

Standard Terms of Sale of Kluge & Neumann GmbH (Stand 03/2024)

We, Kluge & Neumann GmbH, Im Gewerbepark 2, D-27619 Schiffdorf, registered at Tostedt Local Court under company number HRB 111413 (Seller), manufacture conveyor belts and other plastic products, and accessories therefor. We process such products and accessories, trade in plastic products and provide other related services in the field of plastics processing.

§ 1 General provisions, scope

(1) These Standard Terms of Sale apply to all business relations between Kluge & Neumann GmbH and its customers ('Buyers'). The Terms of Sale apply only to Buyers who are entrepreneurs within the meaning of Section 14 of the German Civil Code (*Bürgerliches Gesetzbuch* – hereinafter 'BGB').

(2) Our Terms of Sale apply exclusively. Any standard terms of business used by the Buyer that differ from, conflict with or add to these Standard Terms of Sale shall not be applicable and shall become an integral part of the contract only if and insofar as we have expressly agreed in writing to their applicability. Our Terms of Sale shall apply even if we are aware of terms and conditions used by the Buyer that conflict with or differ from our Terms of Sale and execute delivery to the Buyer without making reservations in this respect.

(3) All agreements concluded between ourselves and the Buyer for the purpose of fulfilling this contract must be set down in writing in this contract.

(4) We publish our Standard Terms of Sale on our website at www.kluge-neumann.de.

§ 2 Offer, offer documents

(1) When the Buyer orders the goods, this is deemed to be a binding offer within the meaning of Section 145 BGB. Unless otherwise stated in the order, we have the right to accept the order within two weeks of receiving it. Acceptance may be stated either in writing or by delivering the goods to the Buyer.

(2) We reserve unlimited rights of ownership and exploitation of copyright in respect of figures, drawings, cost estimates and other documents. This applies also to any written documents designated 'confidential'. Our express written consent is required before such documents may be disclosed to third parties. The drawings and other documents included in our offers to the Buyer shall be returned to us at our request if they were produced by us. The Buyer is solely responsible and bears liability and risk for the legality of using drawings, sketches and models sent to us by the Buyer, and for their completeness and correctness, etc. We are under no obligation to verify such legality, completeness, correctness, etc., in particular regarding the existence of third-party intellectual property rights and technical correctness.

§ 3 Prices, terms of payment

(1) Unless the confirmation of order states otherwise, our prices are 'ex works' and do not include packaging and shipment; the latter shall be charged separately.

(2) Our prices do not include statutory value-added tax; the latter is separately itemised on the invoice at the statutory rate applicable on the invoice date.

(3) Deduction of discount requires a separate written agreement to that effect.

(4) Unless our confirmation of order states otherwise, the purchase price shall be due and payable (without deductions) within 30 days after the invoice date. The Buyer is in default when the aforementioned payment period has expired. The statutory regulations on the consequences of default on payment shall apply accordingly.

(5) Kluge & Neumann GmbH may set off its claims to payment against claims of the other party to the contract. The Buyer has no set-off rights unless its counter-claims are undisputed, proven, acknowledged by us, or established by a final court decision. It is authorised to exercise a right of retention only insofar as its counter-claim derives from the same contractual relationship, is undisputed, proven, or established by a final court decision.

§ 4 Delivery period, transfer of risk, default on acceptance

(1) The delivery period is agreed individually, or specified by us no later than when the order is accepted.

(2) Our default on delivery shall be determined according to the statutory regulations. However, a reminder by the Buyer is required whatever the case.

(3) If the Buyer defaults on acceptance, fails to cooperate, or if our delivery is delayed for other reasons for which the Buyer is responsible, we have the right to claim compensation for any damages incurred as a result, including any additional expense incurred. This shall be without prejudice to any further claims.

(4) The risk of accidental loss and of accidental deterioration of the goods passes to the Buyer at the latest when the goods are handed over. If the conditions defined in para. (3) above are met, the risk of accidental loss or

accidental deterioration of the object of sale shall pass to the Buyer the moment he defaults on acceptance or payment.

