

Terms of sale and delivery of KGM Kugelfabrik GmbH & Co. KG

Our deliveries and other services to entrepreneurs, legal entities under public law and special funds under public law are subject exclusively to the following terms and conditions. These terms and conditions shall also apply if we carry out the delivery without reservation in the knowledge of conflicting or deviating terms and conditions of the customer; such conflicting or deviating terms and conditions shall only be binding on us if we have expressly agreed to their validity in writing.

I. Conclusion of contract / text form

1. The supply contract and any amendments, collateral agreements and other agreements shall only become effective upon our confirmation in text form. The contract shall be deemed to have been concluded under the confirmed conditions if the customer does not object to these conditions in text form immediately after receipt of the order confirmation.
2. We reserve the right to such deviations from the agreed performance as are necessary in the interests of KGM for technical or organisational reasons and are reasonable for the customer in terms of scope and nature. Product-related fluctuations in quantity of up to $\pm 10\%$ are possible.
3. The order documents must be complete before the order is placed. Before placing the order, the customer must provide information on all necessary specifications, sampling requirements, material and test certificates, underlying legal standards and other regulations (quality assurance agreements, logistics requirements, etc.). Subsequent demands and requests can only be met as a gesture of goodwill or will be invoiced at cost.
4. KGM has the right to withdraw from a delivery contract without compensation if unforeseen difficulties arise in the manufacture of the contractual product which cannot be remedied with reasonable effort and which were not previously apparent to KGM. This shall not apply in the event of gross negligence.

II. Prices, price increases, processing surcharges

1. Unless otherwise agreed, the prices and discounts valid on the day of delivery or performance shall apply plus statutory VAT; order items with a net item value of less than € 250 shall not be discounted.
2. We are entitled to pass on price increases of our suppliers to the customer after conclusion of the contract by means of a percentage surcharge corresponding to these increases.
3. We may charge a processing surcharge for order quantities that do not reach the minimum quantities and/or the minimum order value specified in our respective valid price list. This also applies to non-standard packaging and special requests.
4. The minimum invoice value is € 250. The minimum item value is € 150.

III. Delivery periods/delay/call orders/partial deliveries

1. Delivery periods are calculated from the order confirmation, but at the earliest from the final agreement on the questions to be clarified with the customer before the start of production.
2. Force majeure, labour disputes or other unforeseeable disruptions in our own operations or in the operations of our suppliers as well as delays in delivery by our suppliers shall entitle us to extend the delivery period by the duration of the hindrance. We shall inform the customer of the beginning and end of such circumstances as soon as possible.
3. If we are in default and the customer suffers damage as a result, the customer may demand compensation for the delay. This shall amount to 0.5% for each full week of delay, but no more than 5% of the value of that part of the total delivery which cannot be used on time or in accordance with the contract as a result of the delay. Further claims due to delay shall be governed exclusively by IX clause 2.
4. If it has been agreed with the customer that a fixed agreed delivery quantity is to be delivered within a fixed period ("completion period") and the customer has the right to determine the delivery date in each case, the deliveries must be called off from us no later than six weeks before the desired delivery date. After expiry of the completion period, we may deliver and invoice the customer for the quantity not yet called off.
5. Partial deliveries are permissible, provided they are not unreasonable for the customer.

IV. Packaging / dispatch / transfer of risk

1. Unless expressly agreed otherwise, delivery shall be EXW (INCOTERMS in their current version); the choice of packaging material and type of packaging shall be at our discretion.
2. Pallets, containers and other reusable packaging remain our property and must be returned to our delivery centre by the customer immediately and free of charge. Disposable packaging will be charged at cost price and will not be taken back.
3. Express freight additional costs and postage charges for small consignments shall be paid by the customer.
4. Unless otherwise agreed, delivery shall be made in KGM standard packaging.
5. Balls will only be taken back outside the warranty or returned as a gesture of goodwill and only in their original packaging. The statutory provisions remain unaffected.

