

General Terms and Conditions of Business

§ 1 General Provisions, Application of these Terms and Conditions

- 1) The deliveries, services and offers from **KS Montagetechnik GmbH** ("Supplier") are carried out - also in the future - exclusively based on the following General Terms and Conditions of Business in the version valid at the time of the conclusion of the contract, even if the Supplier does not specifically refer to them in individual cases. The Supplier's General Terms and Conditions of Business are also effective if the Supplier do not expressly refer to them in the context of an ongoing business relationship in subsequent contracts. They also apply to all future business relationships, even if they are not expressly agreed again. These General Terms and Conditions of Business only apply if the buyer is an entrepreneur (§ 14 BGB), a legal person or a special fund under public law. Conflicting, deviating or supplementary terms and conditions are not part of the contract, even if they are known, unless their validity is expressly agreed in writing. This also applies if the Supplier does not expressly object to the inclusion.
- 2) In any event, individual agreements made with the purchaser in individual cases, including collateral agreements, supplements and amendments, shall take precedence over these Terms and Conditions of Business. A written contract or our written confirmation shall, unless proven otherwise, be decisive for the content of such agreements. The Supplier's sales employees shall not be entitled to make any verbal agreements deviating herefrom.
- 3) Transmission by telecommunication, in particular by telefax, by email or by electronic form in accordance with § 126a BGB (German Civil Code), shall comply with the written form requirement.

§ 2 Offer, Conclusion of a Contract

- 1) The presentation and advertising of articles on the Supplier's homepage or in any other medium, such as in flyers or catalogues, does not constitute a binding offer to conclude a purchase contract.
- 2) The Supplier's offers shall be subject to change without notice and be non-binding, even if they are submitted at the request of the customer. Declarations of acceptance and all purchase orders shall be legally effective only if confirmed or acknowledged by the Supplier in writing. The same shall apply to supplements, amendments or collateral agreements. The Supplier may also accept a purchase order by delivering the products ordered. It shall have 14 days from receipt within which to accept purchase orders. Orders placed by the customer, including information on the scope, type and time of delivery, are binding regardless of this. Irrespective of other contractual or statutory (termination) rights, the customer is not entitled to cancel binding orders.

- 3) Drawings, illustrations, dimensions, weights, load capacity or other performance data shall be binding only if expressly agreed upon in writing. These shall not constitute a guarantee of, or agreement on, any corresponding quality of the goods.
- 4) The Supplier's sales employees shall not be authorised to make verbal collateral agreements, or give verbal assurances, that go beyond the content of the written contract.

§ 3 Prices and Payment

- 1) Orders for which no fixed prices have been expressly agreed upon shall be billed at the list prices valid on the day of delivery. All changes to the agreed foreign currency, or to the euro exchange rate, that arise after the contract has been concluded (date of the order acknowledgement) shall apply to the purchaser, insofar as these changes would be disadvantageous to the Supplier. Our prices shall not include statutory value-added tax. Value-added tax shall be shown separately in the invoice at the statutory rate valid on the day of invoicing. Unless otherwise agreed upon, the prices shall exclude packaging, insurance and freight. Deliveries are made ex works of the Supplier in Reilingen.
- 2) Mark-ups and recalculation of invoices on the agreed price are permissible, if circumstances such as: the cost of materials; wage and energy costs increases; rises in public charges etc. compel them, and the delivery or service is to take place more than 4 months after the conclusion of the contract. With such price increases, the buyer has the right to withdraw within 14 days from receiving notice of the price increase, in the case where the list price has risen considerably higher than the general cost of living. The percentage change in the respectively valid consumer price index (German "Verbraucherpreisindex") from the month of the conclusion of the contract to the month of the delivery or service of the supplier is taken into account.
- 3) The Supplier's invoices shall, unless otherwise agreed upon, be payable with a 2% cash discount in the event of payment within 10 days or net in the event of payment within 30 days, in each case from receipt of payment, except where other claims based on deliveries of goods are still outstanding at the time of payment.

