

1. General

- 1.1. These General Terms and Conditions (hereinafter referred to as «GTC») form an integral part of all contracts on the sale, deliveries, and other services (including repairs) between Kisag AG (hereinafter referred to as «Kisag») and the customer or their legal successor, respectively (hereinafter referred to as «Customer»). They shall apply when the Customer acquires products of Kisag or uses services.
- 1.2. The Customer may not transfer to third parties any rights and duties arising from any contract, unless Kisag has given its written consent.
- 1.3. The GTC in the version applicable on the date of ordering shall apply. Kisag may make amendments to these GTC at any time, the new version of the GTC shall apply to all contracts concluded after they took effect. The applicable version of the GTC of Kisag will also apply to additional and/or subsequent orders of the Customer.
- 1.4. The GTC and other provisions of the Customer as well as understandings deviating from these GTC shall not be binding upon Kisag, unless they were explicitly approved by it, in writing. These GTC shall even apply exclusively, if Kisag performs the delivery or service without reservations in full awareness of opposing conditions or conditions deviating from these GTC.

2. Offer and Contract Conclusion

- 2.1. All offers of Kisag and the information, figures, etc. contained in price lists, printed materials, brochures and on the internet shall be non-binding, unless Kisag provides an explicit offer. Deviations from ordered products, in particular, regarding quality, colour, dimensions, etc. shall remain reserved.
- 2.2. Any offer prepared by Kisag shall be valid for 30 days.
- 2.3. If the Customer places a purchase order (by mail, phone, etc.), it shall apply as a request and shall be binding until it is accepted or not accepted by Kisag.
- 2.4. The contract will be deemed to be concluded when Kisag accepts the request. Stock goods and small orders will be accepted directly by sending the ordered product. Normally, no written order confirmation will be sent. A written order confirmation will be sent for major orders and special purchase orders.

3. Prices and Payment Terms

- 3.1. All prices are stated in Swiss Francs, unless otherwise specified. Prices on the gross price list for private customers are quoted including the value added tax. Prices on the net price list are specified excluding any value added tax. Ancillary costs such as e.g. shipping, packaging, transport or insurance costs, customs, export, transit, import and other costs shall be borne by the customer. The prices specified in the order confirmation shall apply, apart from typos, printing or calculating errors.
- 3.2. Kisag may change any and all prices, at any time, without announcement.
- 3.3. Unless otherwise agreed, a payment term of 30 days net from the invoice date shall apply in case of purchases on account. Kisag reserves the right to request a pre-payment. In case the invoice is not paid in due time, Kisag explicitly reserves the right to withdraw from the contract, to request a damage caused by delay and/or to assert claims for damages. Furthermore, Kisag shall be entitled to suspend the rendering of any and all services under existing contracts with the Customer and to block the Customer. Any set-off by the Customer is prohibited, unless the claims are recognised by Kisag, in writing, or were found to be valid by a court.

4. Terms and Periods of Delivery

- 4.1. Kisag shall be entitled to engage subcontractors and vicarious agents to perform the contractually agreed services. Partial deliveries are permitted and shall be received by the Customer. Kisag is only obliged to make deliveries from the existing inventory of goods. Kisag reserves the right to make a restriction of the delivery quantity for a specific product.
- 4.2. Kisag will inform, in writing, about items which can no longer be delivered or whose quantity and scope exceed the normal production rhythm. The right to make excess or short deliveries of the agreed quantity for technical reasons remains reserved.
- 4.3. Delivery periods are no fixed dates and a precondition is that the Customer meets their contractual obligations. Delivery periods are non-binding for Kisag, unless otherwise agreed. Any and all claims of the customer, including withdrawal from the contract for delayed delivery shall be excluded. Kisag shall in all cases not be liable for delays in delivery caused by force majeure or those attributable to third-party manufacturers or their logistics partners. Strike, lock-out, interventions by authorities, energy or raw material shortages, transport bottlenecks, operational or delivery impairments not attributable to Kisag, such as those caused by e.g. epidemics, pandemics, fire, water and machine damage and all other impairments which were not culpably caused by Kisag from an objective perspective shall be deemed to be equivalent to force majeure.

5. Transfer of Use and Risk, Transport Insurance

- 5.1. Unless explicitly otherwise agreed, benefit and risk will be transferred from Kisag to the Customer upon provision of the goods for shipment. The delivery will thus be made at the risk of the Customer. Kisag will not conclude any transport insurance, unless the Customer makes a written request and bears the relating costs. If the shipment of the goods is delayed or becomes impossible for reasons not attributable to Kisag, the goods will be stored at the expense and for the risk of the Customer.
- 5.2. Any and all claims for transport damage shall be asserted exclusively with the relevant forwarder.

