

## 1. Scope of application

- 1.1 Offers, deliveries and services by KWO Dichtungstechnik GmbH with its registered office in Grasbrunn, business address at 83135 Schechen, Am Eschengrund 3 (hereinafter referred to as "KWO"), to merchants, legal entities under public law or special funds under public law shall be made exclusively in accordance with these Standard Business Terms (hereinafter referred to as "SBT"), unless otherwise agreed in individual contracts.
- 1.2 This document, together with all other documents agreed between KWO and the customer, constitutes the undivided and sole agreement between the parties in relation to the supply and/or performance of goods and/or services (hereinafter referred to as "Goods") by KWO to the customer.
- 1.3 Unless otherwise expressly regulated in writing, the validity of any standard business terms (in particular purchasing conditions) of the customer is hereby expressly rejected. This applies irrespective of whether these are part of the scope of orders, order confirmations, specifications or similar documents or whether we carry out the delivery to the customer without reservation in the knowledge the customer's standard business terms that conflict with or deviate from these SBT.
- 1.4 Changes to the agreements made, including these SBT, must be made in writing in order to be effective.

## 2. Offer and conclusion of contract

- 2.1 The conclusion of the contract between KWO and the customer requires confirmation by KWO in order to be legally effective. The confirmation can be made in writing, by fax or by e-mail. If the customer's order is to be qualified as an offer within the meaning of section 145 of the German Civil Code (hereinafter referred to as "BGB"), we may accept it within two weeks. In the event of an offer submitted by KWO, the conclusion of the contract shall be effected by the customer's written acceptance.
- 2.2 Verbal agreements or agreements deviating from these SBT before and at the time of the conclusion of the contract are legally non-binding and shall be replaced by the aforementioned conclusion of the contract, unless it is expressly stated in individual cases from the verbal agreements that they shall continue to apply in a binding manner. A written contract or KWO's written confirmation shall be decisive for the content of such agreements.
- 2.3 Legally relevant declarations and notifications which are to be made by the customer to KWO after conclusion of the contract (e.g. setting of deadlines, notifications of defects, declaration of withdrawal or reduction) must be made in writing in order to be effective.
- 2.4 Information on the object of the delivery or service (e.g. weights, dimensions, load-bearing capacity, tolerances and technical data) as well as our representations of the same (e.g. drawings and illustrations) are only approximately authoritative, unless the usability for the contractually intended purpose requires an exact match. They are not guaranteed characteristics of quality by KWO, but descriptions or markings of the Goods. Deviations that are customary in the trade and deviations that occur due to legal regulations or represent technical improvements as well as the replacement of components with equivalent parts are permissible insofar as they do not impair the usability for the contractually intended purpose.
- 2.5 We reserve the property rights and copyrights to illustrations, drawings, calculations and other documents. This also applies to such written documents, which are designated as "confidential". The customer requires our expressly written consent before passing them on to third parties.

## 3. Prices and terms of payment

- 3.1 The prices result from our offer or the current price list made available to the customer.
- 3.2 Unless expressly agreed otherwise, prices are quoted in EURO ex works (EXW Incoterms 2020) in 83135 Schechen, Am Eschengrund 3, plus statutory value added tax, handling and other shipping costs, customs duties for export deliveries as well as fees and other public charges. Repackaging (e.g. cardboard boxes, wooden crates, crates or pallets) will be invoiced to the customer at cost price.
- 3.3 Insofar as the agreed prices are based on our price list current at the time of conclusion of the contract and the delivery is to take place more than four months after conclusion of the contract, the list prices valid at the time of delivery shall apply (in each case less any agreed percentage or fixed discount), insofar as these should have changed due to changes in raw material prices compared to the time of conclusion of the contract.
- 3.4 Unless expressly agreed otherwise, the first two orders of new customers are processed via the payment method cash in advance.
- 3.5 Unless expressly agreed otherwise, an additional surcharge of 35 EURO net will be charged for orders of less than 150 EURO (except for subsequent deliveries).
- 3.6 Unless expressly agreed otherwise, invoiced amounts are due for payment without deduction within thirty days of the invoice date.

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- 3.7 We reserve the right to charge the statutory interest pursuant to section 288 (2) BGB in the amount of nine-percentage points p.a. above the currently valid base interest rate in the event of payment default without any further request for payment or reminder. Furthermore, we shall charge a one-off flat rate of 40 EURO in the event of payment default.
- 3.8 Offsetting with counterclaims of the customer or the retention of payments is only permitted insofar as the counterclaims are legally established, undisputed or acknowledged by KWO. Furthermore, the customer shall only be entitled to exercise a right of retention insofar as this is in reasonable proportion to a defect in the Goods and the anticipated costs of subsequent performance by KWO (see clause 4.8 below) and a counterclaim of the customer is based on the same contractual relationship.
- 3.9 KWO shall be entitled to execute or provide outstanding deliveries or services only against advance payment or provision of security if, after conclusion of the contract, KWO becomes aware of circumstances which are likely to substantially reduce the creditworthiness of the customer and as a result of which payment of KWO's outstanding claims by the customer from the respective contractual relationship (including from other individual orders to which the same framework agreement applies) is jeopardised.
- 3.10 If the customer is in default in acceptance, KWO is entitled to issue an invoice for Goods ready for dispatch.

