

# General Terms and Conditions of Business

## DEKU-Kunststoff-GmbH

### 1. General provisions

- 1.1 The following General Terms and Conditions of Business and Sale (GTC) shall apply to all business relations between DEKU-Kunststoff-GmbH, Pommelsbrunn ("DEKU-Kunststoff"), and its customers ("Buyer"). The GTC shall only apply if the Buyer is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.
- 1.2 The GTC apply in particular to contracts for the sale and/or delivery of movable goods ("Goods"). Goods shall be understood to include any subsets of the goods or parts thereof and, if the context so requires, consumables, systems and/or software and it shall be irrelevant whether DEKU-Kunststoff manufactures the goods itself or purchases them from suppliers (§§ 433, 650 BGB).
- 1.3 The GTC of DEKU-Kunststoff shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Buyer, in particular terms and conditions of purchase, shall only become part of the contract if and to the extent that DEKU-Kunststoff has expressly agreed to their validity. This requirement of consent shall apply in any case, for example even if the Buyer refers to his General Terms and Conditions within the scope of the order and DEKU-Kunststoff does not expressly object thereto.
- 1.4 Individual agreements (eg framework supply agreements, quality assurance agreements) and specifications in the order confirmation of DEKU-Kunststoff shall take precedence over the GTC. In case of doubt, commercial clauses shall be interpreted in accordance with the CPT INCOTERMS® issued by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of conclusion of the contract.
- 1.5 Unless DEKU-Kunststoff agrees otherwise with the Buyer, the GTC in the version valid at the time of the Buyer's order or in any case in the version last notified to him in text form shall apply as a framework agreement also for similar future contracts without DEKU-Kunststoff having to refer to them again in each individual case.
- 1.6 Legally relevant declarations and notifications of the Buyer with regard to the legal relationship between DEKU-Kunststoff and the Buyer (e.g. setting of deadlines, notification of defects, withdrawal or reduction) shall be made in writing. Written form in the sense of these GTC includes written and text form (for example letter, e-mail, fax). Legal formal requirements and further evidence, in particular in case of doubt about the legitimacy of the declarant, remain unaffected.
- 1.7 References to the applicability of statutory provisions shall only have clarifying significance. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTC.
- 1.8 The headings in these GTC are for convenience only and do not affect their interpretation.

### 2. Conclusion of a contract

- 2.1 The offers made by DEKU-Kunststoff, in particular by travelers and sales representatives, are subject to change and non-binding. This shall also apply if DEKU-Kunststoff has provided the Buyer with catalogs, technical documentation, other product descriptions or documents (for example drawings, clichés, plans, calculations), also in electronic form.

2.2 The order of the goods by the Buyer shall be deemed to be a binding offer of contract. Unless otherwise stated in the order, DEKU-Kunststoff is entitled to accept this offer of contract within 7 days after its receipt by DEKU-Kunststoff.

2.3 Acceptance may be declared either in writing (for example by order confirmation) or by delivery of the goods to the Buyer.

### 3. Delivery period and delay in delivery

3.1 The delivery period is agreed individually or stated by DEKU-Kunststoff upon acceptance of the order.

3.2 If DEKU-Kunststoff is unable to meet binding delivery deadlines for reasons for which DEKU-Kunststoff is not responsible (non-availability of performance), DEKU-Kunststoff shall inform the Buyer thereof without delay and at the same time notify the Buyer of the expected new delivery deadline. If the performance is also not available within the new delivery period, DEKU-Kunststoff shall be entitled to withdraw from the contract in whole or in part; DEKU-Kunststoff shall immediately refund any consideration already paid by the Buyer. A case of non-availability of the performance in this sense shall be deemed to be in particular the non-timely self-delivery by suppliers of DEKU-Kunststoff, if DEKU-Kunststoff has concluded a congruent covering transaction, neither DEKU-Kunststoff nor its suppliers are at fault or DEKU-Kunststoff is not obliged to procure in the individual case.

3.3 The occurrence of default in delivery by DEKU-Kunststoff shall be determined in accordance with the statutory provisions. In any case, however, a reminder by the Buyer is required.

3.4 The rights of the purchaser according to sec. 8 of these GTC and the statutory rights of DEKU-Kunststoff, in particular in case of an exclusion of the obligation to perform (for example due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

### 4. Delivery, Transfer of Risk, Acceptance, Default of Acceptance

4.1 Delivery is ex works. At the request and expense of the purchaser, the goods will be shipped to another destination (sale by delivery to a place other than the place of performance). Unless otherwise agreed, DEKU-Kunststoff is entitled to determine the type of shipment (in particular transport company, shipping route and packaging) itself. Unless otherwise agreed, the shipment will be uninsured.

