

General Terms and Conditions

§ 1 General

1. These General Terms and Conditions (hereinafter also referred to as 'GTC') form the exclusive basis for all contracts between us (Kniele GmbH) and our contractual partners (hereinafter also referred to as 'Customer') regarding the goods we offer or the services to be rendered. This applies regardless of whether we manufacture the goods ourselves or purchase them from suppliers (Sections 433, 650 of the German Civil Code (BGB)) or render services.
2. The GTC apply only to entrepreneurs within the meaning of Section 310 paragraph 1 of the BGB.
3. Unless otherwise agreed, the GTC in the version valid at the time of the Customer's order or, in any case, in the version last communicated to the Customer in text form shall also apply as a framework agreement for similar future contracts without us having to refer to them again in each individual case.
4. Conflicting or deviating terms and conditions of the Customer shall not be recognised unless we have expressly agreed to their validity in individual cases. Our GTC shall also apply if we carry out the delivery to the Customer without reservation in the knowledge of terms and conditions of the Customer that conflict with or deviate from our terms and conditions.
5. All agreements between us and the Customer are conclusively regulated in written contract documents and in these GTC. There are no verbal side agreements. Individual agreements made in individual cases (including supplements, amendments and side agreements) take precedence over these GTC. Individual agreements (including supplements, amendments and side agreements) require a written contract or written confirmation to be effective.
6. Legally relevant declarations and notifications by the Customer regarding the contract (e.g. setting of deadlines, notification of defects, withdrawal or reduction) must be made in writing. Written form within the meaning of these GTC includes written and text form (e.g. letter, e-mail, fax).
7. The statutory provisions shall apply in addition, unless they are directly amended or expressly excluded in these GTC.
8. We reserve ownership rights and copyrights to illustrations, drawings, calculations and other documents. The Customer requires our express written consent to pass these on to third parties.
9. We reserve the right to make design changes in the interests of technical progress, provided that these do not have any performance-reducing effects on functionality.

§ 2 Contract conclusion

1. Our offers are subject to change and non-binding unless expressly stated otherwise.
2. By placing an order, the Customer makes a binding contractual offer. The contract is only concluded upon our acceptance of the offer. Unless otherwise stated in the offer, we are entitled to accept the contractual offer contained in the order within six weeks of receipt. Acceptance can be declared either in writing (e.g. by order confirmation) or conclusively (e.g. by delivery of the goods or service). In the case of the 'prepayment' payment method, the provision of a separate payment request constitutes

acceptance of the Customer's offer, so that in this case the contract is already concluded upon delivery of a separate payment request.

3. Our written order confirmation is solely authoritative for the scope of delivery of the goods or services, in particular the performance data of the plant. The Customer must check the order confirmation immediately upon receipt and notify us in writing of any deviations from their order. Any specifications provided by the Customer or obligations arising therefrom must be explicitly confirmed by us in writing, whereby confirmation in the order confirmation is sufficient.

Furthermore, the documents and information provided to us by the Customer do not in any way release the Customer from the obligation to check them with regard to the conditions necessary for proper and correct installation and corresponding operation. The Customer must also notify us of any concerns in writing without delay.

4. We are entitled to make partial deliveries, provided that these are reasonable for the Customer.

§ 3 Obligations of the customer

1. The Customer is obliged to describe to us in every respect and comprehensively the conditions and specifications under which the goods or services are to be used. This applies in particular to ambient temperature, humidity, products to be manufactured and materials and raw materials to be processed. Furthermore, the Customer must provide sample material to the extent necessary.

2. The Customer is obliged to obtain the necessary documents, approvals and releases and to make them available to us immediately upon request.

This also applies to product and material samples, which must be made available to us in sufficient quantities to enable us to assess the specifications of the plant/machine or to carry out test runs.

3. The preparation of verifiable structural analysis and the calculations in this context do not form part of the contract and must be commissioned additionally if necessary. The Customer is then obliged to provide all necessary information and documents and to bear the additional costs in full.

4. Furthermore, information on potential earthquake zones must be provided by the Customer.

5. ATEX requirements do not form part of the contract. An ATEX-compliant design can only be provided at the express request of the Customer and upon presentation of the relevant provisions. Implementation is subject to technical feasibility and is subject to separate remuneration.

6. The Customer shall take care of all requirements regarding import or export (customs, etc.) unless otherwise agreed.

§ 4 Prices

1. The type and amount of remuneration for the service to be rendered or goods to be delivered shall be specified in the order.

2. Unless otherwise stated in the order confirmation, our prices are in EURO and always 'ex works' and exclude packaging, shipping costs and assembly and delivery costs. Any customs duties, fees, taxes and other public charges shall be borne by the Customer. This also applies to any payment guarantees (letter of credit, guarantee).

