

Terms of Delivery and Payment of KAMAKA Electronic GmbH

The following is an English translation for information purposes only. For all legal purposes reference should be made to the German original.

1. General information

The following terms of delivery and payment are valid for the whole business relation with our customers. Our deliveries and services will only be carried out under the following conditions of sale. Different conditions of the customer will only be binding on us if we accept them in writing. With this, general standard terms and conditions of the customer are contradicted.

2. Scope

2.1 Our deliveries, services and offers will only take place on the basis of the following conditions of sale and payment. Our terms of delivery and payment will also be valid for all future business relations, even if they are not explicitly agreed again. By the receipt of the good or the service, these conditions are regarded as accepted

2.2 Different or additional conditions of the customer, which we do not explicitly accept in writing, are not binding on us, even if we do not explicitly contradict them. All agreements between the customer and KAMAKA need to be in writing at the time of contract conclusion. This is also valid for the waiver of this formal requirement.

3. Quotation and completion of a contract

Our quotations are conditional offers and are valid 30 days after tendering. Our delivery suggestions are non-binding and only contain demands for offers by the purchaser. Completions of the contract and other agreements, especially oral ancillary restrictions and assurances of our sales employee will only be binding by written confirmation of our management.

4. Prices

Our prices are ex stock and do not include packaging, freight, insurance, duties and VAT. In case of a change of the valid rate of duty at the moment of import, plus in case of fluctuation of currencies, we are allowed to appropriately advance the prices named in the confirmation of order. The price adapted in this way does not serve for increasing the profit and is, thus, based on the same calculation base as the original.

5. Delivery

5.1. The shipping of the good will always be carried out on behalf of the customer and at the customer's own expense through a conveyer at seller's option. The buyer shall bear the price risk as soon as the goods have been handed over to the person entrusted with the shipment; then, he shall also bear the risk for accidental disappearance or accidental deterioration of the goods. We deliver with FCA Aalen Incoterms® 2010 without insurance, packaging costs, loading and transport costs. At the moment of receipt, the customer has to immediately inspect the goods for transport damages. Any damages have to be immediately reported in writing to the supplier and to the conveyer.

5.2. The delivery dates and deadlines mentioned by the supplier are only approximately and non-binding on him, so that all customer's claims for damages due to non-compliance of delivery deadlines are excluded. Deliveries occur in accordance with the statutes of our operational conditions. We do not offer a guarantee for the observance of any delivery date. The delivery deadline begins with the day of issue of the confirmation of order. All delivery obligations are with reservation of own punctual delivery. The observance of the delivery deadline requires the fulfillment of the contractual obligations of the customer. Firm deals need our explicit confirmation. Partial deliveries are permissible, unless, they are not reasonable for the customer.

5.3. The delivery deadline is extended by the duration of the disturbance or we are, under the exclusion from claims for damages, allowed to withdraw from the contract, in case of industrial dispute, especially in case of strike and lockout, as well as in case of unforeseen obstacles which lie outside the sphere of influence, especially in case of occurrence of force majeure or fabrication disturbances, as far as such obstacles have provable

influence on the completion and delivery of the goods. After a fruitless process of an appropriate additional period of time, the customer can withdraw from the order if our delivery dates have not been kept. Further claims and enforcement of consequential costs are not permissible. Customer's claims for damages due to delay or non-fulfillment are excluded.

5.4. Make-and-hold-orders will be delivered within a period of one year after having received the confirmation of order.

6. Payment

6.1. Invoices shall always be due 30 days after invoicing, unless something else is not explicitly arranged. The customer may only claim an agreed discount if he is not in delay with other payments. All of our claims immediately fall due if the terms of payment are not fulfilled or we get to know about circumstances which reduce the customer's creditworthiness. In that case, we are also allowed to carry out the undetermined deliveries only against payment in advance and, in case that this payment in advance will not be guaranteed, we are allowed to withdraw from the contract, after an appropriate period of time, or we are allowed to claim damages for non-performance. Besides, we can prohibit resale and the processing of the delivered goods and we can demand their return at the customer's own expense. A change of a firm's name or a change in general on the part of the legal entity of the customer, allow us to withdraw.