4.2 The risk of accidental loss and accidental deterioration of the goods shall pass to the buyer at the latest upon handover. In the case of sale by delivery to a place other than the place of performance, however, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall already pass upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. If acceptance has been agreed, this shall be decisive for the transfer of risk. The handover shall be deemed to be the same if the buyer is in default of acceptance.

4.3 If the Buyer is in default of acceptance, fails to cooperate or if our delivery is delayed for other reasons for which the Buyer is responsible, DEKU-Kunststoff shall be entitled to claim compensation for the resulting damage including additional ex-

- penses (for example storage costs). For this purpose DEKU-Kunststoff shall charge a lump sum compensation in the amount of. of EUR 80.00 per calendar day, starting with the delivery deadline or - in the absence of a delivery deadline - with the notification that the goods are ready for dispatch.
- 4.4 The proof of a higher damage and legal claims of DEKU-Kunststoff (in particular compensation of additional expenses, reasonable compensation, withdrawal or termination) shall remain unaffected; however, the lump sum shall be credited against further monetary claims. The Buyer shall be entitled to prove that DEKU-Kunststoff has not suffered any damage at all or that the damage is considerably less than the above lump sum.
- 5. Prices and terms of payment**
- 5.1 Unless otherwise agreed in individual cases, the prices of DEKU-Kunststoff current at the time of conclusion of the contract shall apply, ex works, in Euro, including paper and cardboard packaging, plus statutory VAT and plus costs for drafts, final artwork and printing plates according to sec. 10.1. Customers within the EU are obliged to provide DEKU-Kunststoff with their VAT identification number.
- 5.2 When calculating prices by kilogram (kg), gross is delivered and calculated for net. This applies in particular, but not exclusively, to roll goods where cores and packaging cannot be deducted from the goods.
- 5.3 Should the manufacturing costs for DEKU-Kunststoff increase by more than 20% in the period between order confirmation and delivery (for example due to an increase in material costs), DEKU-Kunststoff is entitled to adjust the price accordingly. DEKU-Kunststoff will inform the Buyer about this with proof of the increased costs. In case of a price increase the Buyer shall be entitled to withdraw from the contract within 10 days from DEKU-Kunststoff's notice.
- 5.4 In the case of sale by delivery to a place other than the place of performance (sec. 4.1), the Buyer shall bear the transport costs ex warehouse and the costs of any transport insurance requested by the Buyer. Any customs duties, fees, taxes and other public charges shall be borne by the Buyer.
- 5.5 The purchase price is due and payable within 30 days from invoicing and delivery or acceptance of the goods. In case of payment within 14 days from invoicing and delivery or acceptance of the goods, the buyer may pay with 2% discount. DEKU-Kunststoff is, however, also within the framework of an ongoing business relationship, entitled at any time to carry out a delivery in whole or in part only against advance payment and without discount entitlement of the Buyer. DEKU-Kunststoff declares a corresponding reservation at the latest with the order confirmation.
- 5.6 Upon expiry of the aforementioned payment deadline, the purchaser shall be in default even without a reminder. During the period of default, interest shall be charged on the purchase price at the statutory default interest rate applicable at the time. DEKU-Kunststoff reserves the right to claim further damages caused by default. In relation to merchants, DEKU-Kunststoff's claim to the commercial due date interest rate (§ 353 HGB) remains unaffected.
- 5.7 The purchaser shall only be entitled to rights of set-off or retention insofar as his claim has been legally established or is undisputed. In the event of defects in the delivery, the Buyer's counter rights shall remain unaffected, in particular pursuant to sec. 7.5 Sentence 2 of these GTC shall remain unaffected.
- 5.8 If, after conclusion of the contract, it becomes apparent (e.g. by filing for insolvency proceedings) that DEKU-Kunststoff's claim to the purchase price is jeopardized by the Buyer's inability to pay, DEKU-Kunststoff shall be entitled to refuse performance in accordance with the statutory provisions and - if necessary after setting a deadline - to withdraw from the contract (§ 321 BGB). In the case of contracts for the manufacture of unjustifiable items (custom-made products), DEKU-Kunststoff may declare withdrawal immediately; the statutory provisions on the dispensability of setting a time limit shall remain unaffected.
- 6. Retention of title**
- 6.1 DEKU-Kunststoff retains title to the goods sold until receipt of all current and future claims arising from the ongoing business relationship ("secured claims") with the Buyer.
- 6.2 The goods subject to retention of title may neither be pledged to third parties nor assigned as security before full payment of the secured claims. The Buyer shall immediately notify DEKU-Kunststoff in writing if an application for the opening of insolvency proceedings is filed or insofar as third parties (for example seizures) have access to the goods belonging to DEKU-Kunststoff.
- 6.3 In case of breach of contract by the Buyer, in particular in case of default of payment, DEKU-Kunststoff shall be entitled to withdraw from the contract in accordance with the statutory provisions or/and to demand the return of the goods on the basis of the retention of title. If the Buyer does not pay the purchase price due, DEKU-Kunststoff may only assert these rights if DEKU-Kunststoff have previously set the Buyer a reasonable deadline for payment without success or if setting such a deadline is dispensable according to the statutory provisions.
- 6.4 Until revoked in accordance with (c) below, the Buyer shall be entitled to resell and/or process the goods subject to retention of title in the ordinary course of business, whereby the Buyer shall comply with the provisions on the handling and storage of the goods, in particular sec. 10.7, must be complied with. In this case, the following provisions shall apply in addition.
- (a) The retention of title extends to the products created by processing, mixing or combining our goods at their full value, whereby DEKU-Kunststoff shall be deemed to be the manufacturer. If in case of processing, mixing or combination with goods of third parties their right of ownership remains, DEKU-Kunststoff shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. For the rest, the same shall apply to the resulting product as to the goods delivered under retention of title.
- (b) The Buyer hereby assigns to DEKU-Kunststoff as security the claims against third parties arising from the resale of the goods or the product in total or in the amount of the possible co-ownership share of DEKU-Kunststoff according to the preceding paragraph in the amount of the final invoice amount (including VAT). DEKU-Kunststoff accepts the assignment. The obligations of the Buyer mentioned in para. 2 shall also apply with regard to the assigned claims.
- (c) In addition to DEKU-Kunststoff, Buyer shall remain authorized to collect the claim. DEKU-Kunststoff undertakes not to collect the claim as long as the Buyer meets his payment obligations towards DEKU-Kunststoff, there is no deficiency in his ability to pay and DEKU-Kunststoff does not assert the retention of title by exercising a right according to

