

General delivery and payment terms of the KMH online shop

§ 1 General, area of validity

1. Our general delivery and payment terms apply to companies as defined under § 310, paragraph 1 in conjunction with § 14 of the Bürgerliches Gesetzbuch (Civil Code, hereafter termed „BGB“). Entrepreneur(s) in this sense is any natural person or legal person/entities or incorporated business partnerships with whom we enter into a business relationship and who act in a corporate capacity or as a self-employed professional. As our online shop and the offers contained therein are expressly not targeted at consumers but only at entrepreneurs, customers are not entitled to a right of withdrawal according to § 312g BGB.

2. The following terms apply to all our offers and deliveries. They apply to all current and future business relations, even if they are not explicitly agreed upon.

4. We are neither willing nor obliged to participate in a dispute settlement procedure before a consumer arbitration board.

5. The rights of this contract cannot be transferred to another party.

§ 2 Offers, contract conclusion, bidding documents

1. The contents of our online shop and the presentation of our products there are non-binding and do not constitute an offer, they do not oblige us to deliver or perform. All contents of our online shop represent a non-binding invitation to the customer to submit a corresponding purchase offer.

2. The customer enters the data or information and other specifications of the desired order via the order form contained in the online shop. After placing the selected goods in the virtual shopping trolley and going through the electronic ordering process, the customer submits a legally binding contract offer with regard to the goods and/or services contained in the shopping cart by clicking the button that concludes the ordering process. Prior to sending the order, the customer can change and view the goods and data in the virtual shopping cart at any time. By sending the order, the customer then submits a binding offer to us. This offer is binding to the customer for a period of two weeks.

3. After submission of the offer, the customer will receive an e-mail from us confirming receipt of the offer, which summarises the content of the customer's offer and which the customer can print out using the "Print" function. The confirmation of receipt of offer merely documents that we have received the customer's order and expressly does not represent acceptance of the offer by us.

4. We are entitled to accept the customer's offer within a period of two weeks,

a) by sending the customer an order confirmation by separate e-mail, or

b) by notifying the customer that the ordered goods have been shipped (shipping confirmation).

In the case that several of the above alternatives exist, the contract is concluded at the point in time when one of the alternatives first occurs. If the customer first receives an order confirmation in accordance with lit. a), we will send the customer a separate shipping confirmation when the goods are shipped.

5. Our declaration of acceptance in accordance with Section 4 above is exclusively decisive for the type and scope of the contractually obligated services. Any subsequent agreements or deviating additional agreement must be in writing to be effective. This also applies to the cancellation of this written form requirement.

6. The period for acceptance of the customer's offer begins on the day after the customer sends the offer and expires at the end of the 14th day following the sending of the offer. If we do not accept the customer's offer within the aforementioned period, this is deemed to be a rejection of the offer, with the result that the customer is no longer bound by his declaration of intent.

7. We reserve sole ownership and copyright to any documents which apply to the offer. These documents may not be distributed to third parties without our prior agreement. If the order is not realized, the documents have to be returned to us upon our request. Prices of individual sales positions are only valid as part of the total offer and cannot be ordered as individual positions. Drawings, copies/photographs, dimensions, weights and other service data only have a binding effect if this is explicitly agreed in writing.

8. We reserve the right to changes of structure, material selection, specification and design even after sending a notification of order acceptance if those modifications do not contradict the notification of order acceptance or the specifications of the customer. The customer will agree to the proposed modifications if he/she finds them reasonable.

§ 3 Pricing

1. Our prices result from the notification of order acceptance. Our prices are calculated ex works, excluding packing, shipping and other transportation costs, and duty is unpaid (foreign countries).

2. If between closing of contract and delivery or service, the prices of our contractor's supplier or our costs (e.g. freight increases, wages and raw material increases, etc.) or our taxes should increase, we are entitled to increase our price accordingly, except when the price is explicitly confirmed as fixed price. We will notify the customer of any price adjustment in text form. As soon as the payment for the affected order increases by a total of more than 5%, the customer is entitled to withdraw from the contract for a one-off delivery with a notice

period of two weeks after receipt of the adjustment notification, but no later than the contractually agreed delivery/service date.

3. If we consider a request of a modification by a customer, we are entitled to charge the customer for the resulting extra costs.
4. The customer will be charged with value-added tax, pursuant to statutory regulations. Should an increase of the value-added tax occur between the time of the order and delivery then this is borne by the customer.

