

**General Terms and Conditions of Delivery and Sale**  
**KÖNIGSBRUNNER KUNSTSTOFFGROSSHANDEL KKG GUMPP GmbH****General Information**

1. These General Terms and Conditions shall apply exclusively unless agreed otherwise in writing. We do not recognize any of the Buyer's General Terms and Conditions that contradict or deviate from these General Terms and Conditions unless we have agreed to their validity in writing.
2. Our General Terms and Conditions shall also apply to all future transactions conducted with the Buyer in accordance with Paragraph (1).

**Quote**

1. Our quotes are subject to change without notice. The documents that form part of the quote – such as illustrations, drawings, weights and dimensions – are only approximate unless they are expressly designated as binding.
2. The purchase order signed by the Buyer is binding. We are entitled to accept the contractual quote contained in the Buyer's purchase order within three weeks of receipt by sending an order confirmation.
3. Our written order confirmation is decisive for the scope of the purchase order. All side agreements and all changes to the purchase order must be made in writing.
4. Our sales staff and travel representatives are not authorized to make verbal side agreements, assurances, etc., that extend beyond the content of our written order confirmation.
5. We reserve ownership rights and copyrights to information, particularly illustrations, drawings, calculations and other documents that are passed on to the Buyer or third parties. They must not be made accessible to persons other than the Buyer or the third party.

**Price and Payment**

1. The price stated in the order confirmation is subject to change. The prices quoted do not include value added tax and are ex works. The value added tax at the applicable statutory rate on the day the invoice is issued shall be shown separately in the invoice. We reserve the right to change our prices accordingly if cost reductions or cost increases occur following conclusion of the contract, particularly due to collective wage agreements or material price changes. We shall prove these to the Buyer on request.
2. The Buyer is obligated to pay the price when the purchased item is handed over or the invoice is sent. The deduction of a discount requires a special written agreement.
3. If, following conclusion of the contract, justified doubts arise as to the Buyer's creditworthiness, we shall be entitled to demand advance payment or the provision of security within a reasonable period of time. If the Buyer does not comply with this request in due time, we shall be entitled to withdraw from the contract once the deadline has passed.

4. Payment instructions, checks or bills of exchange shall only be accepted following special written agreement and only on account of payment, including all recovery and discount charges.

5. The Buyer can only offset against our payment claims if the Buyer's counterclaim is undisputed or if a legally binding title exists. The Buyer can only assert a right of retention if it is based on claims from the same contractual relationship.

6. Default interest shall be charged at 8% p.a. above the base rate. The assertion of further damages is not excluded.

### **Delivery and Delay in Delivery**

1. Delivery dates or delivery periods must be stated in writing. They are not binding unless they are agreed in writing as binding. Delivery periods shall commence when the contract is concluded. If modifications to the contract are subsequently agreed, a new delivery date or delivery period shall be agreed at the same time if necessary.

Adherence to deadlines for deliveries and services assumes the timely receipt of all service or delivery components to be provided by the Buyer, necessary approvals and releases, particularly of plans, as well as compliance with the agreed payment terms and other obligations. If these conditions are not met in time, the period shall be extended accordingly.

2. Delivery periods shall be reasonably extended – even within any delay in delivery that has already occurred – in the case of unforeseen events that we were unable to avert occurring despite exercising reasonable care according to the circumstances of the case, e.g. operational disruptions, official interventions, energy supply difficulties and delays in the delivery of essential supplier parts. The same shall apply in the event of strike and lockout. We are obligated to inform the Buyer of such obstacles without delay.

3. The delivery period shall be deemed to have been observed if the purchased item has left the factory or readiness for dispatch has been communicated by the end of the delivery period. If a non-binding delivery date or a non-binding delivery period is exceeded by four weeks, the Buyer may request in writing that we deliver within a reasonable period of time. We shall be in default when the deadline specified in this request passes.

4. In addition to delivery, the Buyer may demand compensation for any damage caused by the delay. If we, our representatives or our vicarious agents are guilty of intent or gross negligence, we shall be liable according to the statutory provisions; however, in the event of gross negligence or culpable breach of essential contractual obligations, in accordance with sentence 5 of this paragraph our liability shall be limited to the foreseeable damage typical of the contract. Moreover, our obligation to pay compensation for the delay in delivery shall be limited to a maximum of 15% of the agreed remuneration (including value added tax) in accordance with sentence 5 of this paragraph. Further claims asserted by the Buyer are excluded. The above limitations do not apply in the case of liability for injury to life, limb or health.

5. If we are in default with the delivery, the Buyer may set us a reasonable grace period in writing, declaring that they shall refuse to accept the purchased item once the grace period has elapsed. Once the grace period has elapsed without success, the Buyer shall be entitled to withdraw from the contract by making a written declaration or to claim damages in lieu of performance. Paragraph 4 shall apply accordingly to the claim for damages in lieu of performance. The right to delivery is excluded in the event of the set grace period with threat of refusal elapsing without success.

