

# GTC

1. General Terms and Conditions
2. General Purchasing Conditions

## **1. Textilveredelung Kunz-Textil GmbH General Terms and Conditions**

### **§ 1 Scope**

(1) The following General Terms and Conditions are valid for all agreements concluded between the company Textilveredelung Kunz-Textil GmbH (hereinafter called "Fa. Kunz") and the customer, concerning the delivery of goods and the processing of materials (contract processing). If not otherwise agreed, these terms will also be valid for future business.

(2) Deviating terms of the customer which are not explicitly acknowledged by Fa. Kunz are without obligation for Fa. Kunz, even if not explicitly contradicted. The following general terms and conditions are also valid if Fa. Kunz, in the knowledge of contradicting or deviating terms of the customer, implicitly executes the order of the customer.

### **§ 2 Offer and Conclusion of Contract**

(1) All Offers of the seller are non-binding and without obligation, if not explicitly denoted as binding or contain a given term of acceptance. Orders or commissions can be accepted by the seller within fourteen days after receipt.

(2) Sole legally binding for the legal relationship between seller and customer is the contract in writing between seller and customer, including the here given general purchasing conditions. It reproduces all agreements between the contracting parties concerning the object of the contract in full. Verbal agreements of the seller previous to the conclusion of this contract are not legally binding and verbal agreements of the contracting parties are replaced by the contract in writing, if it cannot be explicitly concluded that they will prevail firmly.

(3) Supplements or modifications of these agreements including these general terms of delivery will only be effective by written evidence. Except managing directors and procurators the employees of the seller are not able to enter into any deviating verbal arrangements. To comply with the required written form the transmission by fax is sufficient, whereas the transmission by telecommunication, especially via email, is not sufficient.

### **§ 3 Prices and payment terms**

(1) The prices of Fa. Kunz are ex works, including customary packaging, unless not otherwise provided in the confirmation of order. The legal VAT is not included in the prices. Fa. Kunz shall disclose this at the statutory rate on the invoice date separately in their invoice.

(2) Payments have to be made in agreement with the conditions stated on the invoice.

(3) If the purchaser does not satisfy his payment obligations, conventional interest can be charged. Payments are always applied to the oldest debt due including any interest charged on arrears. Payment is not considered made before Fa. Kunz can dispose of the amount in question. In case of payment by checks the payment will only be considered effected after irrevocable cashing of the check.

(4) The purchaser is only entitled to balancing, independent of complaints or possible counterclaims, if the counterclaims have been determined legally binding or beyond dispute or if Fa. Kunz explicitly did agree. The purchaser is only authorized to practice the right of retention in so far as his counterclaim is based on the same contractual relationship.

#### **§ 4 Period of Delivery and Performance**

(1) Delivery dates or deadlines that have not been explicitly agreed on as binding are solely guidelines. The period of delivery given by Fa. Kunz does not start before the technical questions are settled. Moreover, the purchaser must meet all his obligations correctly and completely.

(2) The seller does not take responsibility for the impossibility of deliverance or delay in delivery, so long as caused by force majeure or other events which were not foreseeable at the time of concluding the contract, (e.g. breakdowns in business operations, difficulties with the supply of materials or energy, delays to transportation, strikes, lawful lockouts, workforce, energy or raw materials shortages, difficulties in procuring official authorisations, official provisions or the absence, not orderly or non timely delivery by the suppliers), for which the seller does not have any responsibility. Should such events essentially hamper or in fact prevent the seller from performing its contractual duty, the obstacle being more than a temporary one, the seller is entitled to withdraw from the contract. In the event of impediments that are of temporary duration the deadlines for delivery or performance shall be extended or the delivery or performance dates plus an appropriate lead time. In so far as the customer cannot be expected to accept the supply or service as a result of the delay, the customer may withdraw from the contract by means of an immediate written notification to the seller.

(3) Fa. Kunz shall be entitled to make partial deliveries and render partial services at any time as far as this is deemed reasonable for the customer.

(4) Should the customer be in delay of acceptance Fa. Kunz shall be entitled to demand compensation of the loss suffered and any additional expenditure incurred. The same applies, if the customer culpably neglects his cooperation duties. Upon occurrence of the default of acceptance or default of the debtor, the risk of accidental deterioration and destruction passes to the customer.