6. Retention of Title

- 6.1. The goods will only become the property of the Customer after the full payment of the purchase price and of any ancillary costs and default interest.
- 6.2. In case of a pledge, arrestment or retention, the Customer must notify the collection or insolvency office about the property of Kisag and notify the latter immediately. Kisag shall be authorised to have the retention of title registered in the competent register at the Customer's expense and without their cooperation.

7. Warranty, Rights from Defects and Liability

- 7.1. All data, information and recommendations relating to the goods or the samples provided by Kisag will neither mean an explicit nor an implicit warranty for their suitability, customary quality, description or suitability for the purpose intended by the Customer.
- 7.2. The quality of the received goods shall be verified by the Customer immediately after their receipt. Defects or deviations from the purchase order shall be notified to Kisag, in writing, within five work days after the delivery by stating the exact complaint. Insufficient or delayed notices of defects will result in an ineffectiveness of the rights from defects. In case of an omission, the delivery and service shall be deemed accepted.
- 7.3. No warranty shall apply if the Customer changes the products themselves or has them changed by third parties or is unable to evidence that the defects complained about were caused by such changes, neither fully nor in part. No warranty shall apply if the Customer fails to use the product in a proper manner.
- 7.4. Kisag shall be entitled to remedy any defects which were complained about in due time (repair) or to replace the defective product (real replacement). No new claim for warranty shall apply to the goods repaired or replaced by Kisag.
- 7.5. Otherwise, any and all claims for warranty, in particular, annulment and reduction shall be excluded, such as the liability of Kisag for direct or indirect damage arising from the use of the goods, insofar as permitted by law and unless explicitly specified in these GTC. The same shall apply to the replacement of any damage incurred, directly or indirectly, by the Customer which arose from a defective delivery.
- 7.6. Kisag shall be liable solely for direct damage caused by an intentional or grossly negligent act performed by Kisag. Any liability of Kisag for direct damage in case of slight fault shall explicitly be excluded, notwithstanding any mandatorily applicable legal provisions. Any liability of Kisag for indirect damage, damage caused by negligence or for subsequent damage shall be excluded. The liability for vicarious agents of Kisag is excluded to the extent permitted by law.
- 7.7. Kisag will not assume any liability nor warranty for the correctness, scope, topicality of the information, products, and services of third parties provided and for any possible copyright violations of third parties.
- 7.8. The amount of any liability of Kisag shall in any case be limited to the amount of the agreed price for the relevant contract.

8. Brand, Property Rights, and Product Modifications

- 8.1. The trade name, brand and other product identifications of Kisag must not be removed, obscured or otherwise modified without Kisag's explicit written consent.
- 8.2. All tools are the property of Kisag, unless otherwise agreed.

9. Data Protection

- 9.1. Kisag undertakes to comply with the applicable rules of data protection. The Customer explicitly agrees that Kisag stores, edits, assesses any product-related and personal data pursuant to the legal provisions and that they may transfer them to affiliated companies during order handling and to any third-party companies engaged for order handling.
- 9.2. Kisag reserves the right to verify the data of the Customer for correctness and to reject any delivery of goods, if appropriate.

10. Premature Termination of the Contract

- 10.1. If any delivery of Kisag is impossible for reasons attributable to the Customer or if the latter violates any legal or contractual obligation, Kisag shall be authorised to withdraw from the contract, without a compensation. Kisag shall, in such case, be fully indemnified, including a compensation for lost profits.
- 10.2. In case of a premature termination of the contract by the Customer, Kisag shall be fully indemnified in any case, incl. compensation for lost profits.

11. Final Provisions

- 11.1. If any provision of these GTC proves to be invalid, ineffective, or unrealisable, the validity, effectiveness, and realizability of the other provisions of these GTC shall remain unaffected. In this case, the parties undertake to replace the invalid, ineffective or unrealisable part of the GTC by a valid, effective and realisable regulation the contents of which comes as close as possible to the GTC.
- 11.2. Place of fulfilment and place of jurisdiction shall be Bellach (Switzerland). Kisag explicitly reserves the right to assert its claims also before any other competent court. Swiss substantive law shall apply exclusively, to the exclusion of the conflict-of-law rules of the international private law (in particular the Vienna Sale of Goods Convention of 11 April 1980 and the Hague Convention on the law applicable to the international sale of goods as amended on 15 June 1955).