

# Kellner & Kunz AG

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## General terms and conditions of business

of Kellner & Kunz AG

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### 1. Scope:

- 1.1 The following terms and conditions of sale, delivery and payment apply to all contracts, deliveries and other services including consulting services and information.
- 1.2 They shall also apply to all future contracts with the customer as well as to future deliveries and other services to be provided to the customer.
- 1.3 Conflicting terms and conditions are contradicted.

### 2. Conclusion of contract:

Acceptance of the goods order shall be effected by delivery or order confirmation. The contractual scope of delivery and performance shall be determined exclusively by the content of the order confirmation or, in the absence thereof, by the delivery note and the invoice. If this deviates from the content of the order, the customer is deemed to have given his consent if he does not object by registered letter within 4 days of receipt.

### 3. Prices:

The minimum order value is € 40,- net. We are bound to our offer for 4 weeks. After this period we charge our prices valid on the day of delivery. In the absence of any other offer, the prices valid on the day of delivery according to our price list shall apply. They are based on the calculation documents valid at that time. Value added tax is not included in the price and will be invoiced separately at the statutory rate. Material and cost increases, price increases of our suppliers, increased taxes and duties as well as price increases due to force majeure also entitle us to adjust agreed prices.

### 4. Terms of Payment:

- 4.1 Our invoices are payable within 8 days of the invoice date with a discount of 1.5%, within 20 days without deduction. However, the purchase price is due immediately if the customer defaults on other payment obligations to us.
- 4.2 If the payment deadline is exceeded, we shall be entitled to charge interest on arrears of 1% of the invoice amount per month for the period from the due date until receipt of payment. Any partial payment agreements shall only be valid as long as the agreed payments are made. In the event of non-compliance with partial payment agreements, we shall have the right to demand immediate payment, irrespective of the due date of any bills of exchange given.
- 4.3 If the customer does not fulfil his obligation to pay or if insolvency proceedings are opened against his assets, the entire remaining debt shall become due, even if bills of exchange with a later maturity date are running. If this remaining debt is not paid immediately, we shall be entitled to demand the surrender of the object of purchase to the exclusion of any rights of retention.
- 4.4 The due date of the fee shall not be postponed by the assertion of warranty claims, claims for damages, product liability claims or other claims. The customer shall also not be entitled to any retention, withholding of payment or set-off on account of such claims. Claims against us from other business transactions can

only be set off against our claims after a legally binding judicial determination or after acknowledgement on our part.

- 4.5 With the customer's consent to electronic invoicing, all invoices with a digital signature will be sent electronically to the e-mail address provided by the customer (via EDI, pdf). The customer thus waives the sending of the invoice by post.

### 5. Terms of Delivery:

- 5.1 Our delivery obligation exists under the reservation of complete and correct self-supply, unless the non-supply or delay is due to our fault.
- 5.2 In the case of custom-made products, excess or short deliveries of up to 10% are permissible and will be taken into account in the invoice.
- 5.3 With regard to the dimensions specified for our delivery items, we reserve the right to deviations customary in the trade, unless we have expressly guaranteed compliance with the dimensions.
- 5.4 We are entitled to make reasonable partial deliveries.
- 5.5 Shipment is always at the expense and risk of the purchaser. We are not liable for damages and losses during transport. An insurance obligation on our part against transport damage does not exist.
- 5.6 If the dispatch of the ordered delivery items is delayed for reasons for which the purchaser is responsible, the risk shall pass to the customer upon receipt of the notification of readiness for dispatch.
- 5.7 For orders with a net value of € 299,- or more we deliver free of charge. Delivery method according to our choice. For orders with a net value under € 299,-, the usual freight and packaging charges will be invoiced. The outer packaging will be charged at cost price and will not be taken back except for EURO pallets.
- 5.8 The handling of express shipments is at the expense of the recipient.