6. At our request, the Buyer shall be obligated to declare within a reasonable period of time whether they shall withdraw from the contract due to the delay in delivery or whether they shall insist on delivery.

7. Partial deliveries and partial performances are permissible, insofar as they are reasonable for the Buyer.

### **Transfer of Risk, Packaging, Transport Insurance**

1. The risk of accidental loss and accidental deterioration of the purchased item shall pass to the Buyer ex works. The same shall apply if the purchased item is

- dispatched to a place other than the Buyer's place of business at the Buyer's request; and
- handed over to the forwarding agent, the carrier or any other person designated to perform shipment.

2. Transport packaging and all other packaging in accordance with the German Packaging Regulations shall not be taken back, with the exception of reusable packaging, particularly reusable pallets and plastic side parts. The Buyer is obligated to dispose of the packaging at their own expense.

3. If the Buyer so wishes, the purchased item shall be covered by transport insurance. Any costs incurred in this respect shall be borne by the Buyer.

### **Liability for Defects, Other Liability, Statute of Limitations**

1. Defects in the purchased item must be reported in writing by the Buyer immediately, but no later than 10 days after they become known, stating the date of their first occurrence and a specific description of the defects. If the notification does not meet these requirements, any liability for defects is excluded.

2. In the event of proper notification, we shall be liable for defects in the purchased item as follows:

If there is a defect, we shall be entitled – at our discretion – to remedy the defect or to deliver a defect-free purchased item (subsequent performance). The prerequisite for liability for defects is that the defect is not insignificant. Should one of the two or both types of subsequent performance be impossible or disproportionate, we shall be entitled to refuse the same. We can also refuse subsequent performance as long as the Buyer does not fulfill their payment obligations to an extent that corresponds to the defect-free part of the service rendered. We shall bear the expenses necessary for the purpose of subsequent performance. This shall not apply to expenses incurred by the fact that the purchased item is delivered to a location other than the Buyer's place of business, unless the delivery corresponds to its intended use.

3. Should the subsequent performance referred to in Paragraph 2 be impossible or disproportionate or fail twice, the Buyer shall have the right to choose either to reduce the purchase price accordingly or to withdraw from the contract according to the legal regulations. This shall particularly apply to culpable delay or refusal of subsequent performance. The above provisions shall also apply in the event of delivery of another item or a smaller quantity.

4. We shall be liable for intent or gross negligence on our part or on the part of one of our representatives or vicarious agents according to the statutory provisions. Otherwise, we shall only be liable according to the German Product Liability Act, for injury to life, limb or health or for culpable breach of essential contractual obligations. However, the claim for damages for breaching essential contractual obligations is limited to the foreseeable damage typical of the contract. Even in cases of gross negligence, liability shall be limited to the foreseeable damage typical of the contract if none of the exceptional cases listed in sentence 2 of this paragraph apply.

5. However, liability for damage caused by the purchased item to the Buyer's or third parties' legal interests, e.g. damage to other items, is completely excluded. This shall not apply if intent or gross negligence exists, if liability is assumed for injury to life, limb or health or if such damages are typical of the contract and foreseeable in the event of essential contractual obligations being breached. In cases of gross negligence or essential contractual obligations being breached, liability shall be limited to the foreseeable damage typical of the contract.

6. The provisions set down in the above Paragraphs 4 and 5 extend to damages in addition to performance and damages in lieu of performance, for whatever legal reason, particularly due to defects, breach of duties arising from the contractual obligation or tort. They shall also apply to the reimbursement of futile expenses.

7. The limitation period for claims and rights due to the purchased item's defects is one year, calculated from the transfer of risk or – in the event of takeover by the forwarding agent, the carrier or any other person designated to perform shipment – from takeover by the same. The limitation period set down in sentence 1 shall also apply to claims for damages that are not related to a defect. However, the limitation period set down in sentence 1 shall not apply in the cases set down in § 438 (1), No. 1 of the German Civil Code (defects of title for immovable items), § 438 (1), No. 2 of the German Civil Code (buildings, objects used for buildings), § 479 (1) of the German Civil Code (entrepreneur's right of recourse) or § 634a (1), No. 2 of the German Civil Code (buildings or work whose result consists of the rendering of planning or monitoring services for this purpose). The periods stated in the previous sentence are subject to a limitation period of three years. Claims for reduction and exercising a right of withdrawal due to defects in the product shall be excluded insofar as the claim for subsequent performance is statute-barred.

8. The limitation periods set down in Paragraph 7 shall not apply in the event of intent, fraudulent concealment of defects, claims for damages due to injury to life, limb, health or freedom, claims under the German Product Liability Act, a grossly negligent breach of duty or a breach of essential contractual obligations.

9. Insofar as our liability is excluded or limited, it shall also apply to the personal liability of our employees, workers, co-workers, representatives and vicarious agents.

