



General terms and conditions of business (T&Cs) for Kermi GmbH, Pankofen-Bahnhof 1, 94447 Plattling, registered at the District Court Deggendorf HRB No. 0127

Section 1 Scope of application, form

(1) These General Terms and Conditions of Business (T&Cs) apply to all our business relationships with our customers ("Buyer"). The T&Cs shall only apply if the Buyer is an entrepreneur (§ 14 BGB, German Civil Code), a legal entity under public law, or a special fund under public law.

(2) The T&Cs apply in particular to contracts for the sale and/or delivery of movable goods ("goods"), irrespective of whether we manufacture the goods ourselves or purchase them from suppliers (§§ 433, 650 BGB). Unless otherwise agreed, the T&Cs are applicable in the version valid at the time of the Buyer's order or, in any case, in the version last notified to them in text form and shall serve as a framework agreement for similar future contracts without our having to refer to them again in each individual case.

(3) Our T&Cs apply exclusively. Deviating, conflicting, or supplementary general terms and conditions of the Buyer shall only become part of the contract if and to the extent that we have expressly agreed to their validity. This requirement of consent shall apply in any case, for example even if the Buyer refers to their T&Cs in the context of the order and we do not expressly object to this.

(4) Individual agreements (e.g. framework supply agreements, quality assurance agreements, and comparable agreements) and details in our order confirmation take precedence over the T&Cs. In case of doubt, commercial clauses shall be interpreted in accordance with the Incoterms® published by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of concluding the contract.

(5) Legally relevant declarations and notifications by the Buyer regarding the contract (e.g. setting of deadlines, notification of defects, withdrawal, or reduction) must be made in writing. Written form within the meaning of these T&Cs includes written and text form (e.g. letter, e-mail, fax). Statutory formal requirements and further evidence, in particular in case of doubt about the legitimacy of the declarant, shall remain unaffected.

(6) References to statutory provisions being applicable are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these T&Cs.

Section 2 Contract conclusion

(1) Our offers are subject to change and non-binding. This shall also apply even if we have provided the Buyer with catalogues, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents – including in electronic form – for which we reserve all property rights and copyrights.

(2) The order placed by the Buyer for the goods is considered a binding offer of contract.

(3) Acceptance shall take place as part of an order confirmation.

Section 3 Delivery deadline and delay in delivery

(1) A delivery deadline is only agreed individually or stated by us upon acceptance of the order. If this is not the case, then any statements to this effect are merely non-binding and do not constitute a fixed date transaction.

(2) If we are unable to meet binding delivery deadlines for reasons which we are not responsible for (non-availability of the performance), we will inform the Buyer of this immediately and at the same time, inform them of the expected new delivery deadline. If the performance is also not available by the new delivery deadline, we are entitled to withdraw from the contract in whole or in part; we will immediately

refund any consideration already paid by the Buyer. Non-availability of the performance within this meaning shall be deemed to include in particular if our supplier had not delivered promptly to ourselves, if we have concluded a congruent covering transaction, neither we nor our supplier are at fault, or we are not obliged to procure in the individual case.

(3) The occurrence of our delay in delivery shall be determined in accordance with statutory provisions. In any case, however, a reminder by the Buyer is required.

(4) The Buyer's rights pursuant to Section 8 of these T&Cs and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or supplementary performance), shall remain unaffected.

Section 4 Delivery, transfer of risk, acceptance, default of acceptance

(1) Delivery shall be ex warehouse, which is also the place of performance for the delivery and any supplementary performance. At the request and expense of the Buyer, the goods shall be shipped to another destination (sale by delivery to a place other than the place of performance). Unless otherwise agreed, we are entitled to determine the method of shipment (in particular transport company, shipping route, packaging) ourselves.

(2) The risk of accidental loss and accidental deterioration of the goods shall pass to the Buyer at the latest upon handover. However, in the case of sale by delivery to a place other than the place of performance, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall already pass upon delivery of the goods to the forwarding agent, the carrier or any other person or institution appointed to carry out the shipment. Insofar as acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply to an agreed acceptance. Handover or acceptance shall be deemed equivalent if the Buyer is in default of acceptance.

(3) We are entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs) if the Buyer is in default of acceptance, fails to cooperate, or if our delivery is delayed for other reasons which the Buyer is responsible for.

Section 5 Prices and payment conditions

(1) Unless agreed otherwise in individual cases, our current prices at the time of conclusion of the contract shall apply, ex warehouse, plus statutory VAT.

(2) In the case of a sale by delivery to a place other than the place of performance (Section 4 (1)), the Buyer shall bear the transport costs ex warehouse, any customs duties, fees, taxes, and other public charges.

(3) The purchase price is generally due and payable without deduction immediately after invoicing, but no later than ten days after the invoice date. However, we are entitled at any time to only make a delivery in whole or in part against advance payment, also as part of an ongoing business relationship. We shall declare a corresponding reservation at the latest with the order confirmation.

(4) Once the aforementioned payment deadline has expired, the Buyer shall be in default. During the period of default, interest shall accrue on the purchase price at the applicable statutory default interest rate. We reserve the right to assert further damage caused by default. With respect to merchants, our claim to the commercial default interest (§ 353 HGB, German Commercial Code) remains unaffected.

(5) The Buyer shall only be entitled to offset or retention rights insofar as their claim has been legally established or is undisputed. In the event of defects in the delivery, the Buyer's opposing rights shall remain unaffected, in particular pursuant to Section 7 (6) sentence 2 of these T&Cs.

(6) If it becomes apparent after the conclusion of the contract (e.g. by filing for insolvency proceedings) that our claim to the purchase price is jeopardised by the Buyer's inability to pay, we shall be entitled to refuse performance in accordance with the statutory provisions and – after setting a deadline if necessary – to withdraw from the contract (§ 321 BGB). In the case of contracts for the manufacture of non-fungible items (custom-made products), we may declare rescission immediately; the statutory provisions on dispensing with setting a deadline remain unaffected.

Section 6 Retention of title

(1) We retain title to the goods sold until full payment is made on all our present and future claims arising from the purchase contract and an ongoing business relationship (secured claims).

(2) The goods subject to retention of title may neither be pledged to third parties nor assigned as security before full payment of the secured claims. The Buyer must inform us immediately in writing if an application is made to open insolvency proceedings or if third parties (e.g. seizures) have access to the goods belonging to us.

(3) In the event of the Buyer behaving in breach of contract, in particular in the event of non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions or/and to demand the return of the goods on the basis of the reservation of title. The demand for return does not at the same time include the declaration of withdrawal; in fact we are entitled to only demand the return of the goods and to reserve the right of withdrawal. If the Buyer does not pay the purchase price due, we may only assert these rights if we have previously set the Buyer a reasonable deadline for payment without success or if setting such a deadline can be dispensed with according to statutory provisions.

(4) Until revoked in accordance with (c) below, the Buyer is authorised to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall also apply.

(a) The retention of title extends to the products resulting from the processing, mixing or combining of our goods at their full value, whereby we are deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, their right of ownership remains, we shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.

(b) The Buyer hereby assigns to us by way of security the claims against third parties arising from the resale of the goods or the product in total or in the amount of our possible co-ownership share in accordance with the above paragraph. We accept the assignment. The Buyer's obligations specified in Clause 2 shall also apply with regard to the assigned claims.

(c) The Buyer remains authorised to collect the claim in addition to us. We undertake not to collect the claim as long as the Buyer fulfils their payment obligations towards us, there is no deficiency in their ability to pay, and we do not assert the retention of title by exercising a right pursuant to Clause 3. However, if this is the case, we may demand that the Buyer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents, and informs the debtors (third parties) of the assignment. Furthermore, in this case we are entitled to revoke the Buyer's authority to further sell and process the goods subject to retention of title.