#### **§ 5 Passing of risk, shipment, packaging and transport insurance**

(1) Loading and shipping shall take place at the risk and cost of the customer. The choice of the dispatch kind and way is left to the customer. Should the customer not expressly specify these, Fa. Kunz will carry out the selection to its reasonable discretion.

(2) On demand and cost of the customer Fa. Kunz may take out transport insurance for the goods delivered.

(3) The customer is obliged to inspect the goods delivered for damage caused in transit immediately upon delivery and to report to the transport company and Fa. Kunz any such damage immediately in writing by developing a shipping damage report.

(4) Fa. Kunz does not take back transport or any other packaging in accordance with the German Packaging Ordinance, with the exception of pallets. The customer shall dispose of all packaging at its own expense.

(5) Should the shipment be postponed at the customer's request or through the customer's fault, Fa. Kunz will store the goods at the customer's expense and risk. In this case notice that the goods are ready to be shipped shall be equivalent to the actual dispatch of the goods.

#### **§ 6 Warranty, Liability**

(1) Warranty is one year after delivery or if acceptance is agreed, one year from acceptance.

(2) The goods delivered have to be accurately inspected immediately after delivery to the customer or determined third parties. The goods are deemed to be approved if Fa. Kunz does not receive written notice of the defect - either immediately evident or recognised as a result of an immediate inspection, within seven workdays following delivery of the goods, otherwise within seven workdays after discovery of the defect or the time at which the defect became evident to the customer during normal usage of the delivered goods without closer inspection. Upon request of Fa. Kunz the rejected delivery item is to be sent back to Fa. Kunz free of delivery charges. Should the notice of defects be justified, Fa. Kunz will reimburse the costs of the cheapest way of dispatch; this does not apply in so

far as the costs rise because the delivery item is located somewhere other than the place of use as determined.

(3) In case of material defects in the items supplied Fa. Kunz is initially obliged and entitled to repair them or supply replacements according to their choice, which is to be made within an appropriate period. In case of impossibility, unacceptability, refusal or unacceptable delay of the correction or replacements, the customer shall have the option to withdraw from the contract or to reasonably reduce the sales price.

(4) Should a defect be due to fault on the part of Fa. Kunz, the customer may request compensation under certain circumstances as per § 7.

(5) In case of defects in components from other manufacturers, where licensing or any other reasons do not allow Fa. Kunz to make the necessary rectifications, Fa. Kunz will at their choice make their warranty claims against the manufacturer and supplier on the customer's account or transfer the title to this to the customer. In case of such defects, there are warranty claims against Fa. Kunz under the other prerequisites and in accordance with the stipulations of these General Terms and Conditions only if the legal enforcement of the above mentioned claims against the manufacturer and supplier was unsuccessful or there is for example no reasonable chance due to insolvency. For the duration of the law suit, the statute of limitations shall be suspended for all corresponding warranty claims of the customer against Fa. Kunz.

#### **§7 Liability for compensations caused by fault**

(1) Fa. Kunz' liability for compensation for damage, regardless of the reason in law, in particular for impossibility, delay, defective or incorrect delivery, contractual infringement, infringement of duties during contract negotiation and action in tort is, insofar as it is at fault in all cases, shall be restricted in accordance with this § 7.

(2) Fa. Kunz shall not be liable in cases of simple negligence of his organs, legal representatives, employees or other agents unless essential contractual obligations are breached. Essentials of the contract are the obligation to deliver in a timely manner and install the goods delivered free of major defects as well as duties of consultation, protection and care, which will make the use of the goods delivered in accordance with the contract possible for the customer or which serve the purpose of protecting the life and limb of staff of the customer or third parties or the customer's property against considerable damage.

(3) In so far as Fa. Kunz is liable for damages on the grounds of and in accordance with § 7 (2), this liability is limited to damage which Fa. Kunz has foreseen when concluding the contract as a possible consequence of a contractual infringement or which, by applying due care and attention, he should have foreseen. Indirect damage and follow-up damage, which is the result of defects in the goods delivered, is, apart from this, only eligible for compensation if such damage can be typically expected and when the goods delivered are used in conformity with its intended purpose.

