

## General sales terms and terms for delivery and service

### I. Scope of validity

- I.1. All offers, sales, repairs and other services are subject to the following conditions, unless there are other agreements with a company (called the "customer").
- I.2. Other sales terms of the customer are not applicable, even if their validity is not questioned. Neither the reference to a letter containing or suggesting deviating sales terms nor the delivery expresses any agreement with other terms.

### II. Offers

- II.1. Our electronic media, catalogues, leaflets, price lists and other printed matter (called "our publications") only inform about our product range and are not to be understood as offers according to § 145 BGB. Illustrations and dimensions in our publications do not guarantee any product specification; nor can any special application of a product be derived from them. All the products are subject to alteration.
- II.2. All offers are non-committal as long as not definitely confirmed by us.
- II.3. We claim unlimited ownership and copyright as to supplied samples, plans, illustrations, drawings and other documents.

### III. Validity of contracts

- III.1. A contract only comes into being if the customer's order has been acknowledged in written form or the delivery was made without extra confirmation.
- III.2. A contract about the delivery of a special fabrication only comes into being when the exact plan or drawing made by us respectively the order acknowledgment has been confirmed by the customer in written form.

### IV. Prices

- IV.1. The prices valid on the day of delivery (plus VAT) are applicable. If the price on the day of delivery exceeds the price on the ordering day by more than 5 %, the customer is entitled to cancel the contract.
- IV.2. If the value of orders is below 150 Euros net (except spare parts and partial shipments), a handling charge of 10 Euros net will be added.
- IV.3. For spare part orders with a value of less than 50 Euros there will be an additional handling charge of 5 Euros.
- IV.4. For orders made via our webshop there will be no additional handling charges.

### V. Shipping risks

- V.1. The delivery of our goods is made in accordance with the valid Incoterms 2010. Special agreements stay remain unaffected.
- V.2. The forwarder or shipping company is liable for all damages caused by the loss or destruction of the goods in the time between picking them up and delivering them to the customer or for damages due to late delivery.

### VI. Shipping charges and insurance costs

- VI.1. In general the customer pays all costs related to the shipment of the products. We decide about the mode of shipment resp. make an agreement with the buyer.
- VI.2. The shipping charges ex works Eibelstadt for deliveries to a German destination are based on a flat rate of 5.95 Euros per standard package up to 31.5 kg and dimensions of 120 x 60 x 60 cm. The shipping charges to a destination outside Germany depend on the final country.
- VI.3. For bulky items (e.g. displays, screens, furniture, stands, ceiling lifts etc.) the shipping charges are usually higher. They are marked in the valid price list with an "X".
- VI.4. If the buyer asks for an express delivery we will charge the extra costs at actuals.
- VI.5. The packing material is charged at cost. The costs for the free return of undamaged packing material are reimbursed or credited to our choice.
- VI.6. The obligatory insurance costs are 0.1 % of the net value of the goods (except for customers who give written notice of their own insurance).
- VI.7. The terms of VI. 2 - VI. 6 are applicable for the German market. The transport and shipping charges for international sales incl. sales to the EU will be specified in each offer.

### VII. Terms of delivery

- VII.1. Our observing the delivery time is based on the just-in-time deliveries of our sub-suppliers. This requires that we have taken all the necessary measures to provide the goods ordered, and that we have carefully chosen the sub-supplier. We are obliged to inform the customer immediately if the delivery is delayed or if we are unable to execute the order. In this case the customer is entitled to cancel the contract according to the legal regulations.
- VII.2. On demand, the customer is obliged to declare within a given span of time if he wants to cancel the contract because of the delay or if he insists on the delivery.

### VIII. Terms of payment

- VIII.1. Invoices for goods are due for net payment within 30 days after date of invoice. Invoices for repairs or services are due for immediate net payment.

## **IX. Reservation of proprietary rights**

- IX.1. We reserve the right of ownership of all goods delivered by us (reserved goods) until the purchase price and all claims arising from our business relationship with the customer have been paid in full, including future claims arising from contracts concluded at a later date (extended reservation of ownership or current account reservation).
- IX.2. The customer is entitled to resell, combine, mix or process the delivered goods in the normal course of business. Other disposals, in particular pledging or the granting of ownership by way of security, are not permitted to the customer. If the reserved goods are not paid for in full or in full when resold to a third party purchaser, the purchaser undertakes to sell to the third party purchaser only under extended reservation of title, i.e. only against assignment of the purchase price, and hereby assigns to us by way of security the claim to which he is entitled from the resale, together with all ancillary rights, in the amount of the price of the reserved goods agreed with us (subsequent reservation of title). The authorisation of the purchaser to resell, combine, mix and process the goods ends if the purchaser stops payments, if there is a case of insolvency according to the German Insolvency Code (InsO) or if he is in default of payment to us.
- IX.3. The purchaser may not make any agreement with his customers and buyers which in any way excludes or impairs our rights or which frustrates the advance assignment pursuant to para. 2; the authorisation to resell the goods shall therefore not apply if a prohibition of assignment has been agreed between the purchaser and his customer or buyer. The purchaser remains authorised to collect the claim assigned to us; we are entitled to revoke this authorisation at any time in the event of a factually justified interest, e.g. in the event of default of payment or insolvency of the purchaser, to disclose the assignment of security and to collect the claim. At our request, the customer is obliged to provide us with all information and documents necessary for the collection of the assigned claim and to inform the third party purchaser of the assignment by way of security without delay.
- IX.4. In the event of insolvency, default of payment or other culpable breach of contract on the part of the customer, we shall be entitled to take back all goods subject to retention of title after a declaration of withdrawal. The purchaser is obliged to surrender the goods without retention; he bears the necessary costs of taking back and transporting the goods subject to retention of title. In the event of rescission, we shall be entitled to sell the reserved goods by private sale and to offset the proceeds of such sale against the claims which the customer owes from the delivery of goods and the business relationship, after deduction of the reasonable costs of such sale incurred by us. The customer must inform us immediately and without request of all access by third parties, seizures, changes, deterioration or the destruction of the reserved goods.
- IX.5. The handling and processing of the reserved goods shall be carried out for us as the manufacturer, but without any obligation on our part. We shall acquire co-ownership of the new or uniform object if the reserved goods are processed or inseparably combined in the ratio of the net invoice amount of our reserved goods to the net invoice amounts, or alternatively the market values, of the other processed or combined objects. The customer shall keep the (co-)ownership in safe custody for us free of charge; at our request, the customer shall be obliged to provide us with all information and documents required to safeguard our (co-)ownership rights.
- IX.6. If the value of the securities to which we are entitled in accordance with the above provisions exceeds our claims by more than 10%, we are obliged to release securities of our choice at the request of the customer.