### **Liability-Relevant Behavior in the Event of Transport Damage**

#### **a) Identifying, Handling and Correctly Processing Transport Damage**

We check and carefully pack all items and shipments at the time of dispatch. Nevertheless, in very rare cases a shipment's items may arrive at the recipient's premises damaged or even be missing. Please, therefore, check your delivery very carefully:

- Is the cardboard box battered or crushed?
- Is the delivery complete according to the enclosed papers?

Please notify us immediately if goods are obviously missing or damaged. We shall then clarify what will happen next with you.

**Please do not return damaged shipments or items without permission. The liability period is seven days after receipt of the goods.**

It is particularly in your own interest to strictly observe the procedures described below. The recipient has a duty to inspect!

#### **b) Delivery by Forwarding Agent**

**KKG Gump** ships large rolls with forwarding agents. In the event of obvious transport damage, it is advisable to unpack the shipment in the presence of the delivering forwarding agent and have the damage noted and certified with date, time and signature on the proof of delivery or delivery note. The delivery van's license plate number must also be noted. Photographs for preservation of evidence are very helpful here, so that the damage case can be processed better.

#### **c) Delivery by Parcel Service**

If the packaging is obviously damaged from the outside, please refuse to accept the goods completely or, if the goods are urgently needed, make a note of the damage on the delivery note along with the date and time. Please take your time in any case and check the shipment in the presence of the delivery driver. You can have any shortfalls acknowledged. In all cases:

- Damages and shortfalls must be noted and acknowledged by the driver.
- Leave the goods and the packaging unchanged in any case.

**The note "with reservation" is legally invalid and has no relevance in the event of damage if insurance policies have been taken out. Special items and rolls with a coupon surcharge are excluded from the notice of defects and exchange.**

### **Reservation of Ownership**

1. We reserve ownership of all delivered purchased items until the Buyer has paid all present and future claims arising from the business relationship.

2. If the Buyer breaches the contract, particularly if they default on payment, we shall be entitled to take back the delivered purchased item. The Buyer hereby agrees to us taking back the goods in this case. Taking back the goods shall only constitute withdrawal from the contract if we expressly declare this. The costs that we incur as a result of taking back the goods (particularly transport costs) shall be borne by the Buyer. Furthermore, we shall be entitled to prohibit the Buyer from any resale or processing of the purchased item delivered under reservation of ownership and to revoke the direct debit authorization (Paragraph 5).

3. The Buyer is obligated to treat the delivered purchased item with care; in particular, they are obligated to insure it sufficiently at replacement value against natural forces and theft at their own expense. Any resulting claims against the insurance company are hereby assigned to us.

4. The Buyer may not pledge, transfer by way of security or assign the delivered purchased item and the claims replacing it. In the event of seizure or other interventions by third parties, the Buyer must notify us immediately in writing so that we can file a suit according to § 771 of the German Code of Civil Procedure (ZPO). The remaining costs of this lawsuit shall be borne by the Buyer despite us winning the legal dispute according to § 771 of the German Code of Civil Procedure.

5. The Buyer is entitled to resell, process or mix the purchased item in the ordinary course of business. However, they hereby assign to us all claims arising from the resale, processing, mixing or other legal reasons (particularly from securities or tortious acts) in the amount of the final invoice amount agreed with us, including value added tax. The Buyer remains entitled to collect these claims even after the assignment, whereby our authority to collect the claim ourselves remains unaffected. However, we undertake not to collect the claim for as long as the Buyer meets their payment obligations from the proceeds received, is not in default on payment and no application for instituting insolvency proceedings has been filed or payments have been suspended. If this is the case, however, the Buyer must inform us upon request of the assigned claims and the debtor, provide all information necessary for collection, hand over the relevant documents and inform the debtor (third party) of the assignment. We may revoke the direct debit authorization in the event of the Buyer breaching the contract (particularly defaulting on payment).

6. The reservation of ownership also extends to the full value of the products resulting from processing, mixing or combining with the purchased items we delivered, whereby these processes are carried out for us so that we are deemed to be the manufacturer. If third parties' ownership rights remain in force in the event of processing, mixing or combination with parts belonging to third parties, we shall acquire co-ownership proportionate to the objective values of these parts.

7. The Buyer also assigns to us the claims to secure our claims against them that arise against a third party through connecting the delivered purchased item with a piece of land.

8. The securities to which we are entitled are not recorded insofar as the value of our securities exceeds the nominal value of the claims to be secured by 20%.

### **Liquidated Damages**

1. If we are entitled to a claim for damages or depreciation against the Buyer, their representatives or their vicarious agents – for whatever legal reason – we shall be entitled to demand 20% of the agreed remuneration without further proof as damages or depreciation. We reserve the right to assert a higher damage or a higher depreciation. The Buyer shall be entitled to prove that no damage or depreciation has occurred, or that the damage or depreciation is significantly lower than the lump sum.

### **Final Provisions**

1. The applicable law is the national law of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
2. The place of jurisdiction and performance is our place of business. However, we shall also be entitled to assert our claims at any other competent place of jurisdiction.
3. Should individual provisions be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions.