Josef Kränzle GmbH & Co. KG – General terms and conditions

Made
in
Germany

www.kraenzle.com

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I. General – Area of Application

1. All contract conclusions with us shall solely be subject to the following general terms and conditions that the customer can also view on our website www.kraenzle.com. They are recognised by the customer when the order is placed, but recognised no later than at acceptance of the first delivery and apply for the entire duration of the business relationship and all subsequent orders. Deviating, contrary or supplementary general business terms of the customer shall apply only with our advance consent. Our general terms and conditions shall also apply if we perform the delivery to the customer without reservations knowing of any contrary or deviating conditions of the customer.

2. All agreements that are entered into between us and the customer for performance of the contract are documented in writing in this contract.

3. Representations, side agreements, changes to the contract and statements of representatives shall require our written confirmation to be valid. This requirement cannot be dispensed with.

II. Offer

1. If the order is qualified as an offer according to § 145 German Civil Code, we shall have the right to accept it within 2 weeks. The contract shall be entered into either upon our written confirmation and according to its content or by making the corresponding delivery. We have the right to refuse acceptance of the order - e.g. after review of the customer's creditworthiness. If a delivery is made without delay without prior confirmation, the invoice shall be deemed the order confirmation at the same time.

2. We reserve construction and form changes to the object of the contract without previous announcement during the term of delivery as long as the contractual object and its looks are not changed in a commercially unreasonable manner for the customer by this. Reasonable changes shall specifically be technical changes, improvement and adjustments to the latest state of science, technology, improvements of construction and material selection. All quantity, dimensional, colour and weight information is given with the commercial tolerances.

3. We reserve property and copyright in images, movies, figures, datasheets, drawings, calculations, information material and other documents. This shall also apply to such written documents that are described as „confidential". Use that is not exclusively private, specifically passing on to any third parties, by the customer shall require our express advance written consent. The customer shall be solely liable if the execution of his order violates any rights and specifically commercial property rights of third parties, due to documents provided by him.

4. The following shall apply to use of images, specifically those of KRÄNZLE products, texts, movies, figures, datasheets and drawings:

The use of images, specifically of KRÄNZLE products, texts, movies, figures, datasheets and drawings that are shown on the homepage of Josef Kränzle GmbH & Co. KG under www.kraenzle.com or elsewhere, e.g. in catalogues, shall be a violation of copyright if performed without our consent. Any unauthorised use of images may give cause for justified complaint.

III. Delivery, delivery time and delivery delay

1. Agreed delivery periods shall commence when the contract is entered into unless agreed on differently. Compliance with our delivery obligation shall require the timely and proper performance of the customer's obligations and him meeting his essential contractual and any payment obligations that may be agreed for the order. The objection of unfulfilled contract shall be reserved.

2. We strive to comply with the delivery dates and periods indicated to the customer. The agreement of delivery dates and periods shall require written from. Subsequent modification and supplementation wishes of the customer shall extend the delivery time appropriately. The above circumstances shall not be due to our fault, even if they occur during an existing delay.

3. We shall be liable according to the statutory provisions where the underlying purchasing contract is a fixed transaction in the sense of § 286 para. 2 no. 1 German Civil Code or § 376 German Commercial Code. We shall also be liable according to the statutory provisions if the consequence of a delivery delay due to our fault authorises the customer to assert that his interest in further performance of the contract is no longer present.

4. We shall also be liable according to the statutory provisions if the delivery delay is due to any wilful or grossly negligent violation of the contact due to our fault. If the delivery delay is not due to any wilful violation of the contract due to our fault, our liability for damages shall be limited to the foreseeable, typically occurring damage.

5. We shall also be liable according to the statutory provisions where the delivery delay due to our fault is due to any wilful violation of an essential contractual obligation; in this case, however, liability for damages shall be limited to the foreseeable typically occurring damage.

6. Apart from this, we shall be liable in case of delivery delay for any completed week of the delay in the scope of flat-rate damages at 0.5% of the value of the delivery, but no more than 5% of the value of the delivery in total. This rule shall not be applied to the cases named in number IV. 1. of these general terms and conditions. The cases named there shall be subject solely to number IV. 2.

