

General Terms of Delivery of Messrs. K + K Industrievertretungen GmbH

As at January 2006

I. General Information

1. All deliveries and performances are based on these terms of delivery and other agreements stipulated in a contract.

2. The supplier is the owner of copyright of all patterns, quotations, drawings and other information and material (also any software) placed at the buyer's disposal. Such information and material may not be handed over to a third party.

3. The supplier confirms that he will not transfer confidential information or documents of the buyer to a third party unless the buyer agrees.

II. Price and Payment

1. If no other terms are agreed, the delivery will be effected ex works, excl. any transport/loading and packing cost.

2. Payment has to be effected immediately on receipt of the invoice to the supplier's account. Prices are to be understood excluding VAT. A cash discount will not be granted.

3. The buyer may only withhold payments or offset payments against counterclaims, if such counterclaims are undisputed or have been determined by a court.

III. Delivery Time and Delay in Delivery

1. The delivery time is fixed in the agreement of the contract parties. The supplier can keep this delivery time only if all commercial and technical details have been clarified between the contract parties and the buyer has fulfilled all his obligations, e.g. providing the necessary official documents/approvals, if necessary, and if the buyer has paid the down payment agreed. If not, the delivery time will be prolonged correspondingly. Delay in delivery does not have to be accepted by the buyer if the supplier is responsible for the delay.

2. Compliance with the agreed delivery time is subject to a correct and punctual delivery of parts by the supplier's subsupplier. If the supplier recognizes any delay in delivery, he will inform the buyer as soon as possible.

3. Delivery period is kept if the goods leave the supplier's factory within the agreed delivery period or if supplier has informed buyer that goods are ready for despatch. If an acceptance of goods is necessary – except that an acceptance is refused for justified reason – the date of acceptance is decisive and/or the announcement that the goods are ready for acceptance.

4. If the despatch or the acceptance of goods are delayed for reasons the buyer is responsible for, the cost arising out of this delay will be charged to the buyer, incipient one month after announcement that the goods are ready for despatch or acceptance.

5. If the delivery date cannot be kept because of reasons of Force Majeure or other events beyond the seller's responsibility, the delivery period will be prolonged reasonably. The supplier will inform the buyer about such reasons/events as soon as possible.

6. Without fixing a deadline, the buyer can withdraw from the contract if the supplier is definitely unable to execute the order before transfer of the risk. Moreover, the buyer can withdraw from the contract if one part of the order cannot be executed and the buyer has a justified interest to refuse the partial delivery since this partial delivery is not usable to him.

If not, the buyer has to pay the contract price of this partial delivery. Same applies in case of inability of the supplier. Apart from that, paragraph VII.2 is applicable. If the case of inability happens during the delay of acceptance or if only or mainly the buyer is responsible for these circumstances, the buyer has to pay the invoice amount.

IV. Transfer of Risk, Acceptance

1. The risk is passed over to the buyer as soon as the goods have left the supplier's factory. The same applies to the transfer of goods to a carrier. The same transfer of risk applies to partial deliveries or if the supplier has taken on other performances, e.g. shipping cost or supply and installation. If an acceptance has to be carried out, the date of acceptance is decisive for the date of transfer of risk and/or the announcement by supplier that the goods are ready for acceptance. In case of an inessential imperfection, the buyer may not refuse the acceptance.

2. If despatch of the goods and/or acceptance is delayed because of reasons, the supplier is not responsible for, the risk is transferred to the buyer on the day of announcement of despatch and/or announcement that the goods are ready for acceptance. If requested by the buyer, the supplier is obliged to take out the insurances at the buyer's charge.

3. Partial deliveries are allowed as far as reasonable to the buyer.

V. Reservation of Propriety Rights

1. The supplier reserves all propriety rights of the goods supplied as long as all payments arising from the contract have been settled.

2. The supplier has the right to take out an insurance of the goods at the buyer's charge against theft, rupture, fire, water and other damages unless it has been proved that an insurance against above damages has been taken out by the buyer already.

3. The buyer is not allowed to sell, mortgage or to assign the goods for security. In case of seizure or other disposition by third parties, the buyer has to inform the supplier about such events immediately.

4. If the buyer is in breach of the contract, especially in case of a default of payment, the supplier is authorized to fetch the goods back after reminding the buyer for payment. In this case, the buyer has to return the goods to the supplier.

5. Due to the reservation of propriety rights, the supplier can fetch back the goods only if he has withdrawn from the contract.

6. The supplier is entitled to withdraw from the contract and to claim an immediate return of the goods supplied in case of an application for a procedure of insolvency.

VI. Claim for Damages/Warranty

To the exclusion of further claims – subject to paragraph VII – the supplier guarantees for the following material and legal defects:

Material Defects

1. Faulty parts will be replaced by the supplier free of charge if such parts were already damaged before the transfer of risk. The supplier has the choice either to replace such parts or to repair them. If defects are noticed by the buyer on arrival of the goods, he has to inform the supplier on such defects immediately. Replaced parts become property of the supplier.