(d) If the realisable value of the securities exceeds our claims by more than 10 %, we shall release securities of our choice at the Buyer's request.

Section 7 The Buyer's claims for defects

(1) The statutory provisions shall apply to the Buyer's rights in the event of material defects and defects of title (including incorrect and short delivery as well as improper assembly/installation or defective instructions), unless otherwise stipulated below. In all cases, the

special statutory provisions on the reimbursement of expenses in the case of final delivery of the newly manufactured goods to a consumer (supplier's recourse pursuant to §§ 478, 445a, 445b or §§ 445c, 327 (5), 327u BGB) shall remain unaffected, unless an equivalent compensation has been agreed, e.g. within the scope of a quality assurance agreement.

(2) The basis of our liability for defects is above all the agreement reached on the quality and the presumed use of the goods (including accessories and instructions). Product descriptions and manufacturer's specifications which are the subject of the individual contract or which were publicly announced by us at the time of the conclusion of the contract shall be deemed to be an agreement on quality in this sense. Insofar as the quality has not been agreed, it is to be assessed according to the statutory regulation whether a defect exists or not (§ 434 (3) BGB). Public statements made by the manufacturer or on their behalf, in particular in advertising or on the label of the goods, take precedence over statements made by other third parties.

(3) In the case of goods with digital elements or other digital content, we only owe provision and, if applicable, updating of the digital content insofar as this expressly results from a quality agreement pursuant to Clause 2. We accept no liability in this respect for public statements made by the manufacturer and other third parties.

(4) As a matter of principle, we are not liable for defects of which the Buyer is aware at the time of conclusion of the contract or is not aware due to gross negligence (§ 442 BGB). Furthermore, the buyer's claims for defects presuppose that they have fulfilled their statutory obligations to examine and notify (§§ 377, 381 HGB). In the case of other goods intended for installation or other further processing, an inspection must in any case be carried out immediately before processing in accordance with the relevant operating instructions. If a defect becomes apparent upon delivery, during inspection, or at any later time, we must be notified of this in writing without delay. In any case, obvious defects must be reported in writing within five working days from delivery and defects not recognisable during inspection within the same period from discovery. If the Buyer fails to properly inspect the goods and/or give notice of defects, our liability for the defect not reported or not reported in time or not reported properly shall be excluded in accordance with statutory provisions. In the case of goods intended for incorporation, attachment or installation, this shall also apply if, as a result of the breach of one of these obligations, the defect only became apparent after corresponding processing; in this case, in particular, there shall be no claims by the Buyer for reimbursement of corresponding costs ("removal and installation costs").

(5) If the delivered item is defective, we may first choose whether to provide supplementary performance by remedying the defect (rectification) or by delivering a defect-free item (replacement). If the type of supplementary performance chosen by us is unreasonable for the Buyer in the individual case, they may reject it. Our right to refuse supplementary performance under the statutory conditions remains unaffected.

(6) We are entitled to make the supplementary performance owed dependent on the Buyer paying the purchase price due. However, the Buyer shall be entitled to retain a reasonable part of the purchase price in relation to the defect.

(7) The Buyer must give us the time and opportunity necessary for the supplementary performance owed, in particular to hand over the goods complained about for inspection purposes. In the event of a replacement delivery, the Buyer shall return the defective item to us at our request in accordance with the statutory provisions; however, the Buyer shall not have a claim for return. Supplementary performance does not include the dismantling, removal or disassembly of the defective item or the installation, fitting or assembly of a defect-free item if we were not originally obliged to perform these services; claims by the buyer for reimbursement of corresponding costs ("removal and installation costs") remain unaffected.

(8) We shall bear or reimburse the expenses required for the purpose of inspection and supplementary performance, in particular transport, travel, labour, and material costs and, if applicable, removal and installation costs, in accordance with the statutory provisions and these T&Cs if a defect is actually present. Otherwise, we may demand reimbursement from the Buyer of the costs incurred from the

unjustified request to remedy the defect if the Buyer knew or was negligent in not knowing that there was actually no defect.