#### **4. Delivery**

- 4.1 Deliveries shall be made - unless expressly agreed otherwise - ex works in 83135 Schechen, Am Eschengrund 3 (EXW Incoterms 2020), which is then also the place of performance. The risk shall pass to the customer when the Goods are handed over to the carrier; this shall also apply in the event of justified partial deliveries. If the dispatch or the handover is delayed due to a circumstance the cause of which lies with the customer, the risk shall pass to the customer from the day on which the Goods are ready for dispatch and KWO has notified the customer of this.
- 4.2 Delivery dates stated by KWO are basically for planning purposes only and are non-binding unless expressly agreed otherwise. In the case of transactions for delivery by a fixed date within the meaning of section 286 (2) no. 4 BGB or section 376 of the German Commercial Code (hereinafter referred to as "HGB"), we shall be liable in accordance with the statutory provisions.
- 4.3 The commencement of a delivery period/delivery date stated by KWO presupposes the prior clarification of all technical questions, in particular the provision of necessary information, technical data, documents or approvals by the customer in connection with the Goods. The adherence to the delivery date further presupposes the fulfilment of all obligations of the customer. KWO is entitled to make partial deliveries.
- 4.4 If KWO is unable to meet binding delivery deadlines for reasons for which KWO is not responsible (e.g. force majeure or other events unforeseeable at the time of conclusion of the contract, for which KWO is not responsible, such as operational disruptions, difficulties in the procurement of materials or energy, transport delays, strikes, lawful lock-outs, shortage of labour, energy or raw materials, official measures, epidemics and pandemics), cannot be complied with (non-availability of performance), KWO shall inform the customer of this without delay and at the same time inform him of the expected new delivery date. In particular, a confirmed delivery date is subject to complete and timely delivery by KWO's own suppliers.
- 4.5 If such events make the delivery or service considerably more difficult or impossible for KWO and the hindrance is not only of temporary duration, KWO is entitled to withdraw from the contract. In the event of hindrances of temporary duration, the delivery or service deadlines shall be extended or the delivery or service deadlines shall be postponed by the period of the hindrance. Insofar as the customer cannot reasonably be expected to accept the Goods because of the delay, he can withdraw from the contract by immediate written declaration to KWO.
- 4.6 The customer shall be solely responsible and liable for the loading and unloading in an operationally and transport-safe manner in the event of self-collection or collection by a transport company commissioned by the customer. If KWO is involved in this beyond its contractual and legal obligations, this is purely a matter of courtesy. KWO does not thereby assume responsibility for loading and unloading in a manner that is safe for operation and transport. The customer shall indemnify KWO against claims asserted against KWO in this respect due to damage events resulting from loading, which is not safe for operation, or loading.
- 4.7 At the customer's request and expense, the Goods shall be shipped to another destination. The mode of dispatch and packaging shall then be subject to KWO's dutiful discretion, unless expressly agreed otherwise. The consignment shall only be insured by KWO at the express request of the customer and at the customer's expense. In the event of shipment at the request of the customer, the obligation to unload the Goods and associated risks shall be borne solely by the customer.
- 4.8 KWO shall only be entitled to make partial deliveries if
- (I) the partial delivery is usable for the customer within the scope of the contractual intended purpose,
  - (II) the delivery of the remaining ordered Goods is ensured and
  - (III) the customer can reasonably be expected to do so and this does not result in significant additional work or costs (unless KWO agrees to bear such costs).