7. Further statutory claims and rights of the customer shall be reserved.

8. Any grace period set by the customer for performance or subsequent performance must not undercut two weeks.

IV. Reservation of self-supply, force majeure and other impairment

1. We assume no procurement risk, except if expressly agreed. If we do not receive the delivery or service of our suppliers, do not receive them correctly or not in time for any reason not due to our fault, or if any events of force majeure occur, we shall inform our customers in writing in time. In this case, we shall have the right to delay delivery by the duration of the impairment or declare whole or partial rescission of the contract regarding the part of the contract that has not been performed yet, where we have met our above obligation to inform and have not assumed the procurement risk. E.g., strike, lockout, authority action, energy or raw materials bottlenecks, transport bottlenecks not due to our fault, operating impairment not due to our fault, e.g. by water, fire and machine damage, and any other impairment that has not been caused culpably by us at an objective view shall be equal to force majeure.

2. If a delivery date or delivery period has been bindingly agreed and is exceeded due to events according to para. 1, the customer shall have the right to declare rescission of the part of the contract that has not been performed yet after unsuccessful expiry of an appropriate grace period. There shall not be any further rights of the customer. The above circumstances shall not be due to our fault, even if they occur during an existing delay.

V. Acceptance Delay of the Customer

1. If the customer enters acceptance delay or culpably violates any other contribution obligations, we shall have the right to demand reimbursement of any damage resulting to us in this respect, including any additional expenses. Further claims are reserved.

2. If the necessary statutory requirements for rescission of the purchasing contract by Josef Kränzle GmbH & Co. KG are present due to acceptance default of the customer and if Josef Kränzle GmbH & Co. KG makes use of its rescission right, Josef Kränzle GmbH & Co. KG shall have the right to demand damages claims at a flat rate of 15% of the agreed net invoiced amount from the customer due to acceptance default. Assertion of any actually higher damage is reserved. In this case, the flat-rate damages claims shall be set off against the further delay damage. The customer shall have the right to prove that no or a lower damage has arisen.

3. Where the prerequisites of number V. 1 are present, the risk of accidental destruction or accidental deterioration of the purchased object shall pass to the customer at the time at which he has entered default of acceptance or debtor's default.

VI. Passing of risk

1. Where the confirmation of the order does not result to anything else, delivery „ex works" Illertissen (EXW – Incoterms 2010) is agreed. If dispatch delays due to circumstances that are due to the fault of the customer, the risk shall pass to the customer from the day of readiness for dispatch.

2. Transport and any other packaging according to the proviso of the packaging regulations shall not be taken back, except for Euro pallets. The customer is obliged to ensure disposal of the packaging at his own expense.

3. If the customer wishes, we shall cover the delivery by transport insurance; the customer shall assume the costs that arise in this respect.

VII. Prices – payment conditions

1 Where our order confirmation or any other written agreement does not indicate anything different, our prices shall apply net, „ex works" Illertissen, excluding packaging; this shall be invoiced separately.

The statutory VAT shall not be included in our prices; where arising according to the law, it shall be indicated separately in the invoice at the statutory amount on the day of invoicing.

2. Deduction of discount shall require special written agreement.

3. We shall calculate the prices agreed at conclusion of the contract, which are based on the cost factors valid at that time. If these cost factors, specifically for material, wages, freight, fees, etc. change between conclusion of the contract and the agreed delivery time, we shall have the right to perform the corresponding price change.

4. Where our order confirmation or any other written agreement does not indicate anything different, our prices shall apply net (without deduction) and be due for payment within 30 days from the date of the invoice and receipt of the invoice. The day of payment shall be the date of receipt of the money by us or crediting to our account.

5. Setoff and retention rights shall be due to the customer only if his counterclaims have been legally validly determined, are undisputed or recognised by us. The customer must only assert a right of retention due to counterclaims from the same delivery/service.

6. If the customer enters into default with payment or if any circumstances are known or recognisable that give rise to justified doubt of the creditworthiness of the customer according to our diligent commercial discretion, including those facts that were already present at the time the contract was entered into, but that were not known or did not have to be known to us yet, or that have become recognisable after the contract was entered into, we shall in this case be authorised notwithstanding any further rights to demand continuation of work on current orders or to cease delivery and demand advance payment or provision of appropriate collateral to be provided to us and to declare rescission of the contract notwithstanding any further statutory rights upon unsuccessful passing of an appropriate grace period.