The Supplier shall, despite any provisions of the purchaser contrary hereto, be entitled to first of all set off payments against the purchaser's older debts. In such case, the Supplier shall inform the purchaser of the type of set-off that has occurred. If costs and interest have already been incurred, the Supplier shall be entitled to first of all set off payment against costs, then against interest and finally against the principal claim. Payment shall not be deemed made until the amount is at the Seller's disposal. In the case of cheques, payment shall not be deemed made until the cheque has been cashed.

- 4) If the buyer defaults on payment, the statutory provisions shall apply.
- 5) Insofar as the Supplier becomes aware of circumstances that call into question the ability of the buyer to pay, in particular if a cheque is not cashed, or if the buyer ceases

its payments, the Supplier shall be entitled to declare the entire residual debt due immediately. Furthermore, the Supplier shall be entitled to demand advance payments or the provision of security.

- 6) The customer is only entitled to offset and withhold payment if his counterclaims have been legally established or are undisputed. The buyer is only authorized to exercise a right of retention if his counterclaim is based on the same contractual relationship.

§ 4 Delivery and Performance Period

- 1) Delivery dates or periods, which may be agreed upon on a binding or non-binding basis, must be in writing or shall be subject to the Supplier's written confirmation. The occurrence of the Supplier's delay in delivery is determined by the statutory provisions. In any case, however, a reminder from the buyer is required.
- 2) Insofar as the underlying purchase contract concerns a transaction for delivery by a fixed date as defined by Section 286 (2), No. 4 *BGB* [German Civil Code] or Section 376 *HGB* [German Commercial Code], the Supplier shall be liable in accordance with the statutory provisions. The same shall apply, if, as a result of delayed delivery imputable to the Supplier, the buyer is entitled to claim that its interest in the further performance of the contract has ceased to exist. In this case, the Supplier's liability shall be limited to the foreseeable loss typically occurring, unless such delayed delivery is due to a grossly negligent or intentional breach of contract imputable to the Supplier, whereby fault on the part of the Supplier's representatives or authorised agents shall be attributable to the Supplier.

Likewise, the Supplier shall be liable in accordance with the statutory provisions in the event of delayed delivery, if delayed delivery is due to an intentional or grossly negligent breach of contract imputable to the Supplier, whereby fault on the part of the Supplier's representatives or authorised agents shall be attributable to the Supplier. However, the Supplier's liability shall be limited to the foreseeable loss typically occurring, unless delayed delivery is due to a grossly negligent or an intentional breach of contract imputable to the Supplier.

- 3) If culpably delayed delivery is due to a culpable breach by slight negligence of a material contractual duty (duties, the fulfilment of which makes the proper execution of the contract possible in the first place and on whose compliance the contractual partner regularly trusts and may rely), liability shall be governed by the statutory provisions, with the proviso that liability shall be limited to the foreseeable loss typically occurring.
- 4) Otherwise, the buyer may, in the event of delayed delivery imputable to the Supplier, assert compensation at the flat rate of 3% of the delivery value for every full week of default, but at most no more than 15% of the delivery value. We reserve the right to prove that no loss at all or a loss significantly lower than the above flat-rate compensation has been incurred by the buyer.

- 5) Liability beyond this for delayed delivery imputable to the Supplier shall, without this affecting further statutory claims and rights to which the buyer is entitled in addition to the damage claim based on culpably delayed delivery, be excluded.
- 6) The Supplier shall be entitled to at any time make sub-deliveries and render sub-services if such sub-delivery is usable for the purchaser under the contractual provisions, delivery of the residual goods has been ensured and no considerable extra work or additional costs are incurred by the purchaser as a result thereof, unless the Supplier agrees to assume these costs.
- 7) Insofar as the buyer defaults on taking receipt of the delivery, the Supplier shall be entitled to demand compensation for the loss incurred and for any extra expenditure. The same shall apply if the buyer culpably breaches duties to co-operate. If and when the buyer defaults on taking receipt of the delivery or making payment, the risk of accidental deterioration and accidental destruction shall pass to the buyer.