para. 3. If this is the case, however, DEKU-Kunststoff may demand that Buyer informs DEKU-Kunststoff 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. Furthermore, in this case DEKU-Kunststoff is entitled to revoke the authorization of the Buyer to further sell and process the goods subject to retention of title.

(d) The Buyer also assigns to DEKU-Kunststoff the claims to secure the claims of DEKU-Kunststoff accruing to him against a third party by connection of the sold goods with a property.

(e) DEKU-Kunststoff undertakes to release securities at the request of the Buyer at the discretion of DEKU-Kunststoff to the extent that the realizable value of the securities exceeds the claims of DEKU-Kunststoff by more than 10%.

## **7. Claims for defects of the buyer**

7.1 The statutory provisions shall apply to the Buyer's rights in the event of material defects and defects of title (including wrong delivery and short delivery as well as improper assembly/installation or defective instructions), unless otherwise stipulated below. In all cases, the special statutory provisions on reimbursement of expenses in the event of final delivery of the newly manufactured goods to a consumer (supplier's recourse pursuant to Sections 478, 445a, 445b or Sections 445c, 327 (5), 327u of the German Civil Code (BGB)) shall remain unaffected, unless an equivalent compensation has been agreed, for example within the framework of a quality assurance agreement.

7.2 The basis of the liability for defects of DEKU-Kunststoff is above all the agreement made on the quality and the presupposed use of the goods (including accessories and instructions). All product descriptions and manufacturer's specifications which are the subject of the individual contract or which were publicly announced by DEKU-Kunststoff (in particular in catalogs or on our Internet homepage) at the time of conclusion of the contract shall be deemed to be an agreement on quality in this sense. Insofar as the condition was not agreed, it is to be judged according to the legal regulation whether a defect exists or not (§ 434 para. 3 BGB). Public statements by the manufacturer or on his behalf, in particular in advertising or on the label of the goods, shall take precedence over statements by other third parties.

