



Terms and Conditions of Sale and Delivery of KAMA GmbH vis-à-vis Companies

Section 1 Scope

- 1.1 These Terms and Conditions of Sale and Delivery (T&CSD) set out the exclusively applicable terms and conditions for sales by KAMA GmbH between you (hereinafter referred to as "Buyer") and us, KAMA GmbH, insofar as these are not amended by written agreement between the parties. Deviating or conflicting terms and conditions shall not be recognised by us unless we have explicitly agreed to them.
- 1.2 Our T&CSD shall also apply if we carry out the delivery to the Buyer unconditionally in the knowledge that the Buyer's terms and conditions conflict with or deviate from our T&CSD.
- 1.3 The T&CSD 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 (Sections 433, 650 BGB (German Civil Code)). Unless otherwise agreed, the T&CSD in the version as amended at the time of the Buyer's order or in any case in the version last notified to the Buyer in text form shall also apply as a framework agreement for similar future contracts without any obligation on our part to make reference to them in each individual case.
- 1.4 Individual agreements (e.g. framework supply agreements, quality assurance agreements) and details in our order confirmation take precedence over the T&CSD. 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 as amended at the time the contract was concluded.
- 1.5 Our T&CSD shall only apply to traders within the meaning of Section 14 BGB, legal entities under public law or special funds under public law.
- 1.6 You will be notified of any changes to these T&CSD in writing on the homepage of KAMA GmbH on the Internet or by email. The changes are deemed accepted by you if you do not object within four weeks after receipt of the notification. You will be notified separately of the right of withdrawal and the legal consequences of silence in the event of a change to the T&CSD.
- 1.7 Legally relevant declarations and notifications by the Buyer in relation to 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&CSD includes written and text form (e.g. letter, email, fax). Legal form requirements and further proof, in particular in the event of doubts about the legitimacy of the party making the declaration, shall remain unaffected.
- 1.8 References to the applicability of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or explicitly excluded in these T&CSD.

Section 2 Offer, offer documents, conclusion of contract

- 2.1 Our offers are subject to change and non-binding. If your order qualifies as an offer pursuant to Section 145 BGB, we may accept this offer within four weeks. This also applies if we have provided the Buyer with catalogues, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents – also in electronic form – to which we reserve property rights and copyrights. The contract shall only come into effect with our written confirmation and in accordance with its content or by delivery.
- 2.2 By submitting an offer on the basis of performance specifications, we do not assume any warranty for the correctness and completeness of the planning.
- 2.3 We reserve the right to make changes to the design and shape of the subject matter of the contract without prior notice due to technical progress as well as minor or customary deviations in dimensions, weight or quality.

- 2.4 We reserve the property rights and copyrights to illustrations, drawings, calculations and other documents. This also applies to such written documents which are designated "confidential". The Buyer must obtain our explicit written consent before passing them on to third parties.
- 2.5 We reserve the right to secure the transaction through credit insurance and to submit to the insurance provider the necessary data relating to the Buyer. The same applies to factoring and the involvement of collection agencies.
- 2.6 The Buyer's data shall be stored on IT systems for the purpose of processing the transactions.

Section 3 Prices and terms of payment

- 3.1 Unless otherwise stated in the order confirmation, our prices shall apply "ex works" excluding packaging and transport insurance, which shall be invoiced separately in each case. The statutory value added tax is not included in our prices; it will be shown separately in the invoice at the statutory rate on the day of invoicing. If the Buyer requires us to provide a down payment guarantee or comparable security for fulfilment of the contract, it shall, upon presentation of proof, reimburse us for the resulting bank charges incurred in addition to the purchase price.
- 3.2 The purchase price shall be due and payable within 14 days of invoicing and delivery or acceptance of the goods. However, we are entitled at any time, also within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. We shall declare any such condition with the order confirmation at the latest. The Buyer shall be in default upon expiry of the aforementioned payment period. During the period of default, interest shall be charged on the purchase price at the statutory default interest rate applicable at the time. We reserve the right to exercise claims for further damages caused by default. Our claim to commercial interest on arrears (Section 353 HGB (German Commercial Code)) shall remain unaffected with respect to merchants.
- 3.3 We reserve the right to increase our prices appropriately if, after conclusion of the contract, cost increases occur for which we are not responsible, in particular due to collective wage agreements or changes in the price of materials. We will submit evidence of these increases to the Buyer upon request.
- 3.4 In the absence of a special agreement, payment shall be made immediately net cash (without deduction).
- 3.5 If the Buyer defaults on a payment or if there are concrete indications of imminent insolvency on the part of the Buyer or if it becomes apparent in some other way after conclusion of the contract that our counter-performance claim is jeopardised by the Buyer's inability to make payment, we may suspend further work on current orders, demand immediate advance payment of all claims – including such as are not yet due – and deferred amounts or insist on the provision of corresponding security. Where the Buyer fails to comply with our request for advance payment or the provision of security within a reasonable period, we shall be entitled to withdraw from the contract and to charge the Buyer for the costs incurred up to that point, including lost profits.
- 3.6 Where 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 make payment, 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 (Section 321 BGB). In the case of contracts for the manufacture of non-fungible items (custom products), we may declare withdrawal immediately; the statutory provisions on the dispensability of extending a deadline remain unaffected.
- 3.7 The Buyer shall only be entitled to a right of set-off or retention if its counterclaim is undisputed or recognised by us, legally established or ready for decision.
- 3.8 In the event of defects, payments may only be withheld by the Buyer to an extent that is in a reasonable proportion to the defects as ascertained.

