

General Terms and Conditions of Delivery and Payment – KNV Export

§ 1 Applicability of Conditions

1. These General Terms and Conditions of Delivery and Payment shall apply exclusively to all contractual relationships between KNV and its contracting partners, unless any special KNV conditions (e.g. for book carrier services, clearing centre, returns, etc.) supplement these General Terms and Conditions of Delivery and Payment or contain any deviating conditions.
2. Any other contradicting conditions, in particular general terms and conditions of the contracting partners, shall not form an integral part of the contract, even if KNV has not objected to them explicitly.

§ 2 Conclusion of Contract

1. Orders/purchase orders shall be deemed to be accepted upon order confirmation or delivery by KNV. The contracting partner is liable for any errors or other defects in the order/purchase order, independent of the ordering method.
2. If there is no sufficient stock quantity of the goods ordered at the date of delivery, KNV is entitled to make reductions, cancellations or subsequent deliveries, any damage claims being excluded.
3. If any obligatory continuation works are ordered, the contracting partner is obliged to purchase all parts.

§ 3 Delivery, Transfer of Risk

1. Delivery is effected as a fixed purchase on the account and at the risk of the contracting partner ex stock KNV. At KNV's option, delivery is effected using the KNV book carrier services or through third parties.
2. An indicated delivery time is non-binding.
3. KNV is entitled to make partial deliveries. Resulting delivery costs are to be borne by the contracting partner.
4. KNV shall not be liable for any defaults in delivery and performance due to force majeure or events that aggravate the delivery or make it impossible on the part of KNV, whereby such events shall include procurement difficulties, plant disturbances, strikes, lock-outs, etc. Such delays shall prolong any agreed delivery and performance deadlines by adequate periods.
5. The risk of accidental loss and deterioration of the goods passes to the contracting partner upon handing-over, in the event of dispatch upon delivery of the goods to the forwarder, carrier or other person nominated to execute the shipment. Delivery shall also be deemed to be effected, if the contracting partner is in delay with the acceptance.
6. Entry certificate
For deliveries within the EU the customer shall confirm the receipt of the goods (Entry certificate). This can also be done electronically by prior arrangement. If the customer fails to do so within 4 weeks of delivery, we are entitled to charge the VAT currently valid in Germany. It is then up to the customer to claim back the VAT paid in the course of a VAT refund process through its financial authority.

§ 4 Shipment Costs/Transport Fee

1. All shipment costs arising out of the delivery are charged to the ordering party. Deliveries are made at the cost and risk of the contracting partner.

2. The shipment costs contain postage and freight costs and also proportionate costs for packaging and customs documents. Unless provided otherwise by applicable local law, only electronic invoices will be dispatched.

3. A carriage fee is charged for transportation by our book carrier service depending on the relevant country and turnover. If transport is subject to toll charges, KNV shall be entitled to levy toll fees towards customers. Toll charges shall apply based on national regulations as detailed in the price list "Transportkosten" as amended from time to time. For all deliveries to countries outside the European Union where KNV undertakes to clear the goods (e.g. Switzerland), KNV will charge, in addition to the shipment costs, a customs allowance of 0,7 % of the net price of the goods.

4. All charges and fees are understood plus applicable VAT, if any.

§ 5 Conditions of Payment

1. The prices and conditions valid on the date, on which the delivery note or invoice is issued, are applied. The invoices are issued in € and payable in €. If payment is made in another currency and there are any differences, the € values applicable at the date of the receipt of payment are decisive and solely valid. All banking charges in connection with payment transactions, fees, etc. are to be borne by the customer. The contracting partner bears the risk of transfer of payment.
2. Collective invoices are sent several times per month. Unless provided otherwise by applicable local law, only electronic invoices will be dispatched. Individual invoices are sent together with the goods. Any objections against these invoices and open-item statements are to be furnished within a month from the invoice date or date of the open-item statement and, in non-European countries, within three months. If no objection is received, this is regarded as acceptance.
3. Invoices are to be paid by indicating the intended purpose within 30 days from the invoice date (within the EU and Switzerland) and within 60 days from the invoice date (other European countries) or within 90 days from the invoice date (other foreign countries). The invoices are payable net without any deductions.
4. For payments by automatic debit transfer to be made immediately and payments within 10 days from the invoice date, KNV grants a discount of 2 % on goods deliveries only, if the current accounts do not show any overdue amounts. Any credit notes for returns and cancellations are to be taken into account correspondingly in the discount calculation.
5. Using SEPA Direct Debit Mandate the time period for pre-notification is reduced to 2 days.
6. Cheques and bills of exchange are accepted on account of payment only. The acceptance of bills of exchange must be agreed upon separately. Discount and bank charges are to be borne by the contracting partner and are due immediately.
7. Payments are first set off with due interest and costs, and then with the youngest debt. Claims of KNV can only be set off or retained with claims acknowledged by KNV or claims that are legally enforceable.
8. For all legitimate returns and complaints KNV is going to establish a credit note which can be deducted by the contracting partner.

