

Kern & Sohn. General Terms of Business

Our tenders and deliveries are governed by the following conditions. Any other agreements shall be made in writing and shall only become binding for us after our express approval has been given in writing. Should any of these conditions be modified or become invalid this shall not affect the validity of the other conditions. Verbal sub-agreements are invalid.

1. Tender and Contract

Our tenders are always subject to change and our quotations are not binding. A contract shall only be considered accepted when we have confirmed it in writing. The customer shall be deemed to have accepted these conditions if he does not submit an objection on receipt of the order confirmation. The volume of the scope of the delivery is defined solely by our written order confirmation. Later modifications are only valid if we confirm these in writing.

2. Price

Our prices are ex works Balingen-Frommern plus Value Added Tax (within national territory). If no special shipping specifications exist we shall select the type and route of the delivery. Packaging, freight, postage, custom duties and insurance shall be charged to the customer. Insurance shall only be taken out if expressly requested by the customer. We reserve the right to make price changes.

3. Delivery

Delivery is ex works Balingen-Frommern. The period of delivery begins with the dispatch of the order confirmation but not before the complete clarification of all points of the order. All delivery times are approximate. Any claims resulting from delayed deliveries are excluded unless we are guilty of gross negligence which the customer must prove. In the event of operational problems for us or for our suppliers or acts of God we are entitled to extend the delivery period for a reasonable time and shall be wholly or partially freed from the obligation to deliver in the event of unforeseen circumstances. Acts of God are equivalent to circumstances which we are unable to influence that make delivery unreasonably difficult or impossible. The risk passes to the customer on handing over the goods to the transporting company or haulage contractor.

4. Payment

Payment shall be made in accordance with the terms and conditions of payment which are stipulated in the order confirmation. Should the specified time allowed for payment be exceeded we reserve the right to charge the customer interest of 4% above the discount rate of the Central European Bank or our effective rate of interest for our own credits. The withholding of payments by the customer due to any counterclaims or the offsetting of any such claims is excluded apart from recognised or legally binding debts.

5. Warranty

Notification of defects and complaints shall be made in writing immediately, or at the latest within 10 days, after the delivery has been received at the point of delivery. Cases of hidden defects shall be governed by the statutory conditions. We provide warranty within the scope of the statutory regulations, however we are entitled to either repair or replace the defective product. We have the right to try to repair or replace the defective product at least twice. Only then may the customer demand that the contract be rescinded in accordance with the statutory regulations. Any other warranty claims are excluded. Claims shall not be recognised if the customer or a third party carries out any type of alterations or repairs to the product without our prior written consent.

For legitimate notifications of defects and warranty cases we are entitled at our own discretion to either replace the delivery at the prices which were valid at the time of the complaint or to

rectify the defect. Defective goods may only be returned to us by the customer with our express approval and at the customer's cost and risk. The notification of the defect does not release the customer from his obligation to pay.

6. Liability

We are liable within the scope of the statutory regulations for intent, gross negligence by legal representatives or executive members of staff and for culpable infringement of important contractual obligations by these or other members of staff. We are not liable for the infringement of unimportant contractual obligations by other members of staff. In these cases the statutory period for all claims shall be limited to two years from the time of the infringement of the contract and we are not liable for damage which could not be foreseen or is not typical for the contract. The product liability law shall be unequivocally applicable for all claims made within the meaning of this law.

7. Reservation of title

The delivered goods shall remain our property until such time as all our claims resulting from the business relationship have been settled completely. The customer is our depository. If the goods are resold or processed, which may only be undertaken in the course of normal business, the buyer shall hereby assign to us any claims arising from the resale or processing of the goods. If the buyer meets his payment obligations to us he is entitled to assume the assigned claims. At our request the buyer shall give us exact information about the further use or processing of the goods delivered by us and about the resulting demands for payment. The customer is not entitled to pledge the goods or transfer them by way of security without our written authorisation. We shall be notified immediately by the buyer by means of a copy of the relevant documents of any pledges or other impairment of these reserved goods by a third party or the assigned claims from resale or processing.

8. Place of Performance and _legal Venue

The place of performance for all claims resulting from the legal relationship is Albstadt-Ebingen. The legal venue for disputes about the law of exchange and the law of cheques is also Albstadt-Ebingen. The applicable law is the law of the Federal Republic of Germany. The application of UN Purchasing law is excluded.

For foreign contractual partners we reserve the right to prosecute at their legal venue and/or apply the law applicable in their country

9. Software-Copyright

The following provisions also apply when software is purchased by the Purchaser: The software is protected by § 69a ff. UrhG (copyright laws). The Vendor does not transfer to the Purchaser the right to use and exploit the software package above and beyond the use of the software itself. Every further use and exploitation, also amendment, processing and copying, as well as any type of error elimination is liable to prosecution and constitutes a breach of contract and the Purchaser is then liable for damages. The Purchaser may only decompile, test, examine and copy the computer programs within the scope of §§ 69g par. 2, 69d par. 2, par. 3, 69e UrhG (copyright law).

All programming activities above and beyond the scope of that which is allowed in §§ 69a ff. UrhG, such as the further development of the software, is exclusively performed for the manufacturer of the software. The Purchaser may use without restriction the already existing functions of the computer program and set these to suit to his company requirements . Copyright information, serial numbers and any other features pertaining to the identification of the software and manufacturer may not be removed or changed by the Purchaser. The Purchaser is liable to the Vendor for all damage caused by third parties due to types of use which are not permitted under the copyright.

10. e-shop clause

The application of § 312e BGB par. 1 clause 1 no. 1 to 3 and clause 2 is excluded.