## 5. Warranty and material defects

- 5.1 Unless otherwise agreed, KWO shall deliver Goods of customary quality.
- 5.2 The warranty period is 12 months from delivery or, if acceptance is required, from acceptance.
- 5.3 The customer shall duly fulfil his obligations to examine the Goods and to give notice of defects in accordance with section 377 HGB.
- 5.4 In the event of delivery of defective Goods, KWO shall first be given the opportunity to sort out and rectify the defect or make a subsequent delivery before commencing remedy or supplying a thing free of defects, unless this is unreasonable for the customer. If KWO cannot carry this out or if KWO does not comply with this immediately, the customer can withdraw from the contract to this extent and return the Goods to KWO at our risk.
- 5.5 If a defect is not detected until after the start of production, the customer may demand cure (at KWO's discretion by way of remedy or replacement).
- 5.6 If the customer wishes to claim damages in lieu of performance, the subsequent performance shall be deemed to have failed after the second unsuccessful attempt. In the event of a replacement delivery, the customer is obliged, within the scope of what is reasonable, to return the defective Goods upon request.
- 5.7 In the event of complaints, the customer shall immediately give KWO the opportunity to inspect the rejected Goods; in particular, the rejected Goods shall be made available to KWO upon request and at our expense. In the event of unjustified complaints, we reserve the right to charge the customer for the transport costs incurred as well as the inspection costs.
- 5.8 If an on-site inspection by KWO is not reasonable for one of the parties for reasons of time or cost (e.g. due to downtimes at the customer's premises), the customer shall take photographs of the product complained about in its use, which was the cause of the complaint, and make them available to KWO before replacing the Goods complained about. Claims due to defects do not exist in the case of only insignificant deviation of the Goods from the agreed quality, in the case of only insignificant impairment of the usability as well as if the defect is due to the violation of maintenance and installation or assembly instructions, unsuitable or improper use or storage, faulty or negligent handling or assembly, natural wear and tear or interventions in the Goods carried out by the customer/third parties.
- 5.9 The statements made by KWO regarding the products of KWO/Goods (in particular sealing values of the products in, for example, product sheets, on labels or in electronic media) ("product specifications") are based on our general experience and knowledge and are only indicative values or markings with values measured under laboratory conditions. The product specifications do not release the customer from testing the suitability for the intended use of the Goods. KWO expressly does not guarantee that the delivered Goods are suitable for the purpose or process intended by the customer.
- 5.10 The assertion of claims for damages by the customer because of defects in the Goods is also subject to the restrictions set out in clause 6 below.
- 5.11 Insofar as the provisions of this clause limit the statutory rights in respect of defects, these provisions shall not apply if KWO has fraudulently concealed the defect or has assumed a guarantee for the quality of the item.

## 6. Liability

- 6.1 KWO's liability for damages, irrespective of the legal grounds, is limited to damages, which KWO or our other persons who we use to perform our obligations have caused intentionally, through gross negligence or through breach of duties essential to the fulfilment of the purpose of the contract through slight negligence.
- 6.2 In cases of a slightly negligent breach of obligations essential for the fulfilment of the purpose of the contract, the liability of KWO shall be limited to the amount of damages typical for comparable transactions of this type which were foreseeable at the time of the conclusion of the contract or at the latest when the breach of obligation was committed.
- 6.3 Any further liability for damages than stipulated in the above clauses 6.1 and 6.2 is excluded, irrespective of the legal grounds.
- 6.4 Claims for damages according to the product liability law, due to the absence of a quality guarantee and due to injury to life, body or health remain unaffected.
- 6.5 A change in the burden of proof to the detriment of KWO is not associated with the above provisions.
- 6.6 The above exclusions and limitations of liability shall apply to the same extent in favour of KWO's executive bodies, legal representatives, employees and other persons whom it uses to perform its obligations.

## 7. Retention of title

- 7.1 We retain title to the Goods until full payment of all claims arising from the business relationship with the customer. In the case of a current invoice to the customer, the retained title shall be deemed security for our balance claim.
- 7.2 The customer is obliged to treat the Goods with care as long as ownership has not yet passed to him. As long as ownership has not yet passed to him, the customer must inform us immediately in writing if the delivered item is seized or exposed to other interventions by third parties. Insofar as the third party is not in a position to reimburse us for the court and out-of-court costs of an action pursuant to section 771 of the German Code of Civil Procedure (ZPO), the customer shall be liable for the loss incurred by us.
- 7.3 The customer is entitled to resell, process or mix the Goods only in the ordinary course of business; in doing so, the customer hereby assigns to KWO all claims arising from the resale, processing, mixing or other legal grounds in connection with the Goods (in particular from insurance contracts or tortious acts) in the amount of our existing purchase price claims (including statutory VAT). The use for the fulfilment of contracts for work and services or contracts for work and materials by the customer is equivalent to the sale.
- 7.4 We undertake to release the securities to which we are entitled at the request of the customer insofar as their value exceeds the claims to be secured by more than 20%.
- 7.5 Unless expressly agreed otherwise, tools and moulds shall remain the exclusive property of KWO even if the customer assumes pro rata costs based on the design service. There is no obligation to store them.

## 8. Choice of Law, Place of Jurisdiction, Data Protection and Prohibition of Assignment

- 8.1 The law of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (CISG), shall govern these SBT and all legal relations between KWO and the customer.
- 8.2 The prerequisites and effects of the retention of title pursuant to clause 7 of these SBT shall be subject to the law at the respective place of storage of the Goods, insofar as the choice of law made in favour of German law is inadmissible or ineffective thereafter.
- 8.3 The exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be Munich, Germany (Munich Regional Court I). KWO shall also be entitled, at its own discretion, to bring an action at the customer's general place of jurisdiction.
- 8.4 The customer is not entitled to transfer rights or claims arising from the contractual relationship to third parties or to assign them to third parties unless KWO has given its prior written consent.
- 8.5 The customer takes note of the fact that KWO stores data from the contractual relationship in accordance with the Basic Data Protection Regulation (DSGVO) for the purpose of data processing and reserves the right to transmit the data to third parties (e.g. insurance companies) insofar as this is necessary for the fulfilment of the contract.