Statutory value added tax is not included in our prices and will be shown separately on the invoice at the statutory rate on the date of invoicing.

3. The costs for assembly are calculated according to the actual work required. The corresponding prices are based on our regular cost rates.
4. We reserve the right to change our prices accordingly if, after conclusion of the contract, cost increases occur, in particular due to wage agreements or changes in material prices. We are obliged to proceed in the same manner in the event of cost reductions. We shall provide the Customer with evidence of both cost reductions and cost increases as soon as and to the extent that they occur, and shall take them into account upon request. The Customer shall be informed immediately in the event of a price change and shall in this case be entitled to withdraw from the contract within two weeks of receiving notification of the price change. If the Customer exercises their right of withdrawal, further claims on the part of the Customer shall be excluded.
5. Discounts and other reductions require an express written agreement to be effective. Invoices for assembly, repair and transport are generally not eligible for discounts.
6. Unless otherwise specified in the underlying contract, the invoice amount is due for payment upon receipt of the goods or, in the case of services, upon acceptance, but no later than 14 days after the invoice date. The date of payment is always determined by the date of receipt of payment. The statutory provisions regarding the consequences of late payment apply.
7. If the delivery item is a service, we are entitled to demand instalment payments. These shall only be made if they have been expressly agreed.
8. We are entitled, even within the framework of ongoing business relationships, to deliver the goods or services in whole or in part only against advance payment or a deposit. We shall declare a corresponding reservation at the latest with the order confirmation under the conditions specified therein. In such a case, we shall provide the Customer with a separate payment request.
9. Partial invoices shall be issued to the Customer for partial deliveries. The payment deadlines shall run separately for each partial invoice.
10. The Customer shall only be entitled to set-off or retention rights insofar as the respective counter-claim has been established as undisputed or legally binding.
11. If our payment claim is jeopardised by the Customer's inability to pay (e.g. application for the opening of insolvency proceedings), we shall be entitled to refuse performance in accordance with the statutory provisions and, if necessary, to withdraw from the contract after setting a deadline (Section 321 of the BGB). In addition, we reserve the right to shorten the payment term with immediate effect. In the case of custom-made products, we may declare our withdrawal immediately. The statutory provisions on the dispensability of setting a deadline remain unaffected.

§ 5 Delivery time, call-off orders

1. The delivery period shall be agreed individually or specified by us when accepting the offer. Delivery periods are always subject to our own delivery.
2. The delivery period begins with our order confirmation. In any case, the start of the agreed delivery period is subject to the clarification of all technical issues and questions necessary for the fulfilment of the order, as well as the timely and proper fulfilment of the Customer's obligations (in particular the procurement of documents, approvals and releases, as well as advance payments or down payments).
3. In the case of a sale by delivery to a place other than the place of performance, the delivery period shall be deemed to have been met if the delivery item has been handed over to a forwarding agent, carrier or other third party commissioned with the transport on the delivery date or if readiness for dispatch has been notified.
4. Delays caused by force majeure or other events that were not foreseeable at the time of conclusion of the contract (e.g. operational disruptions of any kind, difficulties in procuring materials or energy, transport delays, strikes, pandemic, lawful lockouts, shortage of labour, energy or raw materials, difficulties in obtaining necessary official approvals, official measures or the non-delivery, incorrect delivery or late delivery by suppliers, etc.) for which we are not responsible, we shall inform the Customer immediately and at the same time notify them of an expected new delivery date. If such events make delivery or performance significantly more difficult or impossible for us even within the new delivery period and the hindrance is not only of a temporary nature (e.g. unavailability of the service), we shall be entitled to withdraw from the contract; we shall immediately reimburse any consideration already paid by the Customer. The Customer's rights under Section 8 of these GTC and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance) remain unaffected.
5. In the case of call-off orders, we must be notified of the call-offs in good time so that proper production and delivery is possible. For deliveries within the Federal Republic of Germany, the call-off must be made at least six weeks before the desired delivery date, for deliveries within the European Union at least eight weeks before the desired delivery date, and for deliveries outside the European Union at least ten weeks before the desired delivery date. Call-off orders must be called off in full within twelve months of the order being placed, unless other fixed dates have been agreed. If the call-off is not made or not made in full within twelve months of the order being placed or on the agreed call-off dates, the Customer shall be in default of acceptance.
6. In the event of a subsequent order extension by the Customer, any performance period shall also be extended appropriately; in this case, too, we shall notify the Customer of an expected new delivery date.
7. The occurrence of a delay in performance or delivery shall be determined in accordance with the statutory provisions. In any case, however, a reminder from the Customer is required.