6.2. If the customer defaults on payments, KAMAKA is, disregarding more extensive claims, allowed to demand interest for delay in the amount of 8% per year calculated above the base interest rate, without proof. We reserve the right to prove damage caused by default and to make claims. The customer is authorized to prove KAMAKA that no or only a very little damage for KAMAKA results from the default in payment.

6.3. In case that the period between the conclusion of the contract and the delivery date is more than one month and our procurement costs increase after the completion of the contract and before the provision of the goods, KAMAKA reserves the right to increase the agreed price by the same amount through unilateral explanation. In that case, the customer is allowed to withdraw from the contract (right of notice and right of withdrawal); provided that KAMAKA receives the respective explanation within 6 working days after the notification of the price increase.

6.4. In order to receive a uniform bulk discount, the customer has to take the ordered goods within 12 months after the date of the order. The guarantee of the bulk discount only occurs with the reservation that the delivery on call of the respective amount is punctual.

6.5. The customer can only assert setoff rights if his counterclaims are lawfully identified, undisputed or recognized by KAMAKA. The customer cannot assert his right of retention due to complaints about the delivery or due to denied counterclaims.

7. Reservation of ownership

7.1. Until the final payment of all claims of KAMAKA, which arose from the basis of all business relations and of those who will still arise, the delivered goods remain property of KAMAKA (in the following: goods subject to retention of title). In the case of several claims or current bills, the reservation of ownership is meant for the securing of the payment balance request even though single deliveries of goods have already been paid.

7.2. Goods subject to retention of title must be stored separately from other stocks of the customer.

7.3. The customer is allowed to sell the goods subject to retention of title in ordinary course of business. Pledging or chattel mortgage of the good through the customer is not permissible before the acquisition of property took place. Now, for safety reasons, the customer fully signs over all claims (including all payment balance request from current account) resulting from the resale or any other cause in law (insurance, tort) regarding the goods subject to retention of title to KAMAKA, no matter if the goods subject to retention of title will be sold without or after processing. KAMAKA is allowed to revocably collect claims, which have been signed over to KAMAKA, by KAMAKA itself. The direct debit authorization becomes invalid if the customer does not fulfill his payment obligations regarding the goods subject to retention of title towards KAMAKA, if he gets into financial difficulties, if compulsory execution measures are taken against him or if judicial insolvency proceedings regarding his capital are opened or if the opening of the insolvency proceedings is rejected because of lacking mass.

7.4. In case that third parties have access to the goods subject to retention of title, the customer has to indicate the property of KAMAKA and to inform KAMAKA in writing. He also has to immediately inform KAMAKA about all damages of the goods subject to retention of title.

7.5. A procession or working on the goods subject to retention of title through the customer always occurs in terms of §950 BGB. In case of a processing of the goods subject to retention of title with other objects, which do not belong to us, we acquire co-ownership on the new thing in proportion to the invoice value of the goods subject to retention of title to the invoice value of the other finished goods.

7.6. In case of behavior contrary to contract on behalf of the customer, KAMAKA is allowed, after withdrawal of the contract, to demand the surrender of the goods subject to retention of title or, if necessary, KAMAKA is allowed to demand the customer's claim for restitution towards a third party.

7.7. If the value of all securities is 20% beyond the secured claims from deliveries and contracts, the customer is allowed to demand the release of securities at KAMAKA's option.

8. Warranty and notice of defects

8.1. The manufacturing of our articles is based on acknowledged rules of technique; therefore, they have the guaranteed properties and do not have failures which reduce their usual value or their usual suitability or their usage as required in the contract. Yet, even with rules of technique, failures are not avoidable. Thus, it should be in the customer's interest to do receiving inspections. If special inspections should be done by us, this has to be laid down in a contract.

8.2. After receipt of the goods, they should be inspected according to commercial principles. If defects can be detected, they have to be indicated in writing two weeks after delivery, indiscernible defects have to be notified in writing two weeks after their discovery, at the latest with the passing of the agreed guarantee. In case of legitimate notice of defects, we have the choice to either improve the defective product or replace it. Hereby, the customer has to give us an appropriate period of time and opportunity, especially to enable us to offer the goods about which there have been complaints, otherwise, his claims become invalid. If we will not or not in time fulfill our obligation to remedy effects or to replacement, the customer has conversion privilege or the right of reduction, but not the right of compensation.

8.3. The submission of the defective goods to KAMAKA has to be in original or professional packaging. If the complaints were wrong, we are allowed to charge the customer the costs for dispatch and a payment for the quality control. Improper changes and repairs on behalf of the customer or a third party cancel our warranty.

8.4. If the sold goods lack a guaranteed property at the moment of passing of a risk, the customer has the right to withdraw. The customer can only demand compensation due to non-fulfillment, if an agreed promise to that purpose occurred in order to cover himself in this regard.

8.5. All claims against us in connection with the delivery of defective goods become statute-barred according to the legal regulations.

9. General limitation of liability

9.1. Claims which are not explicitly granted in this terms of delivery and payment, especially claims for compensation due to force majeure, delay, breach of contractual ancillary obligations, negligence in contracting, tort- also if such claims are in connection with the customer's warranty claims- are excluded, unless we are urgently liable in cases of intent or gross negligence. We are not liable for damages, which did not arise on the deliverable itself. In particular, we are not liable for lost profit or any property loss of the customer.

9.2. Our liability for consequential damages is excluded in case of lack of permissible properties of goods delivered by us. We are only liable, in this respect, that our supplier grants us liability.

9.3. We are not liable for delay in delivery or total or partial non-delivery due to any unforeseen events which we or our supplier cannot control.

10. Cancellation of contract

10.1. In case of unforeseen events, especially in terms of §5 of the terms of delivery and payment, insofar that they have economic meaning or change the content of efficiency heavily or if they have big influence on our company, as well as for an impossibility of performance of our delivery obligation, which comes later to light, the respective delivery contract has to be appropriately adapted.

10.2. As far as this is economically justifiable, we have the right to totally or partially cancel the contract, without being responsible for claim for damages.

10.3. If a customer's cancellation of an order is accepted by us, we can demand compensation for the incurred expenses and the lost profit from him.

11. Export restraints

The customer's export of KAMAKA's goods and information given by KAMAKA is obliged to follow the relevant export regulations of his native country and those of the United States of America. Besides, his customers also have to follow the same obligations, disregarding the other regulations of this contract and terms and conditions. The customer is the only one who is liable for those breaches.

12. Patent law and copyright

KAMAKA reserves all proprietary rights and copyrights to circuit diagrams, drawings, illustrations, designs, descriptions, reports, analyses and similar documents made available for the customer. Without our written consents, the respective documents may not be made accessible to third parties. The copying without our prior explicit agreement is prohibited, too. Possibly made copies have to be handed over to us immediately if we demand it.

13. Place of performance, place of jurisdiction and choice of law

13.1. KAMAKA Electronic GmbH Aalen is the place of performance and the only place of jurisdiction for deliveries and payments (including actions on check and actions on a bill of exchange), as well as for any legal disputes between parties.

13.2 For the terms of payment and delivery and the whole legal relations between us and the customer, only the right of the Federal Republic of Germany is valid; the application of the United Nations Convention on the International Sale of Goods shall be excluded.

14. Severability

In case of ineffectiveness of any of these provisions, we are allowed to replace the ineffective provision by an effective regulation of which economic success is roughly similar to that of the ineffective provision. The effectiveness of all other provisions or agreements remains unaffected.