§ 5 Delivery

- (1) Unless otherwise specified in the confirmation of order, the agreed delivery terms are 'ex works'.
- (2) With the exception of pallets, we will not take back any transport packaging or other packaging that comes under the packaging regulations. The Buyer shall ensure that the packaging is disposed of at its own expense.
- (3) If the Buyer so requests, we shall arrange transport insurance coverage for the delivery; any costs arising shall be borne by the Buyer.

§ 6 Force majeure

- (1) We shall not be responsible for delays in performance due to force majeure (e.g. strikes, lockouts, pandemics, power shortages, unforeseeable operational disruptions or unavoidable scarcity of raw materials) and have the right to postpone delivery of the goods and performance of the services for the duration of the hindrance plus a reasonable start-up period, provided that a period of four months is not exceeded. We shall inform the Buyer without delay about the (temporary) non-availability of the goods or services and shall inform it of the estimated new delivery date.
- (2) If the force majeure event means that it is impossible for the goods or services to be delivered or provided, which can be assumed if the hindrance lasts for more than four months, we may withdraw wholly or partly from the contract; any considerations paid by the Buyer shall be reimbursed immediately.
- (3) If we have already begun to execute the order after it has been placed, we shall be reimbursed for any costs expenses and outlays we have already incurred.

§ 7 Liability for defects

- (1) Unless otherwise stipulated below, the statutory regulations shall be applicable to the Buyer's rights in cases of material or legal defects (including incorrect and short deliveries and improper assembly/installation or deficient instructions). Warranty claims on the part of the Buyer are conditional on the latter complying with its duties, pursuant to Section 377 of the German Commercial Code (*Handelsgesetzbuch* – hereinafter 'HGB'), to examine the goods and report any defects.
- (2) In the event of a defect in the purchased item, the Buyer shall be entitled at its own discretion either to remedy of the defect or to delivery of a new item free of defects. If the defect is to be remedied, we shall bear all expenses necessary to perform such remedy, in particular any transport, travel, labour and material expenses, in accordance with the statutory regulations and these Terms of Sale, insofar as these have not been increased by the object of purchase having been brought to a site other than the place of performance. In the case of replacement delivery, the Buyer shall return the defective item at our request in accordance with the statutory regulations; however, the Buyer does not have the right to return the item.
- (3) If efforts at remedy fail, the Buyer shall have the right, at its own discretion, to withdraw from the contract or to reduce the payment.
- (4) We shall bear liability in accordance with the statutory regulations if the Buyer claims damages, on whatever legal basis, if and insofar as liability is due to wilful intent or gross negligence on our part, or to wilful intent or gross negligence on the part of our representatives or vicarious agents. Liability for damages resulting from a material breach of contract is limited to the directly foreseeable damages that typically occur.
- (5) Liability due to culpable injury to life, body or health shall remain unaffected; this principle shall apply also to mandatory liability under the Product Liability Act.
- (6) If liability on our part is limited, this shall apply also to the personal liability for damages on the part of our salaried employees, blue-collar workers, co-workers, representatives and vicarious agents.
- (7) The period of limitation for warranty claims is one year as from the transfer of risk.
- (8) The period of limitation in the case of recourse claims within the meaning of Sections 445a and 445b BGB shall remain unaffected; said period is two years as from delivery of the defective item.

§ 8 Retention of title

- (1) We reserve ownership of the object of purchase until all payments accruing from the supply agreement have been received and all current and future business relations with the Buyer have been settled. If the Buyer acts in breach of the contract, in particular by failing to pay the purchase price due, we have the right to take back the object of purchase in accordance with the statutory regulations. The request for surrender of the object of purchase does not simultaneously entail a declaration of withdrawal from the contract. If we levy execution on the object of purchase, this constitutes withdrawal from the contract. After taking back the object of purchase, we are entitled to exploit it in any way and to credit the proceeds of such exploitation, minus a reasonable amount of exploitation expenses, against the amounts owed by the Buyer.