§ 5 Passage of Risk/Shipment/Packaging

- 1) The risk shall pass to the purchaser as soon as the goods have been handed over to the carrier or have left the Supplier's company building for the purpose of shipment.
- 2) Loading and shipment shall take place on an uninsured basis at the buyer's risk. Transportation insurance covering the delivery shall be taken out, if so requested by the buyer. Unless otherwise expressly agreed, the resulting additional costs are to be borne by the buyer.
- 3) If shipment is delayed on request or for reasons imputable to the buyer, the Supplier shall store the goods at the buyer's expense and risk. In this case, notice of readiness for shipment shall be deemed equivalent to shipment.

§ 6 Warranty

- 1) Defect-related claims of the buyer shall exist only if the buyer has properly met its obligations to inspect the goods and give notice of defects in accordance with Sections 377 and 381 *HGB* [German Commercial Code]. A prerequisite for the purchaser's defect-related rights is that the purchaser must inspect the delivered goods upon receipt and give the Supplier written notice of defects promptly, no later than 2 weeks after receipt of the goods. Hidden defects shall be reported to the Supplier in writing promptly upon their discovery. In any event, the defects shall be described in such notification in detail and precisely. If the buyer accepts our delivery or service in the knowledge of a defect, his rights in respect of this defect shall only be accepted if they are expressly reserved in writing. If the delivered item is to be built into another item by the buyer or brought in in some other way, the buyer has to carry out the examination before the installation. The above regulation also applies in the event that the supplier delivers directly to his customer at the buyer's request (drop shipments). The delivery ordered by the buyer as

part of a drop shipment does not release the buyer from the above period for examination and complaint.

- 2) Insofar as a defect in quality imputable to the Supplier exists, the Supplier shall, with the exclusion of the buyer's rights to rescind the contract or reduce the purchase price, be obliged to render supplementary performance, unless the Supplier is entitled to refuse to render supplementary performance. The supplier is entitled to refuse the supplementary performance chosen by the buyer if it is only possible at disproportionate costs. There are disproportionate costs in the case of supplementary performance costs that exceed 150% of the value of the item in a defect-free condition or 200% of the defect-related lower value, unless the supplier is responsible for the defect intentionally or through other serious negligence. The buyer shall grant a reasonable period for supplementary performance. Supplementary performance may, at the Supplier's option, be brought about by eliminating the defect (rectification) or by delivering new goods. In the case of defect elimination, the Supplier shall bear the necessary expenditure. These are excluded if the expenses increase because the delivered item was subsequently moved to a location other than the buyer's branch, unless the transfer corresponds to its intended use.

If supplementary performance has failed, the buyer may, at its discretion, demand a reduction in the purchase price or rescission of the contract. Rectification shall be deemed failed upon the second futile attempt, except where further rectification attempts are appropriate owing to the subject-matter of the contract and are reasonable for the buyer.

- 3) The purchaser's statutory rights of recourse against the supplier only exist insofar as the purchaser has not made any agreements with his customer that go beyond the statutory claims for defects. With regard to the reimbursement of expenses, the above regulation applies accordingly. Recourse claims according to § 445a Paragraph 1 and Paragraph 2 BGB are excluded, provided that the final buyer is not a consumer. If the final buyer is a consumer, the buyer as a right of recourse is entitled to equivalent compensation.
- 4) The buyer's statutory claims shall become statute-barred one year after the goods have been delivered to the buyer. In the event of fraud on the part of the Supplier, the statutory provisions shall apply.
- 5) The Supplier shall, without limitation, be liable in accordance with the statutory provisions for loss arising from mortal injury, physical harm or health damage due to a negligent or intentional breach of duty, as well as for loss under the *Produkthaftungsgesetz* [Product Liability Act]. For loss that is not covered by sentence 1 and is due to wrongful intent or gross negligence, the Supplier shall be liable in accordance with the statutory provisions. In the event of slight negligence, however, liability shall be limited to the foreseeable loss typically incurred. Insofar as a guarantee of quality and/or durability has been given, the Supplier shall be liable within the scope of this guarantee. However, liability for loss not resulting directly from the goods shall be excluded, unless the risk of such loss is evident from the guarantee of quality or durability.

