

A. GENERAL TERMS OF BUSINESS

§ 1 General

(1) These General Terms of Sale apply only to businesses, legal entities constituted under public law and special public funds within the meaning of § 310 Para. 1 of the German Civil Code (BGB).

(2) These Terms of Sale shall apply exclusively. Deviating or conflicting terms are not recognised by us unless expressly accepted by us in writing.

(3) Any contract and any contract amendment or supplement between the parties shall be concluded in writing. For all agreements concluded between the parties (new contracts, contract amendments, other ancillary agreements) which do not comply with the written form requirement, each party may request a copy of the agreement to be signed by both parties.

(4) These Terms of Sale shall also apply to all future transactions between the parties, even if goods are supplied by us in awareness of deviating or conflicting terms proposed by Purchaser.

§ 2 Offer and acceptance

(1) Our offers, price lists, etc. are always without obligation.

(2) All details relate to goods of average nature and quality. Samples are deemed to be average specimens.

§ 3 Prices, payments

(1) Unless otherwise expressly agreed, our prices are ex works Edewecht, plus turnover tax and value added tax at the statutory rate as applicable and exclusive of the costs of packing, freight, customs and other fees and duties. Packing costs are charged as incurred.

(2) Agreed discounts apply exclusive of the costs of packing, freight and such like. No discounts are granted on tool costs or work performed on contract.

(3) The minimum net invoice value required to qualify for carriage-free delivery to the agreed location and the level of small-volume surcharges are as detailed in the applicable price list. This forms part of our Terms of Sale and in case of need should be requested by Purchaser. Volume freight, overlength surcharges and the additional costs of particular shipment methods requested by Purchaser are payable by the latter.

(4) Unless expressly agreed otherwise, sale prices and all offers and calculations are stated in EUR.

(5) The purchase price is due for payment net within 30 days of invoicing. Sums that are overdue will attract default interest at 9% above the respective base rate. We reserve the right to assert more extensive claims for damages arising from default.

(6) All tool costs (= for initial tools and tool modifications, testing and maintenance) are payable by Purchaser. In the case of initial tools and tool modifications, these costs are payable half with order and the remainder following despatch of outturn samples, or otherwise within 10 days of invoice date without deduction. There shall be no entitlement to reimbursement for non-purchase of goods. Tools remain in our possession.

(7) Our sales staff and representatives are not entitled to collect payments without express written authorisation.

(8) In the event of failure to comply with the terms of payment or in case of circumstances likely to reduce the creditworthiness of Purchaser, all accounts payable to us will fall due immediately. In addition, in such event we shall be entitled to demand payment in advance for any deliveries still outstanding. Following a reasonable period of grace, we may then withdraw from the contract or demand compensation for non-fulfilment; we may also prohibit Purchaser from reselling the goods and recover goods as yet unpaid for at Purchaser's expense.

(9) In the event of non-compliance with the terms of payment on grounds for which Purchaser is responsible, or if Purchaser on grounds for which Purchaser is responsible is more than 14 days overdue in making a payment, Purchaser shall be deemed to be in default without further warning. In the event of default interest will be charged in the amount of the usual costs of short-term bank loans, subject to a minimum of 9% above base rate per annum.

(10) In case of withdrawal, Purchaser shall be required, the provision contained in § 323 Para. (4) BGB notwithstanding, to pay our costs of financing, commission and repossession including legal costs.

§ 4 Price adjustments

Should there be a substantial variation in the prices of input materials (in a bandwidth of +/- 15% within 6 months, of KI-WEB base for S-PVC components), the contracting parties shall enter into discussions to obtain an adjustment to the purchase price that is acceptable to both sides.

§ 5 Set-off, retention

Purchaser shall only be entitled to make set-off provided that counterclaims by the latter are undisputed or recognized by declaratory judgment. Rights of retention shall accrue to Purchaser only on the basis of undisputed counterclaims arising from the same contractual relationship.

§ 6 Delivery

(1) Delivery is subject to due and proper fulfilment of the obligations on the part of Purchaser in good time. The right is reserved to cite non-fulfilment of contract.