Section 4 Delivery time

- 4.1 The delivery period shall be agreed individually and shall commence with the dispatch of our letter of confirmation, but not prior to complete provision of the documents, approvals and releases to be procured by the Buyer, the clarification of all technical questions and the receipt of an agreed down payment.
- 4.2 If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of the service), we shall notify the Buyer of without delay and at the same time inform it of the anticipated new delivery deadline. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately reimburse any consideration already paid by the Buyer. Non-availability of the service shall be deemed to apply, for example, in the event of late delivery by our supplier, if we have concluded a congruent hedging transaction, in the event of other disruptions in the supply chain, for example due to force majeure, or if we are not subject to a procurement obligation in the individual case.
- 4.3 The occurrence of our delay in delivery shall be determined in accordance with the statutory provisions. A reminder from the Buyer shall, however, be required in each case. If we are in default of delivery, the Buyer may demand lump-sum compensation for the damage caused by the delay. The lump-sum compensation shall amount to 0.5% of the net price (delivery value) for each completed calendar week of the delay, but in total not more than 5% of the delivery value of the goods delivered late. We reserve the right to prove that the Buyer has suffered no damage at all or only significantly less damage than the aforementioned lump sum.
- 4.4 The delivery period shall be extended accordingly in the event of measures within the scope of industrial disputes, in particular strikes and lockouts, as well as the occurrence of unforeseen obstacles which are beyond our control such as force majeure or failure to deliver by our own suppliers. The same shall apply if the aforementioned circumstances occur at our suppliers. If it becomes impossible for us to fulfil the contract in whole or in part for the aforementioned reasons, we shall be released from our obligation to deliver. We shall not be responsible for the aforementioned circumstances even if they occur during an already existing delay.
- 4.5 The delivery period shall be deemed to have been complied with if the delivery item has left our works or notification of readiness for dispatch has been sent by the time the delivery period expires. We are entitled to make partial deliveries.
- 4.6 Where the Buyer is in default of acceptance or violates other obligations to cooperate, we are entitled to demand compensation for the damage incurred by us in this respect, including any additional expenses; this is without prejudice to additional claims.

Section 5 Transfer of risk and shipment

- 5.1 Delivery "ex works" is agreed unless otherwise stated in the order confirmation.
- 5.2 The consignment will be insured by us, unless otherwise agreed, at the expense of the principal.
- 5.3 The risk of accidental loss or accidental deterioration of the purchased goods shall pass to the Buyer at the latest as soon as the goods leave our factory or our warehouse or are handed over to the Buyer. If the shipment is delayed due to circumstances for which the Buyer is responsible, the risk shall pass to the Buyer from the day on which the goods are ready for shipment. 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 pass to the Buyer upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. If acceptance has been agreed, this shall be authoritative for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply mutatis mutandis to an agreed acceptance. Where the buyer is in default of acceptance, this shall be deemed equivalent to handover or acceptance.
- 5.4 Where the Buyer fails to accept the subject matter of the contract in due time, we are entitled to set the Buyer a reasonable grace period for acceptance, to otherwise dispose of the subject matter

of the contract after its expiry and to make delivery to the Buyer within a reasonably extended period. If the Buyer is in default of acceptance, fails to cooperate or if our delivery is delayed for other reasons for which the Buyer is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). The proof of a higher damage and our legal claims (in particular reimbursement of additional expenses, reasonable compensation, termination) remain unaffected. The Buyer shall be entitled to prove that we have incurred no damage at all or only a significantly lower damage.

- 5.5 Transport packaging and all other packaging in accordance with the Packaging Ordinance (VerpackV) shall not be taken back, with the exception of pallets. The Buyer is obliged to dispose of the packaging at its own expense.