- 6) Beyond the above provisions, liability for loss caused by ordinary negligence shall exist only if material contractual duties, i.e. duties material to the contract (obligations whose fulfilment is a prerequisite for the proper implementation of the contract and whose observance is normally expected, and may normally be expected, by the other Party) are breached. In such cases, liability shall be limited to the loss typically foreseeable.
- 7) Further liability shall, regardless of the legal nature of the claim asserted, be excluded. In particular, this shall also apply to tort claims and claims for the reimbursement of futile expenditure in lieu of performance, in particular a claim for compensation for damage that does not arise and / or exist in the delivered goods themselves (e.g. lost profit, consequential damage, other financial losses). The exclusion of liability shall also relate to the personal liability of the Supplier's employees, workers, personnel, representatives and authorised agents.
- 8) Damage claims based on a defect shall become statute-barred within one year of delivery or formal acceptance, insofar as formal acceptance has been agreed upon. This shall not apply in cases of mortal injury, physical harm or health damage or in cases of intentional or grossly negligent acts, for damage resulting from the breach of an essential contractual obligation or in the event of claims under the Product Liability Act.

§ 7 Retention of Title

- 1) Until all claims (including all current account balance claims) to which the Supplier is entitled against the purchaser now or in future on any legal basis have been satisfied, the Supplier shall be provided with the following security. On request, the Supplier shall release such security of its choosing insofar as the value of the security exceeds the claims by more than 10% over a sustained period.
- 2) The goods shall remain the Supplier's property. Any processing or remodelling shall always occur on behalf of the Supplier as the manufacturer, but without placing the Supplier under any obligation. In case the Supplier's (co-)ownership rights lapse as a result of combining, it is hereby agreed that the purchaser's (co-)ownership rights in the item as a whole shall pass to the Supplier on a *pro-rata* basis in terms of value (invoiced amount). The purchaser shall hold in safekeeping the Supplier's (jointly owned) property free of charge. Goods in which the Supplier is entitled to (co-)ownership rights are hereinafter referred to as goods under retention of title.
- 3) The purchaser shall, as long as it is not in default, be entitled to process and sell in the proper course of business the goods under retention of title. Pledging or assignment as security shall not be permissible. The purchaser hereby fully assigns to the Supplier as security the claims (including all current account balance claims) resulting from on-selling or on any other legal basis (insurance, tort) in respect of the goods under retention of title. The Supplier revocably authorises the purchaser to collect in its own name for the Supplier's account the claims assigned to the Supplier. This authorisation to collect claims may be revoked only if the purchaser fails to properly meet its payment obligations. If the reserved goods are resold by the buyer together with goods from third parties, the assignment of receivables from the resale shall apply, but only in the

amount of our invoice for the respective reserved goods sold. If goods in which the Supplier has a share are resold, the assignment of receivables in the amount of these shares, shall apply. The same applies to other receivables which replace the reserved goods or otherwise arise with respect to the reserved goods, such as, for example, insurance claims or claims resulting from a criminal action in the case of loss or destruction. The Supplier accepts the respective assignments.

- 4) If third parties seize the goods under retention of title, the buyer shall point out the Supplier's ownership. The Supplier shall be informed in writing of any attachments or other dangers ensuing from third parties in respect of the Supplier's rights, and be provided with all details required by the Supplier for third-party proceedings under Section 771 of the *Zivilprozessordnung* [Code of Civil Procedure]. Insofar as the Supplier suffers a loss because a third party is unable to pay the court and/or out-of-court costs required to be reimbursed to the Supplier by the third party in connection with proceedings under Section 771 of the *Zivilprozessordnung*, the purchaser shall be liable.
- 5) If the buyer acts contrary to the contract, in particular if it defaults on payment, the Supplier shall, after having set a reasonable time limit beforehand, be entitled to repossess the goods under retention of title or demand assignment of the buyer's repossession claims against third parties. Neither repossession of the goods under retention of title nor attachment of those goods shall constitute rescission of the contract.