§ 4 Payment terms

1. Our deliveries are due for payment (without any deduction) within 30 days after receipt of the service. After this stated payment period, the customer is in default. However, we are entitled at any time, even within the framework of an ongoing business relationship, to carry out a delivery in whole or in part only against advance payment. We declare a corresponding reservation at the latest with the order confirmation.
2. The granting of a discount requires, in addition to an individual contractual agreement, the further requirement that by then all outstanding accounts are settled. For the discount calculation, the net invoice amount (after deduction of discounts, freight charges and other passed-on third party costs), is decisive.
3. We are not obliged to accept bills of exchange and cheques. We accept bills of exchange only as subject of a discount option. Cheques and bills of exchange will only be credited after cheque encashment, and releases of covenants will only be credited after payment. Until then, the amount receivable and their payment due dates remain unchanged. No liability is accepted for prompt encashment or protest. Protest and collection charges will be borne by the customer
4. When applicable, we are entitled to impute payments first for earlier debts of a customer despite contrary terms of this customer.
5. The retention of payments or the offset of possible customer counterclaims - as contested by us - will not be permitted.
6. In the case of the customer's (debtor's) failure to comply with the terms of payment, all outstanding debts will become immediately due. The customer's payment default is subject to detention of the goods, pursuant to the stipulations as in the following § 5.

§5 Delinquency/Default in payment and credit unworthiness

1. After expiry of the agreed payment deadlines (Delinquency /default) or when we become aware of a cheque and/or bill of exchange protest, we are entitled to

- withdraw from all contracts and demand compensation due to the failure to fulfill obligations
- exercise our reservation of proprietary rights and take possession of the delivered goods (cf. § 10 below)
- demand collaterals and use demanded collaterals
- declare all unpaid accounts due and make outstanding deliveries only against payment in advance
- charge default interest, starting from the due date in an amount of nine percentage points above the basic interest rate of the European Central Bank, plus entitlement to charge the accruing default interest of the current value-added tax
- charge any further possible default damage after submitting appropriate evidence to the customer.

2. In the case of judicial enforcement or the filing of bankruptcy proceeding with regard to the assets of the customer, all granted rebates, bonuses and cash discounts on unpaid bills are no longer valid.

§ 6 Delivery deadlines

1. Received orders are only considered as accepted after issuance of our written notification of acknowledgement. The delivery dates and delivery due dates are just approximate times. Delivery dates and delivery due dates - which can be stipulated with and without binding effect - have to be made in writing,

2. Delivery periods that are agreed without a specified delivery date begin with the date of our notification of order acknowledgment. Delivery due dates and delivery dates are considered as fulfilled when the goods have been shipped or when readiness for shipment is communicated within the deadline.

3. Delivery periods and delivery dates are extended for the length of the time in which the customer is in default towards us with this or other orders, regardless of our other rights concerning the customer default.

4. If we are the cause of the delivery delay, the customer may withdraw from the contract after passage of an appropriate respite, set by the customer, or the customer may ask for compensation in the case of acts of gross negligent or intentional damage on our part. However, the customer's compensation is restricted to the extra costs for a substitute purchase. Further claims do not apply. Liability for slight negligence and negligence pursuant to § 287 BGB is particularly precluded. Liability limitation for slight negligence does not apply for us in the case of accountable injury to body or health or loss of the customer's life.

5. It is agreed that partial deliveries may be exercised except when it is explicitly and in writing excluded. For the payment of partial deliveries, § 4 of these general delivery and payment terms applies.

6. All events and circumstances beyond our control, such as natural disasters, war, labour disputes, shortages of raw materials and energy, traffic and operational disruptions, fire and explosion damage, orders from higher authorities, release us from our contractual obligations for the duration of the disruption and a reasonable start-up time to the extent of the effects of such disruption. Delivery and service periods are also extended accordingly. This also applies to the payment or consideration obligations of the customer. In such cases, we are also not obliged to procure the goods from third parties. Clauses 1 to 4 also apply in the case that the events and circumstances make it uneconomical for us to carry out the transaction in question or inasmuch as they are present with our sub-suppliers. If the above-mentioned events or circumstances last more than three months or if, in individual cases, it is unreasonable for one of the parties to adhere to the contract even before the end of this period, and taking into account the reciprocal interests of one of the parties, both we and the customer are entitled, to the exclusion of claims for damages, to withdraw from the contract with regard to the delivery quantity affected by the disruption. We will inform the customer immediately about such events or circumstances. In the event of withdrawal, we will immediately refund any consideration already received.