9. Irrespective of any further rights, KNV shall be entitled to charge interest on arrears in the amount of 8% per annum above the base rate. The consequences of default become effective upon maturity of the invoice without a reminder being necessary.
10. If the contracting partner does not fulfil the payment conditions or the contracting partner is in arrears with payment, all claims become immediately due for payment in cash, including in the event of a prolongation of the debt and the possible acceptance of bills of exchange and cheques. In addition, KNV is entitled in this case to request advance payment or security and to withdraw from all existing agreements after an adequate grace period. At the same time, all discounts, bonuses and other benefits shall lapse. If credit-worthiness has deteriorated significantly after the conclusion of a contract, KNV is entitled to reduce the payment deadlines adequately.
11. The contracting partner is not entitled to assign its claims against KNV to third parties – irrespective of the regulation in Article 354 a of the German Commercial Code (HGB).

§ 6 Retention of Title

1. Until all claims (including on a current account), to which KNV is entitled now or in future against the contracting partner based on any legal cause, have been settled, the goods supplied remain the property of KNV.
2. The contracting partner is entitled to sell the goods acquired under retention of title in the ordinary course of business, if it is not in default towards KNV. Pledge or assignment by way of security is not permissible. The contracting partner herewith assigns its claims resulting from the resale or another legal cause (insurance, tort, etc.) with respect to the goods acquired under retention of title to their full extent to KNV as a security. KNV accepts this assignment. The contracting partner is authorized revocably by KNV to collect the claims assigned in its own name and on the account of KNV.
3. If the contracting partner includes claims from the resale of goods acquired under retention of title in a current account relationship with third parties, it herewith assigns the claim, it has after having netted out the individual current account claims, first-ranking in the amount of the claims transferred to the current account due to the resale of the goods acquired under retention of title (on a prorated basis) to KNV. KNV accepts this assignment.
4. At the first request of KNV, KNV shall be informed about all names of customers affected by the assignments of claims resulting from the resale of goods acquired under retention of title, receive the documents relating to the claims, and the relevant customers are to be notified of the assignment. KNV is herewith authorized to disclose the assignment of claims to such customers.
5. During the term of ownership of KNV of the goods, the contracting partner bears the full risk of the goods.
6. In the event of pledges or other interventions of third parties, including with respect to any claims and rights assigned to KNV, the contracting partner shall notify KNV thereof immediately in writing.

§ 7 Warranty, Liability

1. Any defects in the delivery are to be notified immediately, but not later than within 1 week from the receipt of the goods. Otherwise, no warranty claims can be asserted.
2. KNV will remedy the defects by way of new deliveries. If the warranty cannot be fulfilled through subsequent deliveries, the contracting partner may demand a price reduction or return of the goods. In the event of minor defects, the contracting partner does not have a right of cancellation.

3. If the contracting partner chooses to cancel the contract due to a defect after unsuccessful subsequent performance, it does not have any damage claims due to the defect.
4. If the contracting partner selects damages due to a defect after the unsuccessful subsequent performance, the goods remain with the contracting partner, insofar as acceptable by it. Damages shall be limited to the difference between the purchase price and the value of the defective goods. This does not apply in the case of KNV's malicious silence with regard to the defect.
5. In all cases of contractual and non-contractual liability, KNV is liable for damages or reimbursement of wasted expenditure only as follows:
 - a) In the event of intent to the full amount; in the event of gross negligence and lack of a guaranteed quality, only in the amount of the typical foreseeable damage, which should be prevented by the violated duty or the warranty.
 - b) In other cases: only due to the violation of a contractual duty, if the contractual purpose is at risk, but always limited to reimbursement of the typically foreseeable damage.
 - c) In addition: if KNV has insurance cover, within the limits of the sum insured and contingent upon payment of the insurance company.
6. All claims against KNV for damages or reimbursement of wasted expenditure shall be time barred within one year.
7. All prices stated in catalogues, advertising media and other data carriers are subject to confirmation. The same applies to all data in the relevant valid schedule of discounts.
8. Information and recommendations provided by KNV within the context of free customer services are not a component of contractual or non-contractual obligations. Any liability for errors or faults is excluded.

§ 8 Miscellaneous Provisions

1. The place of performance for all liabilities arising out of the business relationship with the contracting partner shall be Stuttgart.
2. The place of jurisdiction for all legal disputes arising out of the business relationship with the contracting partner shall be Stuttgart, if the contracting partner is a full merchant.
3. The law of the Federal Republic of Germany shall apply to the assessment of the entire legal relationship to the contracting partner, the UN Convention on Contracts for the International Sale of Goods being excluded.
4. If one or several provisions of the contract or of these terms and conditions of delivery and payment are or become invalid, the other provisions of the contract or these conditions shall not be affected. The invalid provision shall be replaced by a regulation that comes closest as possible to the economic purpose of the invalid provision.
5. If KNV does not exercise its right, including for a longer period, the contracting partner is not entitled to invoke a waiver of these rights on the part of KNV or their forfeiture.

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