(9) In urgent cases, e.g. if operational safety is endangered or to prevent disproportionate damage, the Buyer has the right to remedy the defect himself and to demand compensation from us for the expenses objectively necessary for this. We must be informed immediately of any such self-remedy being carried out, if possible in advance. The right to self-remedy does not exist if we would be entitled to refuse a corresponding supplementary performance according to the statutory provisions.

(10) If a reasonable period to be set by the Buyer for supplementary performance has expired unsuccessfully or is dispensable according to the statutory provisions, the Buyer may withdraw from the purchase contract or reduce the purchase price according to statutory provisions. In the case of an insignificant defect, however, there is no right of withdrawal.

(11) The Buyer's claims for damages or reimbursement of futile expenses shall also exist in the case of defects only in accordance with Section 8 and are otherwise excluded.

Section 8 Other liability

(1) Insofar as nothing to the contrary arises from these T&Cs including the following provisions, we shall be liable in accordance with the statutory provisions in the event of a breach of contractual and non-contractual obligations.

(2) We shall be liable for damages – irrespective of the legal grounds – within the scope of fault liability in the event of intent and gross negligence. In the event of simple negligence, we shall only be liable, subject to statutory limitations of liability (e.g. care in own affairs; insignificant breach of duty), only

a) for damages resulting from injury to life, body or health,

b) for damages arising from the breach of an essential contractual obligation (obligation the fulfilment of which is a prerequisite for the proper performance of the contract and on the observance of which the contractual partner regularly relies and may rely); in this case, however, our liability shall be limited to compensation for the foreseeable, typically occurring damage.

(3) The limitations of liability resulting from Clause 2 shall also apply to third parties as well as in the event of breaches of duty by persons (also in their favour) for whose fault we are responsible in accordance with statutory provisions. They do not apply insofar as a defect has been fraudulently concealed or a guarantee for the quality of the goods has been assumed and for the Buyer's claims under the Product Liability Act.

(4) With regards to a breach of duty which does not consist of a defect, the Buyer may only withdraw or terminate the contract if we are responsible for the breach of duty. A free right of termination of the Buyer (in particular according to §§ 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

Section 9 Limitation

(1) Notwithstanding § 438 (1) no. 3 BGB, the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance.

(2) Further special statutory provisions on limitation (in particular § 438 (1) no. 1, (3), § 438 (1) no. 2 as well as §§ 444, 445b BGB) shall remain unaffected.

(3) The above limitation periods of the law on the sale of goods also apply to the Buyer's contractual and non-contractual claims for



damages based on a defect of the goods, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in individual cases. Claims for damages by the Buyer pursuant to Section 8 (2) sentence 1 and sentence 2(a) as well as pursuant to the Product Liability Act shall exclusively become statute-barred in accordance with the statutory limitation periods.

Section 10 Choice of law and place of jurisdiction

(1) These T&Cs and the contractual relationship between us and the Buyer shall be governed by the laws of the Federal Republic of Germany to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

(2) If the Buyer is a merchant within the meaning of the German Commercial Code, a legal entity under public law, or a special fund under public law, the exclusive – also international – place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in Plattling. The same shall apply if the Buyer is an entrepreneur within the meaning of § 14 BGB. However, in all cases we are also entitled to bring an action at the place of performance of the delivery obligation in accordance with these T&Cs or a prior individual agreement or at the Buyer's general place of jurisdiction. Overriding statutory provisions, in particular on exclusive competences, shall remain unaffected.

Section 11 Miscellaneous

Should individual provisions of these T&Cs be invalid in whole or in part, this shall not affect the remaining provisions. The contracting parties undertake to replace the invalid provision with a provision which comes closest to the intended economic purpose of the provision.