

General Terms of Delivery and Payment of Company Kersten Europe GmbH, Hardstr. 8, 78256 Steißlingen

Status as of: August 2017

I. Scope of Application

These Terms of Delivery shall be applicable to companies, legal persons under public law, and public-law special funds.

The deliveries of the supplier shall exclusively be based on the following conditions. The Terms of Sale shall exclusively be applicable. Deviating or unfavourable, supplementary conditions of the customer for the supplier shall not become an integral part of the contract, even if the supplier does not contradict them separately.

II. Offers/Conclusion of Contract

1. The offers of the supplier are non-binding, unless the supplier has them expressly designated as binding in writing. Acceptance declarations and purchase orders of the customer shall only become binding by the written order confirmation of the supplier, provided that they are qualified as offer according to § 145 German Civil Code (BGB). The supplier shall aim to accept the purchase order of the customer within 5 work days upon receipt of the purchase order.

2. The documents belonging to the offer of the supplier, such as illustrations, drawings, etc. as well as dimension and weight specifications resulting therefrom shall only be approximately authoritative, unless the supplier has them expressly designated as binding in writing. The same shall apply to specifications of use. Commercial tolerances shall be reserved to the supplier within reasonable limits for the customer.

3. The supplier shall retain proprietary rights and copyrights to samples, cost estimates, drawings and other similar information of a physical and non-physical nature - also in electronic form; they shall not be made available to third parties. The supplier undertakes only to make confidential information and documentation designated as such by the customer available to third parties with the customer's consent.

III. Price and Payment

1. In the absence of a special agreement, prices shall be ex works, including loading at the works but excluding packaging and unloading. Prices shall also be subject to value-added tax at the respective statutory rate.

2. In the absence of a special agreement, payment shall be made to the account of the supplier without any deduction, namely: A down-payment of one-third upon receipt of the order confirmation, one-third as soon as the customer has been notified that the main components are ready for shipment, and the balance within one month of the transfer of risk.

3. The right to withhold payments or to offset counter-claims shall only be permitted for the customer insofar as its counter-claims are undisputed or have been judicially determined.

IV. Delivery Period and Delivery Delays

1. The delivery period shall be based on the agreements by the contracting parties. Compliance therewith on the part of the supplier shall presuppose that all commercial and technical matters have been clarified by the contracting parties and that the customer has performed all its obligations, such as for example, the provision of the necessary official licenses or approvals or remittance of a down-payment. If this is not the case, the delivery period shall be adequately extended. This shall not apply if the delay is attributable to the supplier.

2. Compliance with the delivery period shall be subject to correct and timely deliveries to the supplier and any provision of customer material. As a rule, material supplied by the customer should be delivered to the supplier 3 weeks at the latest prior to the delivery date, in perfect quality, in order to ensure punctual delivery to the customer. The supplier shall give notification of any anticipated delays as soon as possible.

3. The delivery period shall be deemed to have been complied with if the delivery item has left the works of the supplier by the end of the aforesaid period, or if readiness to supply has been notified. Should formal

acceptance be required, the acceptance date shall be applicable, or alternatively, the notification of readiness for acceptance, provided there are no reasons for justified refusal of acceptance.

4. If shipment or acceptance of the delivery item is delayed for reasons attributable to the customer, the costs incurred as a result of the aforesaid delay shall be charged to the customer commencing one month after giving notification of shipment or readiness of acceptance.

5. Should non-compliance with the delivery period be attributable to force majeure, labour disputes or any other occurrences which cannot be influenced by the supplier (e.g. as regards sub-suppliers), the delivery period shall be adequately extended. The supplier shall notify the buyer of the commencement and end of the aforesaid circumstances as soon as possible.

6. Should the supplier fall behind with delivery through culpability the customer may - provided that he can prove that he has suffered damage therefrom - require a compensation of each 0.1% for each full week of delay, however limited to no more than a total of 5% of the net price for the part of delivery which could not be put into operation due to the delay.