## **X. Complaints and claims**

- X.1. In case of defects of goods and / or legal faults our liability is limited to our obligation to make amends. If our attempt to make amends fails or is impossible, the customer is entitled to lower the price of the product or to cancel the contract, regardless of his claims for damages according to paragraph XI.
- X.2. The customer is obliged to notify obvious defects immediately after receiving the goods. The notification of such a defect must be posted to us 7 days after receiving the goods by the latest. Should a defect become obvious later, it must be notified immediately. If the customer does not notify a defect, he automatically approves of our delivery or services. Along with the notification of the defect the return of the goods is to be announced (RMA procedure).
- X.3. If the complaint is not justified, we are entitled to claim a compensation from the customer for our handling of it if the customer has recognized or negligently not recognized that there is no defect and he himself is responsible for the cause of the problems he is complaining about.
- X.4. Minor deviations from the specified features of the product do not entitle the customer to file a complaint. This also applies if the usability of the item is insignificantly impaired or is a result of the normal wear and tear. Moreover, claims for compensation do not exist if damages are caused by the misuse or careless handling of the product by the customer or a third person (especially in case of faulty installation as well as insufficient maintenance and servicing). If the customer or a third person is responsible for improper modifications or maintenance of the product, he cannot derive any claims for compensation from the consequences of improper use.
- X.5. Claims for compensation expire within one year after the delivery of the product.
- X.6. We are liable for paying damages to the customer (including consecutive damages and immaterial damages) as a consequence of poor fulfilment or non-fulfilment of the contract exclusively according to paragraph XI.

## **XI. Liability**

- XI.1. In case of an intended breach of duty we are liable according to the legal regulations.
- XI.2. In case of gross negligence our liability for compensation is limited to the predictable typical damages.
- XI.3. In case of a culpable violation of an essential obligation of the contract (e.g. an obligation that is imposed on us by the contract or whose fulfilment is the precondition for realizing the contract and on which the customer can rely) we are liable according to the legal regulations. In this case the liability for paying compensation is limited to the predictable typical damages.
- XI.4. Our liability in case of the culpable violation of life, body or health remains unaffected; this also applies to the obligatory product liability. Unless regulated differently in paragraph XI. 1 - 4, any other liability is excluded.
- XI.5. All customer claims to us for paying damages expire after one year, beginning with the moment when the damage occurs and the defect is notified by the customer. Customer claims are excluded from these regulations if we have unlimited liability according to paragraph XI. 1 - 4; in this case claims expire according to the legal regulations.

## **XII. Recycling**

Our prices do not include the return and recycling of used models (according to § 3 ElektroG) unless the users are private households. The customer will recycle those units at his own costs and in accordance with the legal regulations or will oblige a third person to do so. The customer exempts us from the obligation of the manufacturer to take back and recycle models according to § 10 chapter 2 ElektroG and from the corresponding claims of a third party.

## **XIII. Return of goods**

If the customer returns goods free of defects after prior announcement and approval by Kindermann (RMA process), we charge, unless otherwise agreed, a handling fee of 10 % of the net value of the goods, minimum 25 € per item plus VAT.

A reimbursement of the net value of the goods – minus handling fee – is only possible if the goods are 100 % free of defects and if they have not been made specially according to the customers wishes. Software can only be returned if not used and still sealed in package.

The RMA number must be visible on the outside of the carton and on the delivery note. Otherwise we would possibly refuse the acceptance of the goods.

## **XIV. Place of fulfilment and court of jurisdiction**

The place of fulfilment for deliveries and payments is Eibelstadt, the court of jurisdiction is Wuerzburg.

For all legal contracts only the German law is applicable. The United Nations Contracts for the International Sale of Goods (CISG) are not applicable.

## **XV. Translations**

The translation of these sales terms into other languages is a service for our customers. Only the German version is legally binding.

## **XVI. Other terms**

The irrelevance of single regulations does not violate these sales terms.

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