



General Terms and Conditions of KEMROC Spezialmaschinen GmbH (Dated 01.01.2022)

I. Scope, Form

1. These General Terms and Conditions of Sale ("GTCS") shall apply to all our business relations with our customers. The GTCS shall only apply if the customer is an entrepreneur (§ 14 German Civil Code, "BGB"), a legal entity under public law or a special fund under public law.
2. The GTCS shall apply in particular to contracts for the sale and/or delivery of movable goods ("Goods") and related services, irrespective of whether we manufacture the Goods ourselves or purchase them from suppliers (§§ 433, 650 BGB). Unless otherwise agreed, the GTCS in the version valid at the time of the Customer's order or, in any case, in the version last notified to the Customer in text form shall also apply as a framework agreement for similar future contracts without our having to refer to them again in each individual case; the respective current version can be found at <https://www.kemroc.de/allgemeine-geschaeftsbedingungen/>
3. Our GTCS shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the customer shall only become part of the contract if and to the extent that we have expressly agreed to their application. This requirement of approval shall apply in any case, for example even if we carry out the delivery to the customer without reservation in the knowledge of the customer's General Terms and Conditions.
4. In individual cases, individual agreements made with the customer (including collateral agreements, supplements and amendments) shall in any case take precedence over these GTCS. For the content of such agreements, subject to proof to the contrary, a written contract or our written confirmation shall be decisive.
5. Declarations and notifications relevant in law by the customer with regard to the contract (e.g. setting of deadlines, notification of defects, withdrawal or reduction) must be made in writing, i.e. in written or text form (e.g. letter, e-mail, fax). Legal formal requirements and further proof, in particular in case of doubts about the legitimacy of the declarant, remain unaffected.
6. References to the applicability of statutory provisions shall only have a clarifying significance. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTCS.
7. In these GTCS the terms "must" and "shall" have equivalent meanings and create a present and ongoing obligation, unless the context otherwise requires.

II. Conclusion of contract

1. Our offers are subject to change and non-binding. This shall also apply if we have provided the customer with catalogs, 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.
2. The order of the goods by the customer shall be deemed to be a binding offer of contract. Unless otherwise stated in the order, we shall be entitled to accept this offer of contract within three (3) weeks after its receipt by us.
3. Acceptance can be declared either in writing (e.g. by order confirmation) or by delivery of the goods to the customer.

III. Delivery Period and Default in Delivery

1. The delivery period shall be agreed individually or stated by us upon acceptance of the order. If this is not the case, the delivery period shall be approx. six (6) weeks from conclusion of the contract. The deadlines shall only apply on condition that all details of the order are clarified in good time, in particular the provision of all documents and approvals to be obtained by the customer, the possible release of drawings and the timely receipt of any agreed down payment as well as the timely provision of any agreed security for payment.
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 inform the customer of this without delay and at the same time notify the customer of the expected new delivery deadline. If the service is also not available within the new delivery period, we shall be entitled to revoke the contract in whole or in part; we shall immediately refund any consideration already paid by the customer. A case of non-availability of the performance in this meaning shall be deemed to be in particular the non-timely self-delivery by our supplier if we have concluded a congruent hedging 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 default in delivery shall be determined in accordance with the statutory provisions. In any case, however, a warning by the customer is required.
4. The rights of the customer pursuant to Section VIII. of these GTCS 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 cure), shall remain unaffected.

IV. Delivery, Transfer of Risk, Acceptance, Default of Acceptance

1. Delivery shall be EXW (Incoterms 2020) Ahornstraße 6, 36469 Hämbach, Germany or from another location to be named by us, which shall also be the place of performance for the delivery and any cure. At the customer's request and expense, the goods shall be shipped to another destination (sale by

- delivery to a place other than the place of performance). Unless otherwise agreed, we shall be entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves.
2. We are entitled to make partial deliveries if this is reasonable for the customer. Partial deliveries are reasonable for the customer in particular if the partial delivery is usable for the customer within the scope of the contractual purpose, the delivery of the remaining ordered goods is ensured and the customer does not incur significant additional expenses or costs as a result.
 3. The risk of an accidental destruction and an accidental deterioration of the goods shall pass to the customer at the latest upon delivery. In the case of sale by delivery to a place other than the place of performance, however, the risk of accidental destruction 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 designated to carry out the shipment. Insofar as an 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 to produce a work shall also apply *mutatis mutandis* to an agreed acceptance. The delivery or acceptance shall be deemed equivalent if the customer is in default of acceptance.
 4. If the customer is in default of acceptance, fails to cooperate or if our delivery is delayed for other reasons for which the customer is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). For this purpose, we shall charge a lump-sum compensation in the amount of 0.5% of the net price per completed calendar week of the delay, starting with the delivery deadline or - in the absence of a delivery deadline - with the notification that the goods are ready for shipment, but in total not more than 3.0% of the net price. The proof of a higher damage and our legal claims (in particular compensation of additional expenses, reasonable compensation, revocation) shall remain unaffected; however, the lump-sum shall be counted towards further monetary claims. The customer shall be entitled to prove that we have incurred no damage at all or only significantly less damage than the aforementioned lump-sum.