7. Claims for damages of the customer due to a delay in the service as well as claims for damages instead of the service that exceed the limits stated in the preceding section 6 are excluded in all cases of delayed delivery, also after expiry of any deadline that may have been set for the supplier. This shall not apply in cases of mandatory liability based on intention, gross negligence, or due to injury of life, body or health. The customer may only withdraw from the contract within the scope of legal provisions, as far as the supplier is responsible for the delay.

8. The customer shall be obliged, at request of the supplier, to declare within a reasonable time, whether he will withdraw from the contract due to the delay or whether he insists on the delivery being carried out.

9. The supplier shall be entitled to carry out partial deliveries as well as under or over deliveries up to approximately 10%.

V. Transfer of Risk, Acceptance

1. The risk shall pass to the customer when the delivery item has left the works of the supplier, also in the case of partial deliveries, or if the supplier has assumed other obligations, for example, shipping costs or the delivery and installation. If formal acceptance is necessary, this shall be authoritative for the transfer of risk. The acceptance procedure shall be carried out immediately on the agreed date, or alternatively after notification being given by the supplier of the readiness for acceptance. The customer shall not refuse acceptance if an immaterial defect is identified.

2. If the shipment or acceptance is delayed or not effected for reasons which are not attributable to the supplier, the risk shall pass to the customer on the date the notification of the shipment or readiness for acceptance is given. The supplier undertakes to take out any insurances requested by the customer at the customer's cost.

VI. Retention of Title

1. The supplier shall retain its ownership of the delivery item until all payments under the delivery contract have been received.

2. The processing or transformation of any goods under retention of title shall always be carried out for us by the customer. In the event of the item under retention of title being processed together with other items not belonging to us, we shall acquire co-ownership of the new item in proportion to the value of the item under retention of title to the other processed items at the time of processing them. Otherwise, the same shall apply for the item created by processing as for the item under retention of title.

3. The supplier shall be entitled to insure the delivery item against theft, breakage, fire, water and any other damage at the customer's cost unless the customer is able to prove that he has taken out the insurance himself.

4. The customer shall not sell, pledge or assign the delivery item by way of security. If the delivery item is pledged or seized or otherwise possessed by third parties, the customer shall notify the supplier thereof immediately.

5. In the event of the customer acting in contradiction to its contractual obligations, in particular in the case of delayed payment, the supplier shall, after having issued an appropriate reminder, be entitled to take back the delivery item and the customer shall be obliged to return the same.

6. On the strength of the supplier's reservation of title, the supplier shall only be entitled to demand the return of the delivery item after withdrawal from the contract.

7. The petition for commencing insolvency proceedings shall entitle the supplier to withdraw from the contract and to demand an immediate return of the delivery item.

VII. Claims for Defects

1. Warranty claim of the customer require that he has complied with his inspection and complaint obligations owed pursuant to § 377 of the German Commercial Code. In doing so, he has to examine the delivery immediately, but at the latest one week after receipt for possible defects and to inform the supplier, if such defects have been detected.

2. The condition of the goods is exclusively defined by the agreed technical delivery specifications. In the event that the supplier has to deliver according to drawings, specifications, samples etc. of the customer, the latter shall bear all risk that such goods are appropriate and suitable for the use intended. The time of the transfer of risk according to V is decisive for the contractual condition of goods .

3. In the event that an acceptance of goods or a first-sample test has been agreed, the complaint is excluded from defects, which the customer could have determined with careful acceptance or first sample inspection.

4. The supplier shall assume no warranty for inappropriate or improper use, defective assembly or putting into operation by the customer or third parties, natural wear and tear, wrong dimensioning (provided that the supplier was not responsible for the development of parts) improper or careless handling, extreme soiling as well as for the consequences of improper modifications or repair work by the customer or third parties without the consent of the supplier. The same shall apply to wear and defects, which only insignificantly reduce the value or the suitability.

5. The supplier shall be given the opportunity to determine the reported defect. Goods subject to a complaint must be promptly returned to the supplier in sufficient quantities on demand; the supplier pays the transportation costs if the complaint is justified. If necessary, the customer will actively participate in the investigations, provide special test equipment and possibilities for free, if required. The contracting parties will communicate the results to each other.