(2) In case of delayed acceptance or other negligent breach of Purchaser's duty to cooperate, we are entitled to receive compensation for resulting loss or damage, including any additional costs. The right is reserved to assert more extensive claims. In such case the risk of accidental loss or accidental deterioration of goods transfers to Purchaser at the time acceptance is delayed or other duty infringed.

(3) Indicated delivery times are not guaranteed. Purchaser shall be entitled to set a final time limit only in the event that a binding delivery deadline specified in the order confirmation is exceeded.

(4) Should we become aware subsequent to entry into contract of circumstances that might negate the creditworthiness of Purchaser and pose a serious risk to our payment claims, we shall be entitled to withdraw from the contract. The right to withdraw shall also apply if despite a corresponding transaction being entered into, for reasons for which we are not re-sponsible our supplier fails to supply.

(5) We are entitled to make part-deliveries and submit corresponding part-invoices.

(6) We reserve the right to prior sale of goods described by us as in stock.

(7) Parts to be supplied by Purchaser must be delivered free works and unencumbered by third-party rights.

(8) Deliveries of goods manufactured to special order are additionally subject to the Supplementary Terms of Supply.

§ 7 Transfer of risk, consignment

(1) When goods are consigned at Purchaser's request, the risk of accidental loss or accidental deterioration of the goods transfers to Purchaser at the time of despatch.

(2) Goods are at all times consigned or stored following notification of readiness for consignment on Purchaser's account and at Purchaser's risk, even in case of carriage-free delivery. Transport insurance will be arranged by us only upon written request and at the expense of Purchaser.

(3) In the absence of special agreements, the method of shipping, means of transport and type of packing will be selected at our discretion, to the exclusion of any liability on our part.

§ 8 Reservation of title

(1) Goods shall remain our property until such time as all payments due for this as well as previous deliveries are received in full. In case of current account invoices, reservation of title shall serve as security for our final claim. Should Purchaser be in breach of contract, including in default of payment, we shall be entitled to take back the goods.

(2) For as long as goods remain our property, Purchaser shall treat the same with care, arrange adequate insurance and where necessary maintain the same.

(3) Until such time as the purchase price has been paid in full, Purchaser must notify us immediately in writing if the goods become encumbered with third-party rights or exposed to other third-party interventions.

(4) Purchaser is entitled to resell goods that are subject to reservation of title in the normal course of business. In such case, however, Purchaser here and now assigns to us all claims arising from such resale, irrespective of whether the goods are resold before or after being processed in any way. Without prejudice to our entitlement to collect the claim ourselves, Purchaser nevertheless remains entitled even after assignment to make collection. In this context we undertake not to collect the claim for as long as and insofar as Purchaser complies with payment obligations, does not apply for insolvency or similar proceedings, and does not cease to make payments.

(5) Claims assigned in advance may be collected by Purchaser only on our behalf. Purchaser is obliged on demand to notify us of the address of the third-party debtor and confirm to the latter in writing that the claim has been assigned.

(6) Insofar as the above-mentioned securities exceed the claims to be secured by more than 10%, we are obliged at Purchaser's request to release securities of our choice.

(7) For as long as title is reserved by us, securities may neither be pledged nor transferred.

(8) We reserve title, copyright and other industrial property rights to all illustrations, drawings, estimates and other documents prepared by us. Purchaser may pass these on to third parties only with our prior written consent, irrespective of whether they have been marked by us as confidential.

§ 9 Warranty

(1) All warranty entitlements on the part of Purchaser are subject to due and proper fulfilment of all obligations pursuant to § 377 of the German Commercial Code (HGB) to examine goods and report complaints. As soon as any defect becomes at least discernible during subsequent use of goods supplied – without further investigation – Purchaser must notify us in order to preserve Purchaser's warranty entitlements. Defects must be reported to us in writing.

(2) Warranty claims, with the exception of claims pursuant to § 309 No. 8 Letter b BGB et seqq, for which a statutory time limit applies, must be asserted within 12 months of the transfer of risk.

(3) Concealed defects may be reported at the latest prior to processing or use of the goods. This clause does not however apply to defects for which we are at fault.