V. Prices and Terms of Payment

1. Unless otherwise agreed in individual cases, our prices current at the time of conclusion of the contract shall apply, namely EXW (Incoterms 2020) Ahornstraße 6, 36469 Hämbach, Germany or from another location to be named by us, plus statutory VAT and packaging.
2. In the case of sale by delivery to a place other than the place of performance (Section IV. 1.), the customer shall bear the transport costs ex works or another location to be named by us and the costs of any transport insurance requested by the customer. Any customs duties, fees, taxes and other public charges shall be borne by the customer.
3. The purchase price is due and payable within thirty (30) days from the date of invoice and delivery or acceptance of the goods. If the customer makes payment within ten (10) days, we shall grant him a 3% discount on the net amount of the invoice. However, we shall be entitled at any time, even within

the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. We shall declare a corresponding reservation at the latest with the order confirmation.

4. Upon expiry of the aforementioned payment deadline, the customer shall be in default. During the period of default, interest shall be charged 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 due date interest rate (§ 353 German Commercial Code, "HGB") shall remain unaffected.
5. The customer shall only be entitled to rights of set-off or retention insofar as its claim has been finally and non-appealably established or is undisputed. In the event of defects in the delivery, the customer's counter rights shall remain unaffected, in particular pursuant to Section VII. 6. sentence 2 of these GTC. If, after conclusion of the contract, it becomes apparent (e.g. by filing for insolvency proceedings) that our claim to the purchase price is jeopardized by the customer's inability to pay, we shall be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to revoke the contract (§ 321 BGB). In the case of contracts for the manufacture of unjustifiable items (custom-made products), we may declare revocation immediately; the statutory provisions on the dispensability of setting a deadline shall remain unaffected.

VI. Retention of Title

1. Until full payment of all our present and future claims arising from the purchase contract and an ongoing business relationship (secured claims), we retain title to the goods sold.
2. The customer shall treat the reserved goods with care. He shall sufficiently insure them at his own expense against damage by fire, water and theft at replacement value. If maintenance and inspection work is required, the customer must carry it out in good time at its own expense.
3. 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 customer shall notify us immediately in writing if an application for the opening of insolvency proceedings is filed or if third parties (e.g. seizures) have access to the goods belonging to us.
4. In the event of behavior by the customer in breach of contract, in particular non-payment of the purchase price due, we shall be entitled to revoke the contract in accordance with the statutory provisions or/and to demand that the goods be surrendered on the basis of the retention of title. The demand for return does not at the same time include the declaration of revocation; we are rather entitled to demand only the return of the goods and to reserve the right of revocation. If the customer does not pay the purchase price due, we may only assert these rights if we have previously set the customer a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.
5. Until revoked in accordance with (b) below, the customer is allowed to resell the goods subject to retention of title in the ordinary course of business. In this

case, the following provisions shall apply additionally.

- a) The customer hereby assigns to us by way of security all claims against third parties arising from the resale of the goods or the product. We accept the assignment. The obligations of the customer stated in clause VI. 3. shall also apply in respect of the assigned claims.
- b) The customer shall remain authorized to collect the claim in addition to us. We undertake not to collect the claim as long as the customer meets his payment obligations towards us, there is no deficiency in his ability to pay and we do not assert the retention of title by exercising a right pursuant to Section VI. 4. If this is the case, however, we may demand that the customer 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 shall be entitled to withdraw the customer's authorization to further sell the goods subject to retention of title.
- c) If the realizable value of the securities exceeds our claims by more than 10%, we shall, at the customer's request, release securities at our discretion.

VII. Claims of the Customer for Defects

1. The statutory provisions shall apply to the customer's rights in the event of material defects and defects of title (including wrong delivery and short delivery as well as improper assembly or defective assembly instructions), unless otherwise stipulated below.
2. The parties agree on the existing and non-existing characteristics of the goods individually. 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 catalogs or on our Internet homepage) at the time of the conclusion of the contract shall also be deemed to be an agreement on the quality of the goods.
3. For public statements of another member in the contractual chain or other third parties (e.g. advertising statements), to which the customer has not pointed out to us as decisive for his purchase, we assume no liability.
4. We shall in principle not be liable for defects of which the customer had knowledge at the time of conclusion of the contract or did not know due to gross negligence (§ 442 BGB). Furthermore, the customer's claims for defects presuppose that he has complied with his statutory obligations to inspect and give notice of defects (§§ 377, 381 HGB). In the case of building materials and other goods intended for installation or other further processing, an inspection must in any case be carried out immediately before processing. If a defect becomes apparent during delivery, inspection or at any later time, we must be notified of this in writing without delay. In any case, obvious defects shall be notified to us in writing within eight (8) working days of delivery and defects not apparent upon inspection shall be notified to us within the same period of time after discovery. If the customer fails to duly inspect the goods and/or notify us of defects, our liability for the defect not notified or not notified in time or not notified properly shall be excluded in accordance with the statutory provisions.