V. Payments

1. Unless otherwise agreed, payments are to be made within 30 days of the invoice date without deduction to one of our accounts.
2. From the date of default, we shall charge interest on arrears at a rate of 9% of the statutory default interest rate.
3. The withholding of payments due to counterclaims or offsetting against counterclaims is not permitted unless the counterclaims are undisputed or have been recognized by declaratory judgement.
4. If, after conclusion of the contract, we become aware of facts which affect the financial circumstances of the customer and which appear to seriously jeopardize our claim to the purchase price, we may refuse delivery until the purchase price has been paid or security has been provided for it.
5. In individual cases, KGM reserves the right to demand advance payment or a guarantee. In the event of non-fulfilment of the claim despite prior warning, KGM may withdraw from the contract without liability for damages.

VI. Retention of title

1. We reserve title to all goods delivered by us until all claims arising from the business relationship with the customer have been settled (reserved goods). In the case of a current account, the reserved property shall also serve as security for the claim to the balance.
2. If the goods subject to retention of title become part of a new item belonging to the customer through combination, it is agreed that the customer shall transfer co-ownership of the new item to us and shall keep it in safe custody for us free of charge. Our share of ownership shall be determined by the ratio of the value of the reserved goods to the value of the new item.
3. The customer hereby assigns to us all claims arising from the resale of the reserved goods to his customers. If the reserved goods are resold together with other goods which do not belong to us, the customer shall assign to us that part of the claim arising from the resale which corresponds to the proportionate value of the reserved goods. If goods subject to retention of title are resold which belong to us only in part, the part of the claim arising from the resale assigned to us shall be calculated according to our share of ownership.
4. The customer remains revocably authorized to collect the claims from the resale. Upon request, he must notify his customers of the assignment and provide us with all information and documents that we require to assert our rights.
5. We undertake to release the securities to which we are entitled insofar as their value exceeds the claims to be secured by more than 20 %.
6. If the reserved goods are seized or if our rights are impaired in any other way by third parties, the customer must inform us immediately.
7. Insofar as mandatory legal provisions of the respective country do not provide for a reservation within the meaning of this VI Clauses 1 - 6, but recognize other rights to secure the claims arising from the Supplier's invoices, we reserve the right to do so. If the co-operation of the Purchaser is required for the creation or maintenance of such other rights, the Purchaser shall be obliged to provide such co-operation.

VII. Product provided by customer

1. If the customer provides products for further processing, 10% more of these than the order quantity must be delivered to ensure a trouble-free production process, unless otherwise agreed.
2. The incoming goods inspection is limited to the identification of the goods, comparison of the delivery documents, detection of externally recognizable transport damage and, if necessary, a quantity

check based on an estimate. A conclusive check as to whether the products provided are generally suitable for use in the production process is only carried out as part of the preparation of the production process.

3. As the supplier of the provided products, the customer is therefore responsible for the suitability of his provided products for the manufacture of the ordered balls. All costs caused by quality defects, quantity deviations and late delivery of the provided products shall be borne by the customer.

VIII. Tools

1. Unless otherwise agreed in writing, tools of all kinds, production facilities and development services remain the property of KGM. This also applies if the ordering party pays pro rata costs. Pro rata costs paid are already taken into account in the quotation calculation.
2. Uncovered costs for tools, production facilities and development services resulting from the fact that the quantity on which the offer is based is not accepted shall entitle KGM to make a corresponding additional claim until coverage is achieved.