(4) Should goods have been delivered of which it is undisputed that they are defective we fulfil the warranty in the way that we will deliver a replacement. Should the replacement fail or be impossible, respectively, the customer can demand a reduction of the price or withdraw from the contract. Any claims for damages resulting from the impossibility of performance, delay, positive breach of claim, default during the conclusion of the contract and claims in tort are excluded, unless done with intent or gross negligence on our part. The restriction of liability applies in equal scope to parties employed by us in performing a contractual obligation and to our vicarious agents.

(5) The aforementioned exclusions and limitations of liability apply to the same extent in favour of the organs, legal representatives, employees and other agents of Fa. Kunz.

(6) In so far as Fa. Kunz provides technical information or acts as an adviser and this information or advice is not part of the contractually agreed scope of services owed by him, this is done free of charge and with the exclusion of any liability.

(7) The limitations of this § 7 do not apply to Fa. Kunz' liability on account of deliberate actions, for guaranteed characteristics, violation of life, body or health or according to the German Product Liability Act.

## **§ 8 Retention of Title**

(1) Until satisfaction of all accounts receivable and all claims - including the settlement of all outstanding current account balances to which Fa. Kunz are entitled from the customer now or in future the delivered goods shall remain the property of Fa. Kunz (goods subject to retention of title)

(2) The customer agrees to treat with due care the goods subject to retention of title, and to insure them adequately and at its own expense to cover fire, water and theft damage for their new replacement value. Upon their request the customer shall be obliged to prove the signing of the insurance policy to Fa. Kunz.

(3) The customer is entitled to sell and/or to use the goods subject to retention of title in an ordinary manner in business dealings, as long as they are not in default of payment. Pledges or security assignments of the goods subject to retention of title are impermissible. The claims resulting from further sale or a further legal justification (insurance, claims in tort) with regard to the goods subject to retention of title (including any balance claims from current account) the customer now already assigns as security to the full extent to Fa. Kunz; Fa. Kunz hereby accepts the assignment. Subject to revocation, Fa. Kunz authorise the customer to collect the receivables transferred to Fa. Kunz for his account on his own behalf. In the event of an important reason, in particular delay in payment, suspension of payment, opening of insolvency proceedings, protest of a bill of exchange or justified indication of over-indebtedness or impending insolvency of the customer Fa. Kunz shall be entitled to revoke the direct debit authorization.

(4) The customer is allowed to process the goods subject to retention of title or to mix or blend it with other items (together: "process"). Processing, mixing or blending (together: processing) shall be executed in each case for Fa. Kunz. Should the goods subject to retention of title be mixed during processing with other goods not belonging to Fa. Kunz, Fa. Kunz shall acquire co-ownership of the new item created in the ratio of the value of the goods subject to retention of title (final invoice value including value-added tax) to the value of the other goods processed at the time of processing. The same applies for the new articles of property resulting from processing as for the goods subject to retention of title. Should the customer acquire sole proprietorship of the new goods, Fa. Kunz and the customer agree that Fa. Kunz are granted co-ownership of the new goods in the ratio of the value of the goods subject to retention of title (final invoice value including value-added tax) to the other goods processed at the time of processing. The customer shall hold the co-ownership thus created on behalf of Fa. Kunz.

(5) In case of third party access to the goods subject to retention of title, particularly with regard to pledging, the customer shall point out Fa. Kunz' ownership and immediately inform them accordingly, so that Fa. Kunz can assert their rights of ownership. If the third party is unable to reimburse Fa. Kunz the judicial or out of court costs within this context, the customer shall be liable for these.

(6) Upon substantiation of a justifiable interest, the customer shall provide Fa. Kunz with all necessary information and documentation required for the assertion of their rights against the customer.

(7) Fa. Kunz agrees to release securities owed to them at the customer's request insofar as the realizable value of such securities does exceed the value of their claims by more than ten per cent. The securities to be released shall be selected by Fa. Kunz.

(8) In case of breach of contract by the customer, in particular in the event of a default in payment, Fa. Kunz have the right, within an adequate period of time, to demand the return of the goods subject to retention of title or new goods, respectively, or to withdraw from the contract, the customer being obligated to return the goods. Neither the request for return nor the subsequent receipt of the goods shall be deemed withdrawal from the agreement, unless this is expressly stated.

## **§ 9 Place of Performance and Jurisdiction, Applicable Law, Partial Invalidity**

(1) The place of performance and jurisdiction for deliveries and payments (including actions due to checks and bills of exchange) and all disputes arising between Fa. Kunz and the customer based on the purchase contracts concluded between Fa. Kunz and the customer shall be Fa. Kunz' registered office in Aschaffenburg. Fa. Kunz is however entitled to take action against the customer at its registered office.

(2) The relations between the contracting parties are subject exclusively to the law of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

(3) Should a provision in these general terms and conditions or a provision within the framework of other agreements be or become ineffective, the remaining provisions shall not be affected by that.

## **2. Textilveredelung Kunz-Textil GmbH General Purchasing Conditions**

### **§ 1 Scope**

(1) All deliveries, services and offers of our suppliers shall be performed solely on the basis of these General Purchasing Conditions. These are part of all contracts concluded between ourselves and our suppliers regarding the deliveries or performances offered by them. They also apply to all future supplies, services or offers to the client, even if they are not the subject of a further separate agreement.

(2) The terms and conditions of our suppliers or third parties do not apply, even if we do not especially contradict their application. Even if we refer to a letter of a supplier or that of a third party, which contains supplier or third party conditions or references such, shall not constitute agreement with customer conditions.

### **§ 2 Orders**

(1) Should our offers not contain any binding period of time, we are bound for the period of one week from the date of the offer. The receipt of the letter of acceptance is binding for time period acceptance.

(2) We are at any time entitled to change the time and place of delivery, and the type of packaging in writing within a period of at least 5 calendar days before the agreed delivery appointment. The same is valid of changes to product specifications, as far as these can be implemented with normal production processes of the supplier without any increased additional expense, whereby the notice period relating to the afore-mentioned part is at least 5 calendar (days/weeks/months). We will refund the supplier with any proven and appropriate additional costs incurred due to the change. Should such changes result in delayed deliveries, which can not be avoided by reasonable measures in the ordinary run of business of the supplier, the original delivery date shall be extended accordingly. The supplier shall duly inform us of the expected, carefully assessed additional costs or delayed deliveries before the delivery date, at the latest, however, 5 workdays after receipt of our notification according to sentence 1.

(3) We are entitled to terminate the contract at any time with a written declaration and indication of the reason if we can no longer use the products in our business operations due to circumstances arising after entering the contract. In this case the supplier will be remunerated for his partial services.

### **§ 3 Prices, Terms of Payment, Details on Invoice**

(1) The price given in our order is binding.

(2) In the absence of any written arrangement the price is including delivery and transport to the address mentioned on the contract and including packing.

(3) Should the agreement made do not include the costs of packing and the payment for the packaging (which is not only provided on a loan basis) is not expressly determined, this must be invoiced at proven cost prices. On our demand the supplier must take back the packaging at his own cost.

(4) Unless otherwise agreed, we pay the purchase price within 14 days of delivery and receipt of invoice, applying a 3% discount, or within 30 days after receipt of invoice, net. The receipt of the transfer order at our bank will be sufficient for the payment to be seen as punctual.

(5) All order confirmations, delivery notes and invoices must contain our order number, article number, delivery quantity and delivery address. Should one or more of these details be missing and therefore processing delayed by us in our normal business operations, the payment periods mentioned in paragraph 4 are extended by the period of the delay.

(6) In the event of default of payment we shall be liable for default interest in the amount of 5% above the base interest rate as defined in § 247 of the German Civil Code (BGB).

#### **§ 4 Delivery, delivery period and transfer of risk**

(1) The delivery time (delivery date or period) specified in the purchase order is binding. Earlier deliveries are not permitted.

(2) The supplier is obliged to inform us immediately in writing if circumstances arise or become recognisable which can lead to failure to comply with the delivery date.

(3) Should the latest date on which delivery is to occur can be determined based on the contract, the supplier falls into delivery default at the end of that day without requiring a reminder on our part.