7.3 DEKU-Kunststoff shall in principle not be liable for defects of which the Buyer is aware at the time of conclusion of the contract or is not aware due to gross negligence (§ 442 BGB). Furthermore, the Buyer's claims for defects presuppose that he has complied with his statutory duties of examination and notification (§§ 377, 381 HGB). In the case of building materials and other goods intended for installation or other further processing, an inspection must in any case be carried out immediately before processing. If a defect becomes apparent during delivery, inspection or at any later time, DEKU-Kunststoff shall be notified thereof in writing without delay. In any case, obvious defects must be notified in writing within 10 working days from delivery and defects which are not apparent on inspection must be notified within the same period from discovery. If the purchaser fails to carry out the proper inspection and/or to give notice of defects, the liability of DEKU-Kunststoff for the defect not notified or not notified in time or not notified properly shall be excluded in accordance with the statutory provisions. In the case of goods intended for incorporation, attachment or installation, this shall also apply if the defect became apparent as a result of the breach of

one of these obligations only after the corresponding processing; in this case, the Buyer shall in particular have no claims for reimbursement of corresponding costs ("removal and installation costs").

7.4 If the delivered item is defective, DEKU-Kunststoff may first choose whether DEKU-Kunststoff shall provide subsequent performance by remedying the defect (rectification) or by delivering an item free of defects (replacement). If the type of subsequent performance chosen by DEKU-Kunststoff is unreasonable for Buyer in the individual case, Buyer may reject it. The right of DEKU-Kunststoff to refuse subsequent performance under the statutory conditions shall remain unaffected.

7.5 DEKU-Kunststoff is entitled to make the subsequent performance owed dependent on the Buyer paying the purchase price due. However, the Buyer shall be entitled to retain a reasonable part of the purchase price in relation to the defect.

7.6 Buyer shall give DEKU-Kunststoff the time and opportunity necessary for the subsequent performance owed, in particular to hand over the rejected goods for inspection purposes. In the event of replacement delivery, Buyer shall return the defective item to DEKU-Kunststoff at our request in accordance with the statutory provisions; however, Buyer shall not have a claim for return. Subsequent performance shall not include the dismantling, removal or disassembly of the defective item or the installation, fitting or assembly of a non-defective item if DEKU-Kunststoff were not originally obliged to perform these services; Buyer's claims for reimbursement of corresponding costs ("dismantling and assembly costs") shall remain unaffected.

7.7 DEKU-Kunststoff shall bear or reimburse the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs and, if applicable, dismantling and installation costs, in accordance with the statutory provisions and these GTC, if there is actually a defect. Otherwise, DEKU-Kunststoff may demand reimbursement from the Buyer of the costs incurred as a result of the unjustified request to remedy the defect if the Buyer knew or was negligent in not knowing that there was actually no defect.

7.8 If a reasonable period to be set by the purchaser for subsequent performance has expired unsuccessfully or is dispensable in accordance with the statutory provisions, the purchaser may withdraw from the purchase contract or reduce the purchase price in accordance with the statutory provisions. In the case of an insignificant defect, however, there is no right of withdrawal.

7.9 Claims of the Buyer for damages or reimbursement of futile expenses shall also exist in the case of defects only in accordance with sec. 8 and are otherwise excluded.

## **8. Other liability, Force majeure**

8.1 Unless otherwise provided in these GTC including the following provisions, DEKU-Kunststoff shall be liable for a breach of contractual and non-contractual obligations in accordance with the statutory provisions.

8.2 DEKU-Kunststoff shall be liable for damages - irrespective of the legal grounds - within the scope of fault-based liability in the event of intent and gross negligence. In the case of simple negligence DEKU-Kunststoff shall be liable, subject to statutory limitations of liability (for example, care in own affairs; insignificant breach of duty), only