Section 6 Defects and warranty

- 6.1 Insofar as the delivered goods are defective, you shall be entitled to demand subsequent performance within the scope of the statutory provisions. We shall have the right to choose the type of subsequent performance. Where subsequent performance fails, you shall be entitled to reduce the purchase price or to withdraw from the contract. The exercise of any warranty rights shall be predicated on your proper fulfilment of all inspection and notification obligations due in accordance with Section 377 HGB. The notice of defects must be received by us in writing (also by fax or email) within two weeks after receipt of the performance.
- 6.2 Any liability for defects on our part shall be based in particular on the agreement reached on the quality and presumed use of the goods (including accessories and instructions). All product descriptions and manufacturer's specifications which are the subject of the individual contract or which were publicly announced by us (in particular in catalogues or on our Internet homepage) 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, an assessment shall be performed according to the statutory provisions to determine whether or not a defect exists (Section 434 (3) BGB). Public statements made by the manufacturer or on its behalf, in particular in advertising or on the labelling of the goods, shall take precedence over statements made by other third parties.
- 6.3 In the case of goods with digital elements or other digital content, we only owe the provision and, if applicable, the updating of the digital content insofar as this is based explicitly on a quality agreement in accordance with para. 2. In this respect, we do not assume any liability for public statements made by the manufacturer and other third parties.
- 6.4 As a matter of principle, we shall not be 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 (Section 442 BGB). Furthermore, the Buyer's claims for defects shall be predicated on its proper fulfilment of its statutory duties of inspection and notification (Sections 377, 381 HGB). Where the Buyer fails to duly inspect and/or notify defects, our liability for the defect – whether unnotified, not notified on time or not properly notified – shall be excluded in accordance with the statutory provisions.
- 6.5 If the delivered item is defective, we may initially choose whether to provide subsequent performance by remedying the defect (subsequent improvement) or by delivering a flawless item (replacement). The Buyer may reject the type of subsequent performance chosen by us if it would unreasonably affect the Buyer. Our right to refuse subsequent performance under the statutory provisions remains unaffected.
- 6.6 We are entitled to predicate the subsequent performance we owe on the Buyer's due payment of the purchase price. The Buyer shall be entitled nonetheless to withhold a reasonable part of the purchase price in relation to the defect.
- 6.7 The Buyer shall give us the time and opportunity required for the subsequent performance owed, in particular to hand over the goods that were the subject of the complaint 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 right to demand return. Subsequent performance shall not include the dismantling, removal or disassembly of the defective item or the installation, attachment or assembly of a flawless item if we were not originally

obliged to perform these services; claims by the Buyer for the reimbursement of corresponding costs ("removal and installation costs") shall remain unaffected.

- 6.8 Where a defect is ascertained to exist, we shall bear or reimburse the necessary expenses for the purpose of inspection and subsequent 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&CSD. We may otherwise demand reimbursement from the Buyer of the costs incurred as a result of the unjustified request to remedy the defect if the Buyer knew or should have known that a defect did not actually exist.
- 6.9 In urgent cases, e.g. in the event of a risk to operational safety or to prevent disproportionate damage, the Buyer shall have the right to remedy the defect itself and to demand that we reimburse such expenses as are objectively necessary for this purpose. We shall be notified without delay of such rectification by the Buyer, if possible in advance. The Buyer's right to remedy the defect shall not exist if we would have been entitled to refuse any corresponding subsequent performance in accordance with the statutory provisions.
- 6.10 If a reasonable deadline to be set by the Buyer for subsequent 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 the statutory provisions. However, this right of withdrawal shall not apply to defects that are merely insignificant.
- 6.11 Claims by the Buyer for reimbursement of expenses pursuant to Section 445a (1) BGB are excluded unless the last contract in the supply chain is for the purchase of consumer goods (Sections 478, 474 BGB) or a contract with a consumer for the provision of digital products (Sections 445c sentence 2, 327 (5), 327u BGB). In the event of defects in the goods, the Buyer shall only be entitled to exercise claims for damages or reimbursement of futile expenses (Section 284 BGB) according to the liability provisions agreed with us in these T&CSD.
- 6.12 The Buyer shall not be entitled to exercise claims for the reimbursement of useless expenses.
- 6.13 The rejected goods shall be returned to us for inspection in the original or equivalent packaging.
- 6.14 In the event of withdrawal, the Buyer shall be liable for deterioration, destruction and loss of utilisation not only in the extent of customary care, but also for any negligent and intentional fault.
- 6.15 Improper modifications or repairs performed by the Buyer or third parties without our prior approval shall invalidate our liability for defects in the purchased item.
- 6.16 Our warranty and liability for third-party products or parts not manufactured by us shall be limited to the assignment of claims against our suppliers, insofar as a defect does not fall within our area of responsibility. Where the satisfaction of assigned rights fails, we shall be liable in accordance with the other conditions as stated in Section 7.
- 6.17 The limitation period for warranty claims for the delivered goods shall be 12 months from receipt of the goods, except in the case of claims for damages.