§ 8 Design Changes, Standards

- 1) The Supplier reserves the right to carry out design changes at any time. However, it shall not be obliged to also carry out such changes on products already delivered.
- 2) The deliveries and services shall conform to the respective applicable technical standards in Germany. In the case of use outside of Germany, the type and scope of the deliveries and services to be rendered by us shall be governed by the contractual agreement made and, in all other respects, by German law. The Supplier shall be required to observe legal provisions applicable at the place of use only insofar as expressly agreed upon with the purchaser. The purchaser shall inform the Supplier of the respective valid standards and safety provisions. Extra costs ensuing from compliance with such standards shall be borne by the purchaser.

§ 9 Property Rights

- 1) The Supplier shall indemnify the purchaser and its customers against claims based on infringements of copyrights, trademarks or patents, unless the design of a delivery item originates from the purchaser. The Supplier's obligation to indemnify shall be limited to the foreseeable loss in terms of the amount. An additional prerequisite for indemnification is that the responsibility for conducting legal disputes must be left to the Supplier, and any alleged infringement of a right must be attributable exclusively to

the style of construction/design of the Supplier's delivery items without these being combined or used with other products.

- 2) The Supplier shall have the option of freeing itself from the obligations taken on under subsection 1 by either
 - a) obtaining the necessary licences regarding the right of use allegedly infringed, or
 - b) making available to the purchaser an altered delivery item, or parts thereof, that, if exchanged for the delivery item, or part thereof, infringed, eliminates the accusation of infringement in respect of the delivery item.

§ 10 Force Majeure

If a force majeure event occurs the Supplier's delivery obligations are suspended; if a material change occurs in the relationship existing at the time of the contract's conclusion, the Supplier is entitled to rescind the contract. The same shall apply in the event of energy or raw materials' shortages, labour disputes, labour shortages; or raw materials, pandemics, administrative decrees, transportation or operational interferences of all types, if sub-suppliers do not deliver to the Supplier in a timely and proper manner, unless the Supplier is responsible for this. Nor is the Supplier obliged to procure the goods from third parties. In the case of obstacles of a temporary duration, the delivery or service-provision periods are extended or the delivery or service-provision dates are postponed for the period of the hindrance plus an appropriate start-up period. The buyer can request clarification from the Supplier, as to whether the Supplier is rescinding the contract or whether the Supplier wants to fulfil the contract within an appropriate deadline. If the Supplier does not provide clarification, the buyer can rescind the contract.

§ 11 Rescission, credit insurance, security

The Supplier reserves the right to withdraw from the contract, via written notice to the buyer, if the Supplier's credit insurance and/or other companies informs the Supplier, that there is no sufficient limit available for deliveries to the buyer, or a limit has been cancelled, that the buyer is not insured, that it has suspended payments or it has provided inaccurate information with regard to its creditworthiness and this inaccurate information is of considerable importance. The buyer can prevent withdrawal if, within eight days from the Supplier's notice of withdrawal to it, it can provide a corresponding alternative form of security for the purchase price, which is acceptable to the Supplier.

§ 12 Export restrictions, rescission

The Supplier is entitled to withdraw from the contract if the buyer or the country in which it has its registered office is subject to export restrictions, in particular, the United States, the European Union and Germany, insofar as they relate to export, re-export, transfer of and resale of products. Withdrawal shall be declared by the Supplier within seven days from the date the export restriction becomes known to the Supplier. The same shall apply if the

country in which the company to be supplied or the buyer has its registered office, imposes import restrictions.

§ 13 Confidentiality

The buyer undertakes not to transmit any business or operational secrets that may become known to it during the course of our business relationship (documents, drawings, plans, specifications, confidential information, expertise, production methods and the like), without the consent of the Supplier, and neither to make use of this information nor to share it with third parties. At the request of the Supplier, all available business or operational secrets of a material nature shall be returned to the Supplier. An exception to this is information that is publicly and lawfully accessible or information that was already known to the buyer before documentation was made available to it. The obligation to confidentiality shall also apply to the time after the end of the business relationship.