7. During the default period the customer shall be obliged to pay interest on his debt owed to us at an interest rate of eight percent points per annum above the basic interest rate unless a higher rate of interest may be claimed for any other legal reason. The right to assert further damages shall remain unaffected.

8. The customer shall be obliged to reimburse us for any damage incurred by us by non-performance of the contract/s, including lost profit. If the necessary statutory requirements for rescission of the purchasing contract are present due to payment default of the customer and if Josef Kränzle GmbH & Co. KG makes use of its rescission right, Josef Kränzle GmbH & Co. KG shall have the right to demand damages claims at a flat rate of 15% of the agreed net invoiced amount from the customer due to payment default. Assertion of any actually higher damage is reserved. In this case, the flat-rate damages claims shall be set off against any further default damage. The customer shall have the right to prove that no or a lower damage has arisen.

VIII. Liability for defects

1. The customer's claims to defects require that he has properly met his examination and complaint obligations owed according to § 377 German Commercial Code.
The goods shall be examined without delay after receipt of the delivery. Recognisable defects shall be reported without delay upon receipt of the delivery and hidden without delay after discovery, in writing and including the most detailed description of the defect that is possible.

In case of used goods, we shall not assume any liability for defects, with the exception of damages claims and user damages claims according to § 284 German Civil Code.

Recognition of defects of material shall always require written form.

2. We shall have the right to subsequent performance in the form of removal of defects or for the delivery of a new object free of defects if the purchased object has any defects. In case of removal of defects, we shall only assume expenses to the amount of the purchased price of the defective product.

Defects due to the customer's fault and unauthorised complaints shall be removed by us on the order and at the expense of the customer if the customer is a merchant.

3. If subsequent performance fails or if we refuse subsequent performance, the customer shall at his choice have the right to demand rescission or reduction.

4. The period of expiration of statutory claims to defects shall be one (1) year from passing of the risks. The period of expiration of a delivery recourse according to §§ 478, 479 German Civil Code shall remain unaffected; it shall be five years from the time of delivery of the defective object.

IX. Scope of liability, exclusion of liability and limitation of liability

1. We shall be liable according to the statutory provisions if the customer claims damages due to violation of obligations, violation of essential contractual obligations or culpable impossibility due to wilful intent or gross negligence, including wilful intent or gross negligence of our representatives or servants. This shall also apply if any other obligations in the sense of § 241 para. 2 German Civil Code are violated and this leads to our service no longer being reasonable for the customer. Where we are not at fault for any wilful contract violations, the liability for damages shall be limited to the foreseeable, typically occurring damage.

2. Where the customer is due a claim for reimbursement of damage instead of performance, our liability shall be limited to reimbursement of the foreseeable, typically occurring damage.

3. Liability for indirect damage and consequential damage from defects shall be excluded unless we have violated any essential contractual obligation or we, our executives or servants are to blame for wilful or grossly negligent violation of obligations.

4. Our liability due to culpable violation of life, body or health shall not be affected; this shall also apply to mandatory liability under the product liability act or any other mandatory liabilities according to the law.

5. In other cases, we shall not be liable against any claims asserted against us for damages or reimbursement for expenses from this contractual relationship due to culpable violation of obligations for any legal reasons in case of slight negligence.

6. In case of the above liability in no. 3 and liability without fault, specifically in case of impossibility and legal defects, we shall be liable only for the foreseeable typically occurring damage.

7. The liability exclusions or limitations acc. to the above paragraphs apply at the same scope to the benefit of executives and other employees and any other servants and our subcontractors.

8. Reversion of the burden of evidence shall not be connected to the above provisions.

9. Where nothing deviating is provided for above, our liability shall be excluded - without consideration of the legal nature of the asserted claim.