7. Delays in delivery by suppliers/transport companies, or interruptions in the supply chain as a result of BREXIT or the CoViD-19 pandemic, as well as business closures caused by these (including those ordered by the authorities), are also deemed to be obstacles for which we are not responsible within the meaning of Section 6 above, and that directly or indirectly affect us, our suppliers and/or transport companies involved.

§ 7 Shipping, transfer of risk

1. In the case of shipping, the danger of accidental loss or accidental deterioration of the goods passes from us with delivery to the carrier or the forwarder or any other responsible and designated shipping person or institution to the buyer. The shipping takes place ex works – if not otherwise agreed (Incoterms: Ex Works).

2. If free delivery is agreed, the danger of accidental loss or accidental deterioration of the goods/sold item passes on with arrival of the vehicle in front of the delivery address, at ground level or at a spot which is reasonably accessible for the vehicle. Our customer is obligated to provide necessary equipment or co-workers for unloading, if this is technically possible.

3. The handover is the same if the customer is in default of acceptance.

4. If the goods are ready for shipment but the delivery is delayed and we are not the cause, the risk passes with receipt of the shipping readiness notification to the customer. Deliveries ready for shipping have to be immediately accepted, at the latest within five weekdays after the notification date of shipment readiness. Otherwise, we are entitled to ship the goods at our own discretion. If the shipment or transportation of the goods should be delayed for reasons not caused by us, we are entitled but not obliged to store the goods at our own discretion, at the expense and risk of the customer and under exclusion of our liability and to pass the

resulting costs to the customer. We are also entitled to take appropriate measures for the preservation of the goods and to charge the goods as delivered.

5. Without specific shipping instructions, we select, to the best of our ability but without liability, the most affordable shipping method. We are entitled to take out, at the expense of the customer, a transport- and breakage insurance. Notifications of damage must be reported immediately – at the latest directly upon acceptance of the damaged goods by the customer – and their type and scope must be proven in writing. With handover of the goods to the carrier or forwarder, this responsibility is passed on to the customer-at the latest with the goods' departure from the factory or the storage facility. This will be applied, even if the delivery is carried out by our own vehicles.

6. Our delivered goods can only be returned free of transportation charges when they are in perfect condition or after our prior agreement. Voluntarily accepted returned goods will be credited, each according to its condition minus a share of costs of at least 20 % of the credited value of the returned goods. The credit takes place after the goods are received and after the goods inspection in our facility. A return of custom-made goods or goods, acquired upon the wish of the customer, is excluded.

§ 8 Responsibility for defects

We provide a warranty for defective products including the lack of promised features, pursuant to the following requirements:

1. Our warranty refers to proper factory execution and usage of faultless materials. Warranty is excluded for natural wear and tear, excessive use and improper assembly.
2. After execution of for instance agreed goods acceptance by the customer, the allegation of defects which are found during the agreed method of acceptance, is excluded.
3. We provide, as our first option, warranty for defective goods through repair or replacement.
4. If the subsequent performance fails, the customer can always ask for a price reduction or rescission of the contract. In case of a minor contract violation, especially if it is just a minor defect, the customer is not entitled to cancel the contract.
5. The customer's claims of deficiencies require that he/she complied properly with its obligations, due responsibilities to inspections and claims, pursuant to § 377 of the Handelsgesetzbuch (HGB = Code of Commercial Law). The customer has to take the full burden of proof for all claim requirements, particularly for the defect as such, for the point in time of the defect detection and for the timely notification of the defect. The same applies also for the complaints regarding the quantities, dimensions and measures.
6. If the customer chooses - after supplemental performance – by reason of a legal or material deficiency a rescission of the contract, he/she is not entitled to a claim for damages due to deficiency. If the customer chooses the damages after a failed supplementary performance, the goods stay with the customer, if reasonable. The damage is limited to the difference between purchase price and value of defective goods. This does not apply if we caused the contract violation maliciously.

7. The warranty period is one year after delivery of the goods. That does not apply if the customer did not notify us timely about the deficiency (cf. paragraph 6. of this provision).