(4) Should the supplier fall into delivery default, we are entitled to our full legal claims, including the right to withdraw from the contract and the claim of compensation in place of delivery, following the fruitless expiry of an appropriate subsequent term.

(5) In case of delays in delivery, we are entitled to claim a contractual penalty after request in writing which amounts to 0.5% per week or part thereof, max. 5% of the respective order value. The contractual penalty shall be set off against the damages for delay to be paid by the supplier.

(6) The supplier is only entitled to deliver in instalments with our previous consent in writing.

(7) Risk is only transferred to us when the goods have been delivered at the stipulated premises, even if delivery has been agreed upon.

#### **§ 5 Protection of ownership**

(1) We reserve the right of property and copyright for all our orders as well drawings, diagrams, calculations, descriptions and other documents provided to the supplier. Without our expressed agreement, the supplier may not make them accessible to third parties, publicise them, use them, reproduce them or let third parties use them. He must return the documents in their entirety to us upon demand, should they no longer be requisite to his usual business procedures or should the negotiations not result in the conclusion of a contract. In this case all copies of the said documents made by the supplier must be destroyed; exceptions to this are solely the storage in accordance with legal requirements as well as data saving for standard backup purposes.

(2) Retentions of title of the supplier apply only insofar as they refer to our payment obligations for the respective products of which the supplier reserves the right of ownership. Extended or lengthened retentions of title are not permitted.

## **§ 6 Warranty claims**

(1) We shall be entitled without restriction to the legal claims if goods are defective. However, the difference deviating hereof is a guarantee period of 36 months.

(2) Quality and quantity differences count as rebuked on time if we notify the supplier within 20 working days after receipt of the goods. Any hidden material defects also count as rebuked on time if the notification is sent to the supplier within 10 working days after discovery.

(3) Acceptance or approval of samples does not constitute a waiver of warranty rights.

(4) Upon receipt by the supplier of our written defect notification, the statutory limitation of warranty claims is inhibited. In case of replacement delivery or removal of defects the warranty period for replaced and mended parts begins again unless we had to assume from the behaviour of the supplier that he did not feel committed to this action but carried out the replacement or removal of defects as a gesture of goodwill or similar reasons.

## **§ 7 Product Liability**

(1) The supplier is responsible for all claims asserted by third persons for personal and material damages that are to be traced back to a defective item delivered by him, and is obliged to release us from any liability that may result. Should we be obliged to initiate a product recall affecting third parties due to defects in one of the products delivered by the supplier, the supplier shall bear all costs caused by the recall.

(2) The contractor shall be obliged to maintain product liability insurance at its own expense with coverage of at least EUR 250,000 which, however, does not have to cover the recall risk or punitive or similar damages unless otherwise agreed in individual cases. On request at any time the supplier shall send us a copy of the product liability policy.

## **§ 8 Trade Mark Rights**

(1) The supplier is responsible for ensuring that no third party protection laws are breached in connection with products produced by the supplier or on his behalf in countries of the European Union, North America or other countries.

(2) The supplier is obliged to release us from all claims which third parties hold against us in connection with the breaches against the commercial protection laws mentioned in paragraph 1 and must refund us with all necessary expenses in connection with the demands. This demand is irrespective of any fault of the supplier.

## **§ 9 Secrecy**

(1) The supplier is obliged to treat as confidential the conditions of the order, as well as all information and documents made available to him for this purpose (with the exception of publicly accessible information) for a period of 5 years following the conclusion of contract and to only use them to carry out the order. He will hand them back immediately upon our request after processing enquiries or orders.

(2) Without our previous written acceptance the supplier is neither allowed to refer to our business relations on advertising material, brochures, etc. nor to exhibit the products manufactured for us.

(3) The supplier shall also commit his sub-suppliers to follow these provisions in § 10.

## **§ 10 Assignments**

The supplier is not authorized to assign his claims from the contractual relation to third parties. This is not valid if outstanding accounts are in question.

## **§ 11 Place of Performance and Jurisdiction, Applicable Law**

- (1) The place of performance for both parties and the exclusive court of jurisdiction for all disputes resulting from this contractual relationship is Aschaffenburg.
- (2) The contracts concluded between us and the supplier are subject to the law of the Federal Republic of Germany excluding the Convention of International Sale of Goods (CISG).