X. Manufacturer recourse

As reseller, the customer shall receive a flat-rate specialist trade discount for all ordered goods and in return shall waive the rights due to him according to § 478 para. 2 German Civil Code to reimbursement of expenses that he had to bear in the relationship to his customers according to § 439 para. 2 German Civil Code during measures for subsequent performance in the relationship with consumers. This discount shall be an equal compensation in the sense of § 478 para. 4 German Civil Code.

XI. Reservation of title

1. We reserve title in the purchased object until receipt of all payments from the present current accounts relationship (business relationship) with the customer; the reservation shall refer to the balance recognised by us. In case of conduct of the customer in violation of the contract, specifically in case of payment default, we shall have the right to take back the purchased object. Taking back of the purchased object shall not include rescission of the contract, except if it is declared by us expressly in writing. Seizing of the purchased goods by us shall always include rescission of the contract. We shall have the right to utilise the purchased object upon taking it back; the revenue from utilisation shall be set off against the liability of the customer - minus appropriate utilisation costs.

2. In case of forced execution measures or other access by third parties, the customer shall inform us in writing without delay so that we can raise a claim according to § 771 ZPO. Where the third party is unable to reimburse us for the court and out-of-court costs of a claim according to § 771 ZPO, the customers shall be liable for the failure that has arisen to us. The customer shall inform us of any damage to and owner changes of the purchased object as well.

3. The customer shall have the right to sell on the purchased object in the proper course of business; however, he hereby assigns all claims at the height of the final invoiced amount (including VAT) of our claim that arise for him against his purchasers or third parties from selling on the object to us, independently of whether the purchased object has been sold on with or without processing. The customer shall remain authorised to collect this claim even after the assignment. Our right to collect the claim ourselves shall not be affected by this. However, we commit to not collecting the claim while the customer meets his payment obligations from the received revenue, does not enter default of payment and if specifically no application for opening of insolvency proceedings regarding his assets have been filed or the customer has ceased making payments. If this is the case, however, we shall have the right to demand that the customer discloses to us the assigned claims and their debtors, provides all information required for collection, submits the associated documents and informs the debtors (third parties) of the assignment.

4. Processing or conversion of the purchased object by the customer is always performed by us. If the purchased object is processed with other objects that do not belong to us, we shall acquire joint property in the new object at the ratio of the value of the purchased object (final amount of the invoice including VAT) to the other processed objects at the time of processing. Apart from this, the object resulting from processing shall be subject to the same rules as the purchased object delivered subject to retention of title.

5. If the purchased object is inseparably mixed with other objects that do not belong to us, we shall acquire co-property in the new object at the ratio of the value of the purchased object (final invoiced amount, including VAT) to the value of the other mixed objects at the time of mixing. If mixing takes place in such a manner that the customer's object is to be considered the main object, it is agreed that the customer shall grant us a pro-rated co-property. The customer shall keep the sole or co-property resulting in this manner for us.

6. The customer also assigns any claims against a third party that result from combination of the purchase object with land to us to secure our claims against him.

7. We commit to releasing the collateral due to us again on request of the customer where the value that can be realised from our collateral exceeds the claims to be secured by more than 10 %; selection of the collateral to be released shall be due to us.

XII. Place of Performance, Jurisdiction, Applicable Law, Effectiveness, Miscellaneous

1. The place of performance for deliveries and payments shall be the seat of Josef Kränzle GmbH & Co. KG in D-89257 Illertissen.

2. The law of the Federal Republic of Germany shall apply under exclusion of the reference standards; application of the UN purchasing law shall be excluded.

3. If the customer is a merchant in the sense of the German Commercial Code or has no general place of jurisdiction in the country, the seat of Josef Kränzle GmbH & Co. KG in D-89257 Illertissen shall be the exclusive place of jurisdiction for any disputes resulting from this contract, including any cheque, bill of exchange and document processes. We reserve the right to raise a claim against the customer before the court relevant for his place of resistance as well.

4. If individual provisions of the contract with the customer, including these general terms and conditions, are or become wholly or partially invalid, this shall not affect the validity of the remaining provisions. The wholly or partially invalid provision shall be replaced by a provision that comes as close as possible to the invalid one in its economic success.

Version as of 01 October 2013

- **High-pressure cleaners**
- **Industrial vacuum cleaners**
- **Manual powered sweepers**

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