(2) The Buyer shall handle the object of purchase with due care; in particular, it shall insure them adequately, at his own expense and for the value when new, against fire, water and theft. If maintenance and inspection work is required, the Buyer must carry out such work at his own expense and in due time.

(3) The Buyer must inform us immediately and in writing of any levies of execution or other seizures by third parties so that we can bring an action under Section 771 of the German Code of Civil Procedure (*Zivilprozeßordnung* – hereinafter ‘ZPO’). If the third party is unable to reimburse us the judicial and extra-judicial costs for bringing such an action under Section 777 ZPO, the Buyer shall be liable for any losses that we incur in this respect.

(4) The Buyer has the right to resell the object of purchase in the normal course of business; however, it hereby assigns to us all receivables to the amount of the final invoice amounts (including value-added tax) of all our receivables and which accrue to it against its own customers or third parties from the resale, regardless of whether the object of purchase is processed prior to resale. We hereby accept this assignment. Despite this assignment, the Buyer remains authorised to collect these receivables in the ordinary course of business; this authorisation is forfeited automatically if the Buyer applies for restructuring in accordance with the Corporate Stabilisation and Restructuring Act (*Unternehmensstabilisierungs- und -restrukturierungsgesetz* – StaRUG), provides a statement of assets, or if an application is made for insolvency proceedings to be opened against the assets of the Buyer, or if the receivable assigned to us by way of security has been seized. The above is without prejudice to our authority to collect receivables ourselves. If our authority to collect receivables ends for whatever reasons or the business relationship ends, we may require that the Buyer notifies us of the assigned receivables and the respective debtors, provide all details needed to collect the receivables, surrender the relevant documents and inform the debtors (third parties) of the assignment.

(5) Processing or transformation of the object of purchase by the Buyer is always on our behalf. If the object of purchase is processed with other items that do not belong to us, we acquire co-ownership of the new object in proportion to the value of the object of purchase (final invoice amount, including value-added tax) relative to the value of the other processed items at the time of processing. The object that results from processing is governed by the same provisions and conditions as the object of purchase supplied with retention of title.

(6) If the object of purchase is inseparably mixed with other items that do not belong to us, we acquire co-ownership of the new object in proportion to the value of the object of purchase (final invoice amount, including value-added tax) relative to the other mixed items at the time of mixing. If mixing results in the Buyer’s object being considered the main component, then it is deemed agreed that the Buyer shall transfer proportional co-ownership in the new object to us. The Buyer shall keep our solely owned or co-owned property on our behalf.

(7) The Buyer also assigns to us, as security for the amounts it owes to us, the receivables that ensue from third parties by combining the object of purchase with real property.

(8) At the request of the Buyer, we shall release collateral accruing to us to the extent that the value that can be realised by enforcement of our collateral exceeds by more than 10% the debts being secured; we may decide at our own discretion which collateral to release.

§ 9 Place of performance, place of jurisdiction

(1) Our Terms of Sale and the contractual relationship between us and the Buyer are governed by the laws of the Federal Republic of Germany, under exclusion of all international and supranational regimes governing contractual law, in particular the UN conventions relating to the international sale of goods and any treaties or rules of law for determining the governing law.

(2) If the Buyer is a business person (is a ‘*Kaufmann*’), the place of jurisdiction for any claims arising from purchase contracts, from contracts for the supply of moveable items, or from service agreements or settlement transactions, including the initiation, implementation and reversal of the aforementioned contracts, is our registered place of business,

(3) Unless otherwise stated in the confirmation of order, our registered place of business is the place of performance for any claims arising from purchase contracts, from contracts for the supply of moveable items, or from service agreements or settlement transactions, including the initiation, implementation and reversal of the aforementioned contracts.

§ 10 Data protection

Kluge & Neumann GmbH has the right to store the Buyer’s data on computer equipment and to process and use said data for its operational purposes in accordance with statutory regulations.

§ 11 Final provisions

Should any provisions of these Terms of Sale be or become invalid, this shall have no effect on the validity of the remaining provisions. The statutory regulations shall apply.