(4) Rectification does not constitute grounds for a new warranty period; the original warranty period commencing with initial delivery continues to be applied.

(5) In case of defective goods, Purchaser has the right to a cure in the form of either rectification of the defect or supply of goods that are without defect, at our discretion. Should the cure fail, Purchaser is entitled either to reduce the purchase price or withdraw from the contract

(6) Replacement goods are supplied subject to all of the terms of this contract in respect of warranty, liability and time limits.

(7) Purchaser may not assert rights in case of defects insofar as an unreasonably large proportion of the due payment relative to the defect remains in arrears.

(8) We give no guarantee that the goods supplied are suitable for the purpose stated or intended by Purchaser. It is the responsibility of Purchaser alone to verify the suitability of our products for the intended use. In respect of conformity between sample and supply as well as between multiple lots, our guarantee is subject to such tolerances as experience shows to be usual in rational production processes.

§ 10 Returned Sales / Return of goods

(1) KURO Kunststoffe GmbH is not obliged to take back goods delivered in accordance with the contract.

(2) As far as KURO Kunststoffe voluntarily agrees to take back delivered goods, the following conditions shall apply, subject to individual agreements:

1. The Buyer has to take over the costs for the return shipment.
2. A credit note for a return of goods is only made if the goods are in a perfect, resaleable condition.
3. All upcoming costs as a result of the return shipment for material control, cleaning, repackaging, etc. shall be borne by the buyer. These costs will be charged upon the actual effort, however at a Minimum of EUR 50,00 each return. The customer shall be free to prove lower costs.

§ 11 Liability

(1) In case of wilful intent or gross negligence on our part or on the part of our representatives or vicarious agents, we shall be liable as provided for by law. This shall also apply in case of negligent breach of material contractual obligations. Insofar as there is no wilful breach of cardinal contractual duties pursuant to § 307 II No.2 BGB, our liability for compensation shall be limited to the typically occurring loss or damage.

(2) Liability for negligent loss of life, physical injury or impairment of health remains unaffected, as does liability under the German Product Liability Act [Produkthaftungsgesetz].

(3) Industrial property rights in respect of samples made available to us by Purchaser for the purpose of executing an order will not be verified by us. Purchaser shall be solely liable for any infringement of third-party rights and all resulting consequential damages.

(4) Unless otherwise expressly provided for above, liability on our part is excluded.

§ 12 Applicable law, jurisdiction

(1) This contract is subject to the law of the Federal Republic of Germany. Application of the UN CISG is excluded, unless said application is expressly agreed.

(2) The place of fulfilment for both parties shall be our place of manufacture and supply in Edewecht, Germany.

(3) The exclusive place of jurisdiction in respect of all disputes arising from or in association with this contract shall be Edewecht.

§ 13 Miscellaneous

Should any individual provisions be invalid, this shall not affect the remaining provisions of our Terms and Conditions of Sale and Supply or of a contract concluded in reference thereto.

B. SUPPLEMENTARY TERMS OF SUPPLY FOR GOODS MADE TO SPECIAL ORDER

§ 1 Over- and under-deliveries

For goods made to special order, it is not always possible to comply precisely with the quantities ordered. Over- or under-deliveries as agreed in advance as a result of special production orders are therefore deemed to be permissible.

§ 2 Tolerances

(1) If no tolerances are specified in the enquiry, our offer will always be based on the corresponding DIN standard for the material offered, without need for specific reference thereto. Special tolerances must be specified separately

(2) Special requests such as straightness of tubes, concentricity, chamfering, internal diameter or colour may under certain circumstances entail higher production costs. In the event that after our offer is submitted or order confirmation despatched, specifications are subsequently received of which we were not aware when making our offer, we reserve the right to revise our estimates or withdraw from fulfilment of the (following) order.

(3) Special tolerances are noted in the order confirmation or upon subsequent supply with the remark "as usual". If this is missing, you are requested to notify us forthwith.

Privacy:

Our privacy policy in printable form is available on www.kuro-kunststoffe.de - chapter Privacy (<https://www.kuro-kunststoffe.de/datenschutz.html>).