of the purchase price.

8.6. Warranty claims will expire

- within 2 years from the date of delivery / passing of risk in the cases of mere purchase and delivery contracts,
- within 2 years from the date of installation in the cases of a contract for delivery and installation,
- within 4 years after completion in the case of delivery and installation of a building in accordance with VOB/B.

9. Cancellation without Notice

In addition to all our other rights, we are entitled to cancel the contract without notice if

- a) the customer ceases to operate his business,
- b) the customer does not comply with essential provisions of the contract,
- c) the financial situation of the customer deteriorates considerably and the payment of the purchase price is endangered because of this,
- d) a bankruptcy proceeding for the customer is initiated or not initiated due to lack of available assets.

10. Returns

Unless otherwise agreed, delivered goods cannot be returned. If goods will be returned in spite of this, the acceptance of the returned goods will not imply the recognition of a credit note, even if the returned goods will be signed for.

11. Liability

11.1 Claims which are not explicitly mentioned in these terms and conditions, especially claims for damages by the customer for any form of faulty performance or for torts, are ruled out. The exclusion of liability does not pertain to intent and gross negligence. We are also liable for minor negligence as long as it concerns obligations which are indispensable for the objective of the contract and whose fulfilment the customer may rely on.

11.2 Our obligation to pay damages is limited to the amount of foreseeable damages which are typical for this kind of contract. We do not reimburse atypical and unforeseeable damages in any case.

12. Copyright, Intellectual Property, Trade Secrets

The customer acknowledges that all copyrights and other intellectual property rights relating to our products, the product descriptions, other material supplied with our products, technical drawings and the software of our products will remain with us and that the customer does not acquire any right to them. The customer has to treat all information and documents obtained in the course of our business relationship, especially technical drawings, as a trade secret.

13. Jurisdiction and Applicable Law

13.1 If the customer is a business in the meaning of the Commercial Code, a public law entity or is registered in a foreign contracting state of the Brussels I Regulation, Ehingen is the venue for all

disputes arising from this contract, whether directly or indirectly. We retain the right to sue the customer at his local venue.

13.2 These terms and conditions as well as all legal relations between us and the customer shall be governed by the law of the Federal Republic of Germany.

13.3 If any of the clauses of these terms or a clause within another agreement should be or become invalid, the validity of the other clauses or agreements will be unaffected by that.

Annex 1: Retention of Title in the Federal Republic of Germany in accordance with § 7

- 1.1 The customer has to treat the objects which are subject to the retention of title carefully for the duration of the retention of title. Upon our written request, the customer has to secure adequate insurance protection.
- 1.2 The customer may only dispose of the goods which are subject to the retention of title in the normal course of business. The customer is not entitled to pawn these goods, to transfer them as security or to make any other transactions which might endanger our ownership. The customer hereby assigns all claims from the disposal of the goods to us; we accept this assignment. Until further notice the customer is authorised to collect these assigned claims under his own name. We may withdraw this authorisation as well as the permission to dispose of the goods if and insofar the customer is in default regarding his payments to us.
- 1.3 If third parties gain access to the goods subject to the retention of title or to the assigned claims, we have to be informed of this immediately.
- 1.4 The finishing or processing of the goods subject to the retention of title occur for us as the manufacturer, but without any obligation on our behalf.
If our (joint) ownership will cease due to the goods mixing or being connected with other goods, then we hereby agree that the customer's (joint) ownership of the integrated goods will pass to us proportionally (value of the invoice) and that this will be regarded as subject to the retention of title. In this case, clause 1.2 of Annex 1 will apply accordingly.
- 1.5 If the customer is in default with his payment obligation, we may request the immediate handover of the goods which are subject to the retention of title. This does not affect any of our other remedies. This will be seen as a withdrawal from the contract which is admissible in the case of default without any further conditions. The customer will bear the costs for the return and the recovery of the goods. The recovery costs will be determined at 15% of the recovery proceeds, whereby the customer is invited to prove that the actual costs were lower.
- 1.6 If the value of the collateral in our favour which can be realised exceeds the claims to be secured with more than 20%, the customer may request the release of collateral. We will choose the collateral to be released.
- 1.7 If payments are made by cheque or by promissory note, the parties agree that the retention of title shall continue even after the cheque will have been submitted to the bank until the promissory note will have been handed back, invalidated or there is no further possibility of a recourse on the promissory note.

Annex 2: Retention of Title in France in accordance with § 7

- 1.1. Until the full payment of the purchase price, the goods will remain our property in accordance with the provisions of Law No. 80335 of 12 May 1990 and the applicable provisions of the Code Civile.
- 1.2. The customer will take all necessary measures to protect and to identify the supplied goods, to inform us of these measures and to grant us free access to the location where the goods are stored.
- 1.3. Until the purchase price will be paid in full, the customer must not finish the goods or incorporate them into any other products, use them as collateral or sell them without our prior explicit consent. The customer has to inform anyone of this retention of title who will be commissioned with the finishing of the goods.
- 1.4. If the customer does not comply with one of the obligations under this clause, we may demand the immediate payment of the full purchase price and blanket damages in the amount of 20% of the purchase price.

Annex 3: Retention of Title in Italy in accordance with § 7

1.1. The customer has to

- a) treat the goods according to their purpose and not finish or sell them;
- b) refrain from removing the goods from his business location without our prior written consent;
- c) reimburse us for all expenses incurred by the registration of the sale.

1.2. We shall identify any goods supplied to the customer as follows:

- a) name of the seller
- b) name of the buyer
- c) kind of product
- d) year of production
- e) ID-number of the product
- f) competent court

1.3. We shall register the purchase contract in accordance with the provisions of Italian law.

Annex 4: Retention of Title in the United Kingdom in accordance with § 7

- 1.1. The customer shall keep the goods as a bailee and a trustee. The customer is entitled to sell the goods under reasonable market conditions. Until then, the customer has to store the goods for us and keep them separated from his other products, to protect them and to insure them. In his business dealings with third parties, the customer will sell the goods under his own name and without establishing any legal relationship between us and the third party. But in his relationship with us, the customer acts as our trustee. In this capacity, the customer shall keep any material or immaterial purchase proceeds or other proceeds (including payments by an insurer) as a trustee for us and keep them separated from his own property and to transfer these proceeds to us without delay.
- 1.2. If the goods will be mixed with other items of the customer or of third parties, then the customer is not entitled to the resulting product and we will become sole owner or joint owners with a third party (in the case of the third party having provided goods) in proportion with our contribution to the product.