§ 6 Acceptance

1. If the subject matter of the contract is a service to be provided by us, the Customer is obliged to accept it.
2. The service shall be deemed to have been accepted when the Customer starts using it, but no later than when the Customer refuses acceptance within 30 days of delivery of the service, specifying at least one significant defect in concrete terms. The same shall apply to partial deliveries. The respective partial delivery must be accepted by the Customer.

§ 7 Place of performance, shipping, packaging, transfer of risk, default of acceptance

1. Unless expressly agreed otherwise, the place of performance for all obligations arising from the contractual relationship is our registered office.
2. At the Customer's request and expense, the goods or services will be shipped or delivered to another destination. The mode of shipment, choice of transport company, packaging, etc. are at our discretion. If an installation of the service by us has been agreed, we shall deliver the item to the Customer ourselves and install it accordingly. We shall inform the Customer separately of any services that must be performed by the Customer prior to installation.
3. The risk shall pass to the Customer at the latest upon handover of the delivery item to the Customer or, in the case of shipment, upon handover to the forwarding agent, carrier or other third party designated to carry out the shipment. The start of the shipping process shall be decisive. Handover shall be deemed to have taken place even if the Customer is in default of acceptance. In the event of a delay in dispatch or handover for which the Customer is responsible, the risk shall pass at the point in time at which the goods or services are ready for dispatch and we have notified the Customer thereof.
4. Notwithstanding the forthcoming provision, the risk shall pass upon commissioning, but no later than upon acceptance. Corresponding provisions shall also apply to partial acceptances.
5. If dispatch is delayed at the Customer's request or for reasons for which the Customer is responsible, the risk shall pass to the Customer upon notification of readiness for dispatch.
6. The shipment shall only be insured by us against theft, breakage, transport, fire and water damage or other insurable risks at the express request of the Customer and at the Customer's expense.
7. If the buyer defaults on acceptance or if the delivery of the goods or services is delayed for reasons for which the Customer is responsible, we shall be entitled to demand compensation for the resulting damage, including additional expenses (in particular storage costs). In this case, we shall be entitled to claim lump-sum compensation amounting to 0.5% of the invoice amount per calendar week or part thereof. Both parties reserve the right to claim and prove further or lesser damages as well as any additional legal claims.
8. Transport packaging and all other packaging in accordance with the Packaging Ordinance will not be taken back. The Customer is obliged to ensure that the packaging is disposed of. Euro pallets are excluded from this regulation.

§ 8 Warranty and guarantee

1. Unless otherwise specified below, the Customer's warranty rights in the event of material defects and defects of title, as well as our liability, shall be determined in accordance with the statutory provisions. Claims arising from supplier recourse are excluded if the defective goods have been further processed by the buyer or another entrepreneur, e.g. by installation in another product.
2. In any case, claims for defects by the Customer require that the Customer has fulfilled their obligations to inspect and give notice of defects in accordance with Sections 377, 381 of the German Commercial Code (HGB).
3. No warranty is given for damage resulting from unsuitable or improper use, non-compliance with the operating or maintenance instructions, faulty installation by the Customer or third parties, natural wear and tear, faulty or negligent handling, improper modifications or repair work carried out by the Customer or third parties without our prior approval.

§ 9 Other liability

1. We shall be liable in accordance with the statutory provisions if the Customer asserts claims for damages based on intent or gross negligence, including intent or gross negligence on the part of our representatives or vicarious agents. In cases of simple negligence, we shall only be liable, subject to statutory limitations of liability (e.g. diligence in our own affairs, insignificant breach of duty),
 - a) for damages resulting from injury to life, limb or health,
 - b) for damages resulting from not insignificant breaches of essential contractual obligations (i.e. obligations the fulfilment of which is essential for the proper execution of the contract and on the compliance of which the Customer regularly relies and may rely), whereby our liability shall be limited to compensation for foreseeable, typically occurring damages.
2. The above limitations of liability shall not apply if we have fraudulently concealed a defect or have assumed a guarantee for the quality of the goods or services, or for claims by the Customer under the Product Liability Act.
3. The above provisions shall also apply if the Customer claims compensation for futile expenses instead of damages.
4. Insofar as our liability for damages is excluded or limited, this also applies with regard to the personal liability for damages of our employees, workers, staff, representatives and vicarious agents.