### 6. Delivery time:

The information on delivery periods is approximate and non-binding. The delivery obligation on our part shall be suspended as long as the customer is in arrears with a due payment or other obligations towards us. If the customer remains in arrears with payment for more than 30 days, if seizures are levied against him or if his financial situation deteriorates considerably, we shall be entitled to withdraw from all delivery contracts not yet fulfilled or to demand advance payments. Claims of the customer due to possible damages or consequences of delay are completely excluded, therefore no liability is assumed for delayed delivery as well as consequential damages, in particular if these are due to the

fault of third parties, such as suppliers or transport companies.

## 7. Retention of Title:

The items delivered by us shall remain our property until all liabilities of the customer towards us have been fully covered, irrespective of the reason for these liabilities. If the customer pays by cheque or bill of exchange, the liability towards us shall only be covered when these papers have been cashed. The customer is obliged to insure the goods delivered under retention of title against fire and theft. Goods which have not been paid for in full may not be resold or pledged or used as security. Should a bailiff wish to seize the delivered goods, our ownership must be asserted to the bailiff, stating our company and address. We must be informed immediately of any seizure. If the goods delivered by us are sold contrary to the customer's prohibition, our retention of title shall extend to the customer's claims arising from this sale. Immediately after the customer's claims against the third party have arisen, these shall be deemed to have been irrevocably assigned to us and the customer shall be obliged to inform us of his customers upon request in the event of an existing extended reservation of title.

## 8. Warranty, damages, product liability:

- 8.1 The delivered goods are to be checked carefully by the customer immediately in the sense of §§ 377, 378 HGB and any detectable defects are to be described in detail on the delivery note or consignment note, otherwise all claims - in particular also claims for damages - are excluded. If no immediate inspection can take place upon acceptance, this circumstance must be noted on the delivery note or consignment note, otherwise all claims are excluded. In the case of a subsequent inspection, a detailed written complaint must be made within 4 days of delivery.
- 8.2 If the delivered goods have defects or if defects become apparent within the warranty period, we shall, at our discretion, rectify the defect or make a replacement delivery within a reasonable period. Other or further claims, in particular reduction of payment, do not exist. Natural wear and tear, improper handling, excessive use, negligence and modifications without our approval shall exclude any warranty.
- 8.3 Liability for any consequential damage caused by a defect on our part is excluded.
- 8.4 Protective effects from this contract are excluded in favour of third parties. If claims arise for the customer against us, the customer acknowledges that he is only entitled to claims in

accordance with these conditions and only to the extent to which we are granted claims against the manufacturer of the respective defective product.

8.5 If an order is placed on the basis of the customer's specifications in deviation from a standard version of our delivery range, the execution is carried out without any liability on our part for the resilience of this custom-made product at the customer's risk. We are under no obligation for any warnings, tests or duty to inform in regards to the suitability or load-bearing capacity of these special products for certain areas of application. Any claims for damages, in particular consequential damages, are excluded.

8.6 For fasteners with electroplated coatings, which are hardened and tempered to strength class 10.9 or higher, there is a risk of hydrogen embrittlement. Even with thermal post-treatment, a residual risk cannot be excluded. Express reference is made to the reduction in load-bearing capacity that this may entail. Therefore, such coatings are only carried out at the request and risk of the customer. Any warranty claims and claims for damages against us are excluded.

8.7 Customers to whom we provide an IT program for the simplified processing of their orders with us are not permitted to change, copy, pass on or otherwise use this program. The installation (or uninstallation) and the provision of the software is free of charge. We shall not be liable for any disruptions in the customer's IT system. In the event of termination of the business relationship, we shall be expressly permitted - corresponding to the installation - to uninstall this program in the customer's IT system. In the event of a breach of this provision, a penalty of Euro 100,000,- shall be agreed, subject to the assertion of further claims.

## 9. Returns:

Delivered goods can only be returned to us with our written consent and under the conditions previously specified by us. In any case, the return shipment must be made carriage paid and without cash on delivery at the risk and expense of the customer. Returns are not possible for custom-made products.

## 10. Place of performance, place of jurisdiction, applicable law:

- 10.1 Wels is agreed as the place of performance.
- 10.2 It is agreed that the place of jurisdiction shall be the competent court in Wels.
- 10.3 Austrian law shall apply. Regulations based on international sales law conventions shall not apply.