2. The buyer has to grant to the seller the necessary time and opportunity to enable the seller to carry out the necessary repair or supply of replacement parts. Otherwise, the seller is released from the liability for all resulting consequences. Only in urgent cases of danger to operational safety and/or to avert unreasonably defects – in such cases the supplier has to be informed immediately – the buyer has the right to repair the damage on his own or to let the damage repair by a third party and to ask the supplier for compensation of the necessary expenditure.

3. The supplier will bear the cost in connection with the repair and/or replacement parts and shipping cost insofar as the claim is justified. Moreover, supplier bears the cost of dismantling and installation as well as cost of technicians and temporary workers, if necessary, and travel cost insofar that the cost will not be excessive to the supplier.

4. According to legal rules, the buyer can withdraw from the contract if the supplier – under consideration of the legal exceptions – has not kept a reasonable deadline for a repair or delivery of replacement. If the defect is only of insignificant nature, the buyer is only entitled to reduce the contract price. Apart from that, the right for reduction of the contract price is excluded. Further claims are stipulated under paragraph VII.2 of these terms.

5. Warranty is excluded in following cases: wrong or improper use, non-observation of terms and maintenance instructions of the supplier, faulty assembly and/or commissioning by the buyer or a third party, normal wear, faulty or careless handling, improper maintenance, unsuited operating material, poor construction work, unsuitable site, chemical, electronic or electrical affects unless the supplier is not responsible for these circumstances.

6. If the buyer or a third party carry out an improper repair, the supplier will not take any liability for the consequences resulting from an improper repair. Same applies to a repair of goods supplied without the prior agreement of the supplier.

7. The supplier will only give guarantee according to § 443 I of Civil Code when he has agreed to a repair expressly in writing.

Legal defects

7. If the use of the goods supplied result in a violation of intellectual property right or copyrights at home, the supplier will grant to the buyer the right of further use or the supplier will modify the goods in a reasonable way so that propriety rights are not violated any more. Should this be unreasonably from the economical point of view or impossible within a reasonable period, the buyer can withdraw from the contract. Under these circumstances, also the seller has the right to withdraw from the contract. Moreover, the supplier will release the buyer from undisputed and legal claims of the corresponding owners of intellectual property rights.

8. The obligations of the supplier mentioned under paragraph VI.7 are final subject to paragraph VII.2 in case of violation of intellectual property rights or copyrights. They are effective only if
- the buyer supports the supplier reasonably in rejecting the assertion of claims and enables the

supplier to carry out the modifications under paragraph VI.7;

- all measures for a rejection including out-of-court settlements are left with the supplier;
- the legal defect is not caused by an instruction of the buyer and
- the infringement of law was not caused by the fact that the buyer has changed the goods without supplier's permission or used the goods for purposes not stipulated in the contract.

VII. Liability

1. If the buyer cannot use the goods as specified in the contract for reasons, the supplier is responsible for, e.g. faulty design of proposals made before or after the conclusion of an agreement or by violation of other contractual obligations – especially, instructions for use and maintenance of the goods supplied – the terms under paragraph VI and VII.2 are applicable to the exclusion of further claims of the buyer.

2. For damages not occurred at the goods supplied, the supplier will be held responsible – for legal arguments whatever – only in case of :

- a. intent;
- b. gross negligence of the owner / the company or managerial staff;
- c. non-accidental injury to life, body, health;
- d. defects which have been hidden deceitfully or in case that the supplier has guaranteed that such defects do not exist;
- e. defects on the goods supplied as far as liability is granted according to product liability law for personal injury or material damage.

3. In case of a culpable violation against important contract obligations, the supplier will also be held responsible for gross negligence of non-managerial staff and slight negligence. However, in the latter case the liability is limited to typical and foreseeable damages in connection with the contract. Further claims are excluded.

VIII. Limitation

All claims of the buyer – for legal arguments whatever - come under the statute of limitations in 12 months.

Claims for damages under paragraph VII.2a-e are subject to the legal deadlines. These deadlines are also applicable to defaults of a building or goods which are normally used in a building and have caused its poor quality.

IX. Use of Software

As far as included in the scope of supply, the seller grants to the buyer a non-exclusive right to use the supplied software and the corresponding documentation. It is left to the buyer only in connection with the goods supplied. The software

may not be used on more than one system. The buyer is allowed to copy, modify, translate or transform the software into the source code only to the extent as approved by law (§§ 69 and following pages of copyright law). The buyer may not remove or change any information on the producer, especially copyright notes, without the explicit prior agreement of the supplier. All other rights in the software and the documentation including the copies remain with the supplier and/or the software supplier. Sub-licences may not be granted to a third party.

X. Applicable Right, Legal Domicile

1. The current law of the Federal Republic of Germany will be applicable in case of a dispute between supplier and buyer.

2. Any disputes arising hereunder will be settled before a court of law responsible for the place of the supplier's head office.

However, the supplier has the right to file a suit against the buyer at the place of the buyer's head office.