§ 10 Limitation period

1. Notwithstanding Section 438 paragraph 1 No. 3 of the German Civil Code (BGB) and Section 634a paragraph 1 Nos. 1 and 2 of the BGB, the general limitation period for claims arising from material defects and defects of title is one year from the transfer of risk or acceptance.
2. The above limitation periods shall not apply to claims for damages by the Customer arising from injury to life, limb or health or from intentional or grossly negligent breaches of duty, nor to claims under the Product Liability Act, which are subject to the statutory limitation periods. These also apply to

contractual and non-contractual claims for damages by the Customer based on a defect in the goods or services, unless the application of the regular statutory limitation period (Sections 195, 199 BGB) would lead to a shorter limitation period in individual cases. Mandatory special statutory provisions on the limitation period remain unaffected. In this respect, the limitation period provided for by law applies.

§ 11 Retention of title

1. The retention of title agreed below serves to secure all our existing and future claims against the Customer arising from the delivery relationship between the contracting parties.
2. The goods or services delivered by us to the Customer remain our property until all secured claims have been paid in full. The goods or services, as well as the goods or services covered by the retention of title that replace them in accordance with the following provisions, are hereinafter referred to as 'reserved goods'.
3. The Customer shall store the reserved goods for us free of charge. They are obliged to treat the goods or services with care.
4. The Customer is entitled to process and sell the reserved goods in the ordinary course of business until the event of realisation (paragraph 10) occurs. Pledging and transfer by way of security are not permitted.
5. If the reserved goods are processed by the Customer, the processing shall be carried out in our name and on our behalf as manufacturer, and we shall immediately acquire ownership or – if the processing is carried out using materials from several owners or if the value of the processed item is higher than the value of the reserved goods – we shall acquire co-ownership (fractional ownership) of the newly created item in the ratio of the value of the reserved goods to the value of the newly created item. In the event that we do not acquire such ownership, the Customer hereby transfers its future ownership or – in the above-mentioned ratio – co-ownership of the newly created item to us as security.
6. If the reserved goods are inseparably mixed with other items not belonging to us or combined to form a single item, we shall acquire co-ownership of the new item in the ratio specified in paragraph 5, sentence 1. If the combination or mixing is carried out in such a way that the Customer's item is to be regarded as the main item, it is agreed that the Customer shall transfer proportional co-ownership to us. The Customer shall hold the sole or co-ownership thus created in safekeeping for us.
7. In the event of resale of the reserved goods, the Customer hereby assigns to us by way of security the resulting claim against the purchaser. In the event of co-ownership of the reserved goods, the assignment shall be made proportionally in accordance with the co-ownership share. The same applies to other claims that replace the reserved goods or otherwise arise in connection with the reserved goods, such as insurance claims or claims arising from tort in the event of loss or destruction. The Customer remains revocably authorised to collect the assigned claim; our authority to collect the claim ourselves remains unaffected by this. However, we undertake to refrain from doing so as long as the Customer meets their payment obligations from the proceeds received, is not in default of payment and, in particular, no application for the opening of composition or insolvency proceedings

has been filed or payments have been suspended. If this is the case, we may demand that the Customer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment.

8. If third parties access the reserved goods, in particular through seizure, the Customer shall immediately notify them of our ownership and inform us thereof in order to enable us to enforce our property rights, in particular legal action pursuant to Section 771 of the German Code of Civil Procedure (ZPO). If the third party is unable to reimburse us for the judicial or extrajudicial costs incurred in this connection, the Customer shall be liable to us for these costs.
9. We shall release the reserved goods and the items or claims replacing them if their value exceeds the amount of the secured claims by more than 25%. The selection of the items to be released thereafter shall be at our discretion.
10. If we withdraw from the contract due to the Customer's breach of contract – in particular default in payment – (event of realisation), we shall be entitled to demand the return of the reserved goods and to revoke the direct debit authorisation in accordance with paragraph 7.

§ 11 Final provisions

1. The relations between the contracting parties shall be governed exclusively by the law of the Federal Republic of Germany, excluding international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.
2. If the Customer is a merchant, a legal entity under public law or a special fund under public law, our registered office in 88422 Bad Buchau shall be the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. The same shall apply if the Customer is an entrepreneur within the meaning of Section 14 of the German Civil Code (BGB).
3. If the Customer's registered office is outside the European Union, all disputes arising from or in connection with this contract or its validity shall be settled in accordance with the Arbitration Rules of the German Institution of Arbitration (DIS) in the version valid at the time of the initiation of the proceedings. The language of arbitration shall be German; only one arbitrator shall be appointed, as far as possible.
4. Insofar as the contract or these GTC contain loopholes, those legally effective provisions shall be deemed to have been agreed to fill these loopholes which the contracting parties would have agreed upon in accordance with the economic objectives of the contract and the purpose of these GTC if they had been aware of the loophole. The validity of the remaining provisions shall not be affected by this.