§ 14 Data Protection

- 1) The Supplier collects, stores, processes and uses personal data of the buyer if, to the extent and for as long as this is necessary for the establishment, implementation or termination of the contractual relationship. Any further collection, storage, processing and use of the buyer's personal data will only take place if it is required, permitted by a legal regulation or if the buyer has consented.
- 2) The buyer is aware that in order to carry out pre-contractual measures and fulfil the contract on the basis of Art. 6 Paragraph 1 lit. b General Data Protection Regulation (GDPR), email address and bank details are required.
- 3) The supplier is entitled to transfer the data of the buyer to third parties if and to the extent that this is necessary for the implementation of pre-contractual measures to fulfil this contract (e.g. invoicing, customer care,) in accordance with Article 6 (1) (b) GDPR. The supplier reserves the right to pass on this data to third parties (e.g. debt collection) in accordance with Article 6 (1) (b) and / or (f) GDPR within the framework of what is legally permissible, possibly also for the purpose of enforcing claims.
- 4) The supplier maintains current technical measures to ensure the protection of personal data. These are always adapted to the current state of the art.
- 5) The supplier will upon request provide the buyer with information on the saved personal data concerning the buyer under the legal requirements (Art. 15 GDPR). This also applies to the recipients or categories of recipients to whom this data is passed on and the purpose of storage. In addition, the buyer has the right, under the conditions of Art. 16 GDPR, the correction and / or, under the conditions of Art. 17 GDPR, the deletion and / or under the conditions of Art. 18 GDPR, to request restriction of processing. Furthermore, the buyer can request data transfer at any time under the conditions of Art. 20 GDPR. Personal data is only stored for as long as it is necessary to achieve the respective purpose. This usually corresponds to the duration of the contract.

- 6) The buyer can object to any use of his personal data to safeguard legitimate interests (Art. 6 Para. 1 S. 1 lit. f GDPR) at any time by sending an informal message to the Supplier with effect for the future. If the supplier cannot prove any overriding compelling reasons worthy of protection for the use or the processing is necessary to assert, exercise or defend legal claims, the supplier will no longer use the data concerned for these purposes after receiving the objection
- 7) The buyer can object to the use of the buyer's data for the purpose of direct advertising at any time with effect for the future; this also applies to profiling insofar as it is related to direct mail. In the event of an objection, the supplier must refrain from any further processing of the buyer's data for the purpose of direct advertising.
- 8) Responsible for all data protection-related questions as well as for the exercise of the rights described above is: KS Montagetechnik GmbH, Heinrich Lanz Str. 1, 68799 Reilingen, Germany; Tel: +49 (0) 6205 - 977875, Fax: +49 (0) 6205 - 977877, E-Mail: info@nivellierspindel.com, Internet: www.nivellierspindel.com.

§ 15 Place of Performance, Applicable Law, Place of Jurisdiction, Severability

- 1) Reilingen shall be the place of performance for all obligations arising from the contractual relationship.
- 2) The laws of the Federal Republic of Germany, excluding UN sales law, shall apply to these Terms and Conditions of Business and the entire legal relations between the Supplier and the purchaser. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall not apply.
- 3) Insofar as the purchaser has full merchant status as defined by the *Handelsgesetzbuch* [German Commercial Code] or is a legal entity under public law or a special fund under public law, Reilingen shall be the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. The same shall apply *mutatis mutandis*, if the purchaser is a business owner as defined by Section 14 *BGB*. Statutory provisions taking precedence, in particular those relating to exclusive jurisdiction, shall remain unaffected.
- 4) This English version of the GTC is for information only. In the event of discrepancies between the German and English versions, only the German version shall be valid.
- 5) If a provision in these Terms and Conditions of Business or a provision under other agreements is or becomes ineffective, this shall not affect the effectiveness of any other provisions or agreements.