If the customer fails to comply with these obligations, or carries out modifications to goods already reported as defective] without the permission of the supplier, he loses all rights arising from defects. If a justified complaint is made in due time the supplier shall at his discretion repair the article complained about or supply a fault-free replacement. If the supplier fails to comply with these obligations or not in conformance with the contract within a reasonable period of time, the customer may grant in writing an additional period for compliance with these obligations. In the event of this period expiring without result, the customer may demand reduction of the price, withdraw from the contract, or himself carry out, or have the necessary subsequent improvement carried out by a third party at the cost and risk of the supplier. There shall be no reimbursement of costs if the expenses increase because the goods have been brought to another place after delivery by the supplier, unless this means that the goods are being used as they were intended to be. With regard to the assessment and cost distribution of the customer's expenses as the result of material defects, separate agreements are entered into with the supplier, which are oriented towards the actual costs incurred by the customer and the adequacy of expenses, which allow the supplier to carry out an appropriate examination of the reimbursements claimed by the customer.

6. If the customer demands a compliant processing by means of 8D report or in other ways, the expiration of a processing period set by the customer in no case leads to an implicit acknowledgement of the complaint.

The supplier shall not bear any costs for field activities, unless these are not carried out due to mandatory legal requirements (e.g. service activities).

VIII. Other Claims, Liability:

1. The liability of the supplier for compensation, regardless of the legal reason, in particular due to impossibility, delay, defective or incorrect delivery, contractual infringement, infringement of duties during contract negotiation and action in tort is limited.

2. The supplier shall not be liable in cases of simple negligence by its management, lawful representatives, salaried employees or other agents as long as there is no breach of an essential contractual obligation. Essential contractual obligations include the obligation to timely delivery, delivery of the delivery item, its freedom of defects that impair their function or usability more than insignificantly, as well as advice, protection and custodial duties, which are intended to enable the customer to use the delivery item in accordance with the contract or the protection of the life and limb of the customer's personnel or the protection of his property against considerable damage.

3. The liability of the supplier shall be limited to damages he has foreseen as possible consequence of a breach of contract, or which he should have foreseen in the application of customary diligence. Furthermore, indirect damage and consequential damage resulting from defects in the delivery item are only subject to compensation in so far as such damage is typically to be expected when using the delivery item as stipulated.

4. The liability of the supplier shall in each case be limited to the amount of the relevant sum of his product liability insurance, even if this is a case of infringement of obligations essential to the contract.

IX. Limitation Period

All claims of the customer - particularly for subsequent performance, compensation for damages and expenditures - shall become statute-barred in 12 months after the delivery of the item purchased. The above limitation period shall not apply for claims for damages due to personal injuries. In this case applies the statutory limitation period. These shall likewise apply to defects to buildings or items of purchase which, pursuant to the customary manner of their use, are used for a building and the defectiveness thereof has been caused by the supplier.

X. Software Utilization

If software is included within the scope of delivery, the customer shall be granted a non-exclusive right to use the delivered software, including its documentation. It shall be provided for use of the delivery item intended for this. The utilisation of the software on more than one system shall be prohibited. The customer shall only copy, revise or translate the software, or convert it from the object code to the source code to the extent permitted by law (§§ 69 a et seq. of the German Copyright Act). The customer agrees not to remove the manufacturer's specifications - especially the copyright references - nor to change them without the express, prior consent of the supplier. All other rights to the software and the documentation, including copies thereof, shall remain with the supplier or with the software supplier, respectively. It shall not be permitted to grant sub-licenses.

XI. Applicable Law, Place of Jurisdiction

1. All legal relationships between the supplier and the customer shall be subject exclusively to the legislation of the Federal Republic of Germany for the legal relations between domestic parties, with the exclusion of the UN Convention on Contracts for the International Sale of Goods.

2. The place of jurisdiction shall be the competent court at the domicile of the supplier provided the customer is a merchant, a legal person under public law, or a special-purpose fund under public law. However, the supplier shall be entitled to institute proceedings at the customer's main place of business.