

Kellner & Kunz AG

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General Terms and Conditions

of Kellner & Kunz AG



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1. Area of application:

- 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 and to future deliveries and other services to be provided to the customer.
- 1.3 Any conflicting terms and conditions are hereby rejected.

2. Conclusion of contract:

The order for goods shall be accepted 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 its absence, the delivery bill and the invoice. If this deviates from the content of the order, the customer shall be 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 a special 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. Increases in materials and costs, price increases by our suppliers, increased taxes and duties as well as price increases due to force majeure shall 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 1.5% discount, within 20 days without deduction. However, the purchase price shall be due immediately if the customer defaults on other payment obligations to us.
- 4.2 If the payment deadline is exceeded, we are 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 are only valid as long as the agreed payments are made. We have the right to demand immediate payment in the event of non-compliance with installment agreements, regardless of the due date of any bills of exchange.
- 4.3 If the customer does not meet 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 due date are in force. If this remaining debt is not settled 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 for payment shall not be postponed by the assertion of warranty claims, claims for damages, product liability claims or other claims. The customer shall not be entitled to withhold, withhold payment or offset any such claims. Claims against us from other business transactions can only be offset against our claims after a legally binding court decision or after acknowledgement on our part.
- 4.5 With the customer's consent to electronic invoicing, all invoices with digital signatures will be sent electronically to the e-mail address provided by the customer (via EDI, pdf). The customer thus waives the sending of invoices by post.

5. Terms of delivery:

- 5.1 Our delivery obligation is subject to complete and correct delivery to us, unless we are responsible for the non-delivery or delay.
- 5.2 In the case of custom-made products, excess or short deliveries of up to 10% are permitted 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 the customary deviations, 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 customer. We are not liable for damage or loss during transportation. There is no obligation on our part to insure against transport damage.
- 5.6 If the shipment of the ordered delivery items is delayed for reasons for which the customer is responsible, the risk shall pass to the customer upon receipt of the notification of readiness for shipment.
- 5.7 For orders with a net value of € 399,- or more, we deliver free of charge. Shipping method at our discretion. For orders with a net value of less than € 399,- the usual freight and packaging costs will be charged. The outer packaging will be charged at cost price and will not be taken back except for EURO pallets.
- 5.8 Express shipments are dispatched at the expense of the recipient.

6. Delivery time:

Information on delivery periods is approximate and non-binding. Our obligation to deliver 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 made against him or if his financial situation deteriorates considerably, we are entitled to withdraw from all unfulfilled delivery contracts or to demand advance payments. Claims of the customer for any damages or consequences of delay are completely excluded, i.e. no liability is assumed for late delivery or consequential damages, in particular if these are attributable 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 of the customer's liabilities to us have been met in full, regardless of the reason for which they may have arisen. If the customer pays by check or bill of exchange, the liability to us shall not be deemed covered until these documents have been cashed. The customer is obliged to insure the goods delivered subject to retention of title against fire and theft. The 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 name and address. We must be informed immediately of any seizures. 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 arise, these shall be deemed irrevocably assigned to us and the customer shall be obliged to inform us of its customers upon request if the extended retention of title is upheld.

8. Warranty, compensation, product liability:

- 8.1 The delivered goods must be carefully inspected by the customer immediately in accordance with §§ 377, 378 of the Austrian Commercial Code (UGB) and any detectable defects must be described in detail on the delivery bill or consignment note, otherwise all claims - in particular claims for damages - are excluded. If no immediate inspection can take place upon acceptance, this circumstance must be noted on the delivery bill or consignment note, otherwise all claims are excluded. If a defect is discovered during a subsequent inspection, a detailed written complaint must be made within 4 days of delivery.
- 8.2 If the delivered goods are defective or if defects become apparent within the warranty period, we shall, at our discretion, repair or replace the goods within a reasonable period of time. There shall be no other or further claims, in particular no reduction in price. Natural wear and tear, improper handling, excessive use, negligence and modifications without our approval shall exclude any warranty.
- 8.3 Liability for any consequential damages on our part is excluded.
- 8.4 Protective effects from this contract are excluded in favor 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 terms and conditions and only to the extent to which we have been granted claims against the manufacturer of the 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 shall be at the customer's risk without any liability on our part for the resilience of this custom-made product. We shall have no duty whatsoever to warn, test or inform with regard to the suitability or resilience of this custom-made product for specific areas of application. Any claims for damages, in particular consequential damages, are excluded.

8.6 There is a risk of hydrogen embrittlement in fasteners with galvanic coatings that are tempered to strength class 10.9 or higher. Even with thermal post-treatment, a residual risk cannot be ruled out. Express reference is made to the resulting possible reduction in load-bearing capacity. For this reason, such coatings are only applied at the request and risk of the customer. Any warranty and compensation claims against us are excluded.

8.7 Customers to whom we provide an IT program to simplify the processing of their orders with us are not permitted to modify, copy, pass on or otherwise use this program. The installation (or uninstallation) and provision of the program shall be free of charge. Under no circumstances shall we be liable for any faults 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 from the customer's IT system. In the event of infringement of this provision, a penalty of EUR 100,000 shall be deemed agreed, subject to the assertion of further claims.

9. Returns:

Delivered goods may only be returned to us with our written consent and under the conditions specified by us in advance. In any case, the return shipment must be made carriage paid and without cash on delivery at the risk and expense of the customer. No returns are possible for custom-made products.



10. Trade Compliance:

- 10.1 The Customer warrants that it will not sell, export or re-export delivered goods, insofar as they are subject to the provisions of Art. 12g Regulation (EU) 833/2014, either directly or indirectly to the Russian Federation or for use in the Russian Federation.
- 10.2 The Buyer shall use its best endeavors to ensure that the provision of paragraph (1) is not frustrated by third parties in the further chain of trade, in particular not by possible resellers.
- 10.3 The purchaser must establish and maintain an appropriate monitoring mechanism to prevent circumvention of the regulation in paragraph (1) by third parties in the further commercial chain or by potential resellers.
- 10.4 Any breach of the above paragraphs (1), (2) and (3) shall constitute a material breach of contract and shall entitle us to terminate the supply relationship with immediate effect and to cancel orders already accepted without delay. In addition, the customer shall indemnify us against all costs, claims of third parties and other disadvantages (e.g.

finer) due to the breach of an obligation under the above paragraphs (1), (2) or (3). This shall not apply if the customer is not responsible for this breach of duty. Furthermore, we are entitled to demand a contractual penalty of 5% of the sales price of the goods sold contrary to the provisions of this regulation. Any further claims for damages remain unaffected by this.

- 10.5 The customer is obliged to inform us of all breaches of the provisions of paragraphs (1), (2) or (3). Upon request, the customer shall provide all information on compliance with the obligations under paragraphs (1), (2) and (3) within two weeks. We shall notify the competent authority of any infringements of the provisions of paragraphs (1), (2) and (3) above.

11. Place of performance, place of jurisdiction, applicable law:

- 11.1 Wels is agreed as the place of performance.
- 11.2 The place of jurisdiction shall be the competent court in Wels.
- 11.3 Austrian law shall apply. Regulations based on international sales law conventions shall not apply.

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