8. With regard to the nature of the goods, only the product description of the manufacturer is principally agreed upon and takes effect. Public statements, promotions or advertisement of the manufacturer are no contractual statements of the goods.

9. If the customer receives a deficient assembly instruction or a deficient technical documentation, we are only obligated to the delivery of an assembly instruction or technical instruction which is free of any deficiency, and only then, when the deficiency causes problems for the contractual usage of the assembly part.

10. The customer does not receive legal guaranties from us. Manufacturer warranties remain unaffected.

§ 9 Liability limitations

1. Unless otherwise stated in these General Terms and Conditions, including the following provisions of this Section 9, we shall be liable in accordance with the statutory provisions in the event of contractual and non-contractual obligations.

2. We are liable for damages – for whatever legal reason – within the framework of culpable liability in the event of intent and gross negligence. In the case of simple negligence, we are liable, subject to statutory liability limitations (e.g. diligence in our own affairs; insignificant breach of duty), only

a) for damages arising out of death or injury to body or health,

b) for damages resulting from the breach of an essential contractual obligation (obligation, the fulfillment of which is essential for the proper execution of the contract and on the observance of which the contractual partner regularly relies and may rely. In this case, however, our liability is limited to compensation for the foreseeable, typically occurring damage.

3. The limitations of liability resulting from § 9 Clause 2 also apply towards third parties and in the event of breaches of duty by persons (also in their favour) whose fault we are responsible for according to legal regulations. In deviation from § 9 Clause 2, however, we are only liable in the case of gross negligence on the part of non-executive employees in the event of a breach of an essential contractual obligation. In this case, our liability is limited to compensation for the foreseeable, typically occurring damage. Furthermore, in the case of gross negligence on the part of non-executive employees, we are liable for damages arising out of death or injury to body or health.

4. The limitations of liability resulting from § 9 Clause 2 and Clause 3 do not apply insofar that a defect was fraudulently concealed or a guarantee was granted for the quality of the goods, and for claims by the customer under the Product Liability Act.

5. Claims by the customer due to a defect expire one year after delivery of the goods. In place of this one-year period, the statutory limitation periods apply in the following cases:

- a) in the case of liability due to intent or gross negligence,
- b) in the case of fraudulent concealment of a defect,
- c) for claims against us due to the defectiveness of a product if it has been used for a building in accordance with its normal use and this has caused its defectiveness,
- d) for claims for damages arising out of death or injury to body or health,
- e) in the event of recourse by the customer based on the regulations governing the sale of consumer goods,
- f) for claims under the Product Liability Act.

6. The devices and components supplied by us may not be used in systems that fall under Directive 2014/68/EU on pressure equipment (Pressure Equipment Directive) and the Pressure Equipment Ordinance, as well as Directive 2010/35/EU on transportable pressure equipment and the ordinance governing transportable pressure devices. In this context, pressure equipment includes, in particular, vessels (unfired pressure vessels), steam boilers, pipelines, pressure-retaining equipment, and equipment with an internal overpressure of more than 0.5 bar. We assume no liability for such use of the devices and components supplied by us.

§ 10 Reservation of proprietary rights

1. Pending the fulfillment of the requirements (including the balance of the current account) to which we are entitled against the customer legally for any reason, now or in the future, we will be granted the securities regulated in the following Sections 2 to 9. They will be released at our discretion as long as their values exceed our demand by more than ten percent.
2. The goods will remain our property, and the workmanship/working and processing or assembly is always conducted for us as manufacturer but without any obligation for us. Should our joint property expire by association or a merger, it is agreed that the customer's (co-) ownership of the joint property shall be transferred to us in proportion to the value (invoice value).
3. The customer safeguards our joint property free of charge. Property of which we are entitled to joint ownership is described in the following as retained goods.
4. Our customer is entitled to process or sell reserved goods in the course of appropriate business. The customer now assigns to us in full claims arising from the resale, processing or any other legal reason at closure of the contract. They result from the re-sale, processing or any other legal reason, (insurance, tort) of the reserved goods (including all balances of the current account). We accept the assignment. None of our property rights (simple, expanded, extended or current account title) expire, even if the goods originating from us were purchased by another buyer and as long as he/she has not paid us for the goods. This applies particularly for sales within the framework of affiliated companies.