a) for damages resulting from injury to life, body or health,

- b) for damages resulting from the breach of an essential contractual obligation (obligation, the fulfillment of which enables the proper execution of the contract in the first place and on the compliance with which the contractual partner regularly relies and may rely); in this case, however, our liability shall be limited to the compensation of the foreseeable, typically occurring damage.
- 8.3 The limitations of liability resulting from para. 8.2 8.2 The limitations of liability resulting from Clause 8.1 shall also apply to third parties as well as to breaches of duty by persons (also in their favor) whose fault DEKU-Kunststoff is responsible for according to statutory provisions. They shall not apply insofar as a defect has been fraudulently concealed or a guarantee for the quality of the goods has been assumed and for claims of the Buyer under the Product Liability Act.
- 8.4 Due to a breach of duty which does not consist of a defect, the Buyer may only withdraw from or terminate the contract if DEKU-Kunststoff is responsible for the breach of duty. A free right of termination of the Buyer (in particular according to §§ 650, 648 BGB) is excluded. In all other respects the statutory requirements and legal consequences shall apply.
- 8.5 Force majeure, including but not limited to natural disasters, war, terrorism, epidemics, pandemics, labor disputes, riots and governmental actions, cyber attacks or rationing of electricity and/or gas shall in each case relieve DEKU-Kunststoff and Buyer from their performance obligations for the duration of the disruption and to the extent of its effect. DEKU-Kunststoff or the Buyer shall in each case be obliged to inform the other party without undue delay of the occurrence of the event of force majeure and the disruption caused thereby and to do everything to eliminate the disruption and/or to mitigate the effects of the disruption.
- 9. Limitation**
- 9.1 Notwithstanding Section 438 (1) No. 3 of the German Civil Code (BGB), the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance.
- 9.2 If the goods are a building or an object which has been used for a building in accordance with its customary use and has caused its defectiveness (building material), the limitation period shall be 5 years from delivery in accordance with the statutory regulation (§ 438 para. 1 no. 2 BGB). Other special statutory provisions on the limitation period (in particular § 438 para. 1 no. 1, para. 3, §§ 444, 445b BGB) shall also remain unaffected.
- 9.3 The above limitation periods of the law on sales shall also apply to contractual and non-contractual claims for damages of the Buyer based on a defect of the goods, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in individual cases. Claims for damages of the Buyer pursuant to sec. 8.2 Sentence 1 and Sentence 2(a) as well as under the Product Liability Act shall become time-barred exclusively in accordance with the statutory limitation periods.
- 10. Print preparation, property rights, quantity deviations, handling of the goods**
- 10.1 The production of drafts, final drawings and printing plates will be invoiced additionally by DEKU-Kunststoff at cost price. DEKU-Kunststoff reserves all property rights and copyrights to these drafts, final drawings and printing plates. The purchaser has no rights to surrender or copy them.
- 10.2 A rubber cliché is required for each printing color, which is taken from a 3 mm etching. Minor color deviations from submitted artwork are no reason for complaint.
- 10.3 If the purchaser does not provide DEKU-Kunststoff with a binding printing sketch, DEKU-Kunststoff will determine the printing status to the best of its knowledge.
- 10.4 DEKU-Kunststoff will send the purchaser a final sample before printing. This sample, in particular contained print text, is to be checked carefully by the buyer. If the customer notifies DEKU-Kunststoff within three days from sending the sample to the buyer of change requests or errors, DEKU-Kunststoff will try to implement a corresponding change. However, the Buyer shall not have a claim to this. The statutory rights in respect of defects shall remain unaffected.
- 10.5 The purchaser warrants that the templates, drafts and orders provided by him do not infringe any third-party property rights. He warrants in particular that trademarks, product presentations, characters and similar ordered by him do not infringe the rights of third parties. If industrial property rights or other rights of third parties are infringed, the Buyer shall be obliged to compensate DEKU-Kunststoff for any resulting damage, unless the Buyer is not responsible for the infringement of industrial property rights.
- 10.6 Production-related unavoidable excess or short deliveries of up to 10% of the order quantity are permissible. The purchase price owed shall be reduced or increased accordingly. The width and length tolerance is 5%, but at least 10 mm. In the production of bags, printed work and similar products, the occurrence of a relatively small number of defective goods is technically unavoidable and a proportion of up to 3% of the total quantity is not objectionable.
- 10.7 The goods must be protected from sunlight, heat and cold and stored at room temperature.
- 11. Choice of law and place of jurisdiction**
- 11.1 These GTC and the contractual relationship between DEKU-Kunststoff and the Buyer shall be governed by the laws of the Federal Republic of Germany, excluding international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.
- 11.2 If the purchaser is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - also international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in Pommelsbrunn. The same applies if the purchaser is an entrepreneur in the sense of § 14 BGB (German Civil Code). However, DEKU-Kunststoff shall in all cases also be entitled to bring an action at the place of performance of the delivery obligation in accordance with these General Terms and Conditions or a prior individual agreement or at the general place of jurisdiction of the Buyer. Overriding statutory provisions, in particular on exclusive jurisdiction, shall remain unaffected.