Section 7 Limitation of liability

- 7.1 We are liable for intent and gross negligence. Furthermore, we are liable for the negligent breach of obligations upon which the proper performance of the contract is predicated, whose breach places the achievement of the contractual purpose at risk and upon whose fulfilment the customer may ordinarily rely. In the latter case, however, we shall only be liable for foreseeable damages that are typical for the contract. We shall not be liable for the slightly negligent breach of obligations other than those mentioned in the above sentences.
- 7.2 The above disclaimers of liability shall not apply in the event of injury to life, limb or health. Liability under the Product Liability Act (ProdHaftG) remains unaffected.
- 7.3 The limitations of liability resulting from para. 1 shall also apply to third parties as well as to breaches of duty by persons (also in their favour) for whom we are responsible in the event of misconduct according to 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 claims of the Buyer under the Product Liability Act.

- 7.4 The Buyer may only withdraw from or terminate a contract due to a breach of duty which does not consist of a defect if we were responsible for this breach of duty. The Buyer does not have an unrestricted right of termination (in particular according to Sections 650, 648 BGB). The statutory conditions and legal consequences shall apply in all other cases.
- 7.5 Insofar as our liability for damages is excluded or limited, this shall also apply with regard to the personal liability for damages to which our employees, workers, staff members, representatives and vicarious agents are subject.

Section 8 Retention of title

- 8.1 The goods shall remain our property until all payments arising from the business relationship with the Buyer have been received.
- 8.2 The goods that are 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 notify us without delay in writing if an application is made to open insolvency proceedings or if third parties gain access (e.g. seizures) to the goods belonging to us.
- 8.3 The Buyer is obliged to treat the object of purchase with care; in particular, the Buyer is obliged to insure it adequately at replacement value and at its own expense against fire, water and theft damage. If maintenance and inspection work is required, the Buyer must carry this out in good time at its own expense.
- 8.4 The Buyer must notify us without delay in writing in the event of seizures or other interventions by third parties.
- 8.5 Until such time as this right is revoked, the Buyer shall be entitled to resell the object of sale in the ordinary course of business; however, it automatically, with effect from this date, assigns to us all claims in the amount of the final invoice amount (including VAT) of our claim, which accrue to the Buyer against its customers or third parties from the resale, irrespective of whether the object of sale has been resold without or after processing. The Buyer remains authorised to collect this claim even after the assignment. Our authority to collect the claim ourselves remains unaffected by this. However, we undertake to refrain from collecting the claim for as long as the Buyer satisfies its payment obligations from the proceeds collected, is not in default of payment and no application for the opening of insolvency proceedings has been filed or payments have been suspended. If this is the case, however, we may demand that the Buyer notifies us of the assigned claims and the relevant debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors of the assignment.
- 8.6 We shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the return of the goods on the basis of the retention of title in the event of conduct by the Buyer in breach of contract, in particular in the event of non-payment of the purchase price as due. The demand for return shall not constitute a withdrawal from the contract and we shall be entitled instead to demand only the return of the goods and to reserve the right of withdrawal. Where the Buyer fails to pay the purchase price as due, we may only exercise these rights if we have previously set the Buyer a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.
- 8.7 If the marketable value of the securities exceeds our claims by more than 10%, we shall release securities at our own discretion upon request by the Buyer.

Section 9 Limitation period

- 9.1 Notwithstanding Section 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 begin with acceptance.

9.2 The above limitation periods of the law on sales also apply to contractual and non-contractual claims for damages exercised by the Buyer based on a defect of the goods, unless the application of the regular statutory limitation period (Sections 195, 199 BGB) would lead to a shorter limitation period in individual cases. Claims for damages under the Product Liability Act shall become statute-barred exclusively in accordance with the statutory limitation periods.

Section 10 Final provisions

10.1 Amendments or supplements to these T&CSD must be in writing. This also applies to the cancellation of this written form requirement.

10.2 The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of goods (CISG).

10.3 The place of performance is Dresden. The exclusive place of jurisdiction for all disputes arising from or in connection with this contract is Dresden.

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