5. We revocably authorize the customer to collect the claims assigned to us in his/her own name but for our account. We reserve the right to collect the accounts receivable ourselves if the customer does not properly meet his/her payment obligations, if he/she defaults on payment, or an application for the opening of bankruptcy proceedings has been filed or if he/she ceases payments. If this should be the case, we may demand that the customer announces the assigned accounts receivable and all necessary information for collection purposes to us and that he/she hands the corresponding documents to us and informs the debtor (third party) of the assignment.

6. In the case of access by third parties to the retained goods, our property rights will be pointed out to the customer.

7. The customer will also assign to us, in order to secure our claims, his/her claims which accrue against a third party as a result of the connection of the goods to a piece of property/real estate.

8. The customer is obligated to notify us immediately of third party access to the goods in case of seizure, as well in the case of possible damage or destruction of the goods. The customer has to notify us immediately in the case of transfer of the goods to another owner as well as change of his/her own residence.

9. In case of contrary contract conduct of the part of the customer – particularly delinquency – we are entitled to take back the retained goods and, if necessary, to demand the assignment of claims of our customer against third parties. The redemption as well as the seizure of the retained goods by us does not constitute a termination of the contract.

10. At our request, the customer is obligated to name his/her customers to us, to inform the relevant customers about the assignment, to inform us about the necessary data for entitlement of our rights against the buyers and to hand over documents. We are also entitled to notify our customer's buyers about the assignment.

11. If we agree with the customer payments of the purchase price debt by means of a cheque/bill of exchange procedure, the reservation will also extend to the encashment of the bill of exchange accepted by us by the entrepreneur and does not expire through credit of the cheque received by us.

12. The customer is obliged to handle the goods with care. As far as maintenance and inspection work is necessary, the customer has to carry this out regularly and at his/her own expense. At our request, an inventory and sufficient labelling of the retained goods should be made possible to us at the respective storage location at all times.

§ 11 Export Control

1. The customer is obliged to inquire with the local authorities of the country in which he resides under what conditions the product that has been ordered may be imported; the product must be declared to the competent authorities and any applicable fees must be paid. The customer must check with the local authorities about the import and use of the products or services ordered. The customer is further obliged to make sure that the technical

characteristics specified by the manufacturer comply with the legal requirements of the country into which the product is imported.

2. Before exporting goods in which KMH products are installed, the customer must obtain all necessary export licenses and not sell or transfer the products, directly or indirectly, to companies, persons or countries if this conflicts with export control laws or regulations. The customer is not entitled to return goods.

3. The customer is not entitled to return goods or to demand compensation if he/she is refused an export license. We are not liable for any legal infringement by the customer. The customer indemnifies us from any claims or other sanctions that may be imposed on us for infringements of export control laws in connection with the delivery items.

§ 12 Limitation

Our rights to compensation for the delivery of movable items to be manufactured and produced expire after five years.

§ 13 Final provisions

1. The transfer of rights and obligations of the customer from this contract to a third party needs our prior written consent.

2. Place of fulfilment for delivery and payment is 27211 Bassum.

3. Place of jurisdiction – including international place of jurisdiction – for all disputes arising directly or indirectly from the contractual relationship is the place of jurisdiction responsible for our company headquarters, if the customer is a merchant, a legal identity under public law or a public service fund asset. The same applies if the customer is an entrepreneur within the meaning of § 14 BGB, or If the customer has no general place of jurisdiction or if his/her location or habitual residency at the time of commencement of legal proceedings is not known. We are also entitled to sue before a court which has jurisdiction over the registered office or branch of the customer.

4. The law of the Federal Republic of Germany applies to these terms and conditions and all legal relationships between us and our customers. The provisions of the UN International Sale of Goods laws do not apply.

5. The customer confirms that no protected rights of third parties are violated by the order placed by him.

6. If we have provided a warranty guarantee bond, the buyer or purchaser is not entitled to use it upon first acclamation. A claim of benefit follows only after and on submission of a corresponding arbitration award.

7. Should individual provisions of this contract with the customer, including these general terms of payment and delivery, be or become wholly or partially invalid, this shall not affect the validity of the remaining provisions. The provision which is invalid, whether in part or in its entirety will be replaced by a regulation whose economic effect will be as close as possible to the effect intended by the invalid provision.

KMH-KAMMANN METALLBAU GMBH & CO.KG

10/2023