5. If the delivered item is defective, we may initially choose whether to provide cure by remedying the defect (rectification) or by delivering an item free of defects (replacement). Our right to refuse cure under the statutory conditions shall remain unaffected.
6. We are entitled to make the cure owed conditional upon the customer paying the purchase price due. However, the customer shall be entitled to retain a part of the purchase price that is reasonable in relation to the defect.
7. The customer shall give us the time and opportunity required for the cure owed, in particular to hand over the goods complained about for inspection purposes. In the event of a replacement delivery, the customer shall return the defective item to us in accordance with the statutory provisions. The supplementary performance shall neither include the removal of the defective item nor the renewed installation if we were not originally obliged to install the item.
8. We shall bear or reimburse the expenses required for the purpose of inspection and cure, in particular transport, travel, labor and material costs and, if applicable, removal and installation costs, in accordance with the statutory provisions if there is actually a defect. Otherwise, we may demand reimbursement from the customer of the costs incurred as a result of the unjustified request to cure the defect (in particular inspection and transport costs), unless the lack of defectiveness was not apparent to the customer.
9. In urgent cases, e.g. if operational safety is at risk or to prevent disproportionate damage, the customer shall have the right to remedy the defect itself and to demand reimbursement from us of the expenses objectively necessary for this purpose. We are to be notified immediately of any such self-execution, if possible in advance. The right of self-execution shall not exist if we would be entitled to refuse a corresponding cure according to the statutory provisions.
10. If the cure has failed or if a reasonable deadline to be set by the customer for the cure has expired unsuccessfully or is dispensable according to the statutory provisions, the customer may revoke the purchase contract or reduce the purchase price. In the case of a trivial defect, however, there shall be no right of revocation.
11. Claims of the customer for damages or reimbursement of futile expenses shall also exist in the case of defects only in accordance with Section VIII. and shall otherwise be excluded.

VIII. Other Liability

1. Insofar as nothing to the contrary arises from these GTCS including the following provisions, we shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the statutory provisions.
2. We shall be liable for damages - irrespective of the legal grounds - within the scope of fault-based liability in the event of intent and gross negligence. In the case of ordinary negligence, we shall only be liable, subject to statutory limitations of liability (e.g. care in own affairs; trivial breach of duty), as follows
 - a) for damages resulting from injury to life, body or health,
 - b) for damages resulting from the breach of an essential contractual obligation (obligation, the fulfillment of which makes the proper execution of the contract possible in the first place and on the observance of which the

contractual partner regularly relies and may rely on); in this case, however, our liability shall be limited to the compensation of the foreseeable, typically occurring damages.

3. The limitations of liability resulting from clause VIII. 2. shall also apply to third parties as well as to breaches of duty by persons (also in their favor) whose fault we are responsible for according to statutory provisions. They shall 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 customer under the Product Liability Act.
4. The customer may only revoke or terminate the contract due to a breach of duty that does not consist of a defect if we are responsible for the breach of duty. A free right of termination of the customer (in particular according to §§ 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

IX. Limitation

1. Deviating from § 438 para. 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. Special statutory provisions on the limitation period (in particular § 438 para. 1 no. 1 and no. 2, para. 3, §§ 444, 445b BGB) shall remain unaffected.
3. The above limitation periods of the law on sales shall also apply to contractual and non-contractual claims for damages of the customer 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 of the customer according to clause VIII. 2. sentence 1 and sentence 2 a) as well as according to the Product Liability Act shall become time-barred exclusively according to the statutory limitation periods.

X. Choice of Law and Place of Jurisdiction

1. The law of the Federal Republic of Germany shall apply to these GTCS and the contractual relationship between us and the customer to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.
2. If the customer 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 - including international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office at Jeremiasstraße 4, 36433 Leimbach, Germany. The same shall apply if the customer is an entrepreneur within the meaning of § 14 BGB. However, we shall also be entitled in all cases to bring an action at the place of performance of the delivery obligation pursuant to these GTCS or a prior individual agreement or at the general place of jurisdiction of the customer. Overriding statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.