IX. Breaches of duty/warranty/limitation of liability

1. The following provisions apply to the warranty for defects:
 - a) Defects must be reported to us immediately after their discovery. The rejected delivery items are to be kept at our disposal. We shall only reimburse the costs of returning the goods if this is done at our request.
 - b) In the event of timely and justified notification of defects, we shall provide subsequent fulfilment: at our discretion, we shall either take back the defective goods and deliver defect-free goods or we shall remedy the defect. If the purchase price is already due at the time of receipt of the notice of defect, we shall only be obliged to subsequent fulfilment if the customer has paid that part of the purchase price which corresponds to the value of the goods in defective condition. We shall only bear dismantling and installation costs insofar as they are incurred in Germany and are in reasonable proportion to the value of the delivery item.
 - c) The customer must give us reasonable time and opportunity to carry out the subsequent fulfilment. Only in the event of imminent danger, in particular to prevent disproportionately large damage, shall the customer have the right to carry out the rectification himself or have it carried out by third parties and to demand reimbursement of the necessary costs from us. In such a case, we must be informed immediately.
 - d) If the subsequent fulfilment fails, the customer may, at his discretion, reduce the purchase price or withdraw from the contract. Subject to the provision of No. 2 below, further claims of the customer - irrespective of the legal grounds - are excluded.
 - e) In the event of a defect that only insignificantly reduces the value or suitability of the goods, the customer may neither demand subsequent fulfilment nor reduce the purchase price.
 - f) If the defect is based on a discrepancy with advertising statements about the characteristics of the goods, the buyer must prove that the advertising was the cause of his purchase decision.
2. The following applies to damages:

We shall only be liable for damages in the following cases:

 - (1) Intentional breach of duty or grossly negligent breach of duty by our legal representatives or our vicarious agents or assistants
 - (2) Breach of a guarantee of quality
 - (3) Culpable breach of material contractual obligations in the event of slight negligence, but limited to the amount of reasonably foreseeable damage typical of the contract
 - (4) Culpable injury to life, limb and health
 - (5) Liability under the Product Liability Act
3. Claims for defects shall become time-barred 12 months after delivery of the delivery item, unless a longer limitation period is stipulated by law.
4. Section 350 BGB applies accordingly to statutory rights of cancellation.

X. Warranty / Procurement risk

The assumption of guarantees or of the procurement risk on our part must be made expressly and must be in writing and signed by an authorized person to be effective. Information in our catalogues, printed matter, advertising material and other general information does not constitute a guarantee or assumption of the procurement

risk.

XI. Software utilisation

If software is supplied with the delivery item, the customer is granted a non-exclusive, non-transferable right to use the software, including its documentation, in connection with the delivery item. Use of the software in connection with more than one delivery item is prohibited. The granting of sub-licences is not permitted. The customer may only reproduce, revise, translate or convert the software from the object code to the source code to the minimum extent permitted by law (§ 69 a ff. UrhG). The customer undertakes not to remove manufacturer's details - in particular copyright notices - or to change them without our express prior written consent. We reserve all other rights to the software and the documentation, including copies.

XII. Secrecy

The customer and we shall keep the information received from the other party confidential. This shall also apply after termination of the supply contract. This obligation shall not apply to information which was already legitimately known to the receiving party upon receipt without an obligation of confidentiality or which subsequently becomes legitimately known without an obligation of confidentiality or which - without breach of contract by one of the parties - is or becomes generally known.

Each party reserves ownership and any rights to the documents or data carriers provided by it. Reproduction and forwarding of such documents or data carriers shall only be permitted with the consent of the party providing them.

XIII. Miscellaneous

1. The place of fulfilment for all deliveries and payments is Fulda.
2. The place of jurisdiction shall be Fulda if the customer is a merchant, a legal entity under public law or a special fund under public law. If the customer is not a merchant, Fulda shall be the place of jurisdiction if either the customer has moved his domicile or habitual residence abroad after conclusion of the contract or his domicile or habitual residence is not known at the time the action is filed. However, we may also bring an action at the customer's place of business.
3. The German version of our Terms and Conditions of Sale and Delivery is authoritative.
4. The contractual relationship is subject to the law of the Federal Republic of Germany.

XIV. Severability clause

Should one or more of these provisions be wholly or partially invalid or unenforceable, this shall not affect the validity of the remaining provisions. The invalid provision shall then be replaced by the contracting parties in such a way that it comes as close as possible to the intention of the invalid provision.

KGM Kugelfabrik GmbH & Co KG, Fulda

Status: June 2024