

## General

The following terms and conditions apply to both merchants and businesses, as well as to our business relationships with private customers (non-merchants). These terms and conditions apply to all our deliveries and other services (consulting services, product manufacturing).

### Offer and Contract Conclusion

a. Offers from kmb Metalltechnik GmbH are non-binding. Unless the customer specifies a different binding period, the customer is bound to their order for at least 8 working days. The contract is only concluded when the order is confirmed in writing by kmb Metalltechnik GmbH. If the confirmation deviates from the order, the content of the confirmation letter is binding unless the customer immediately raises a written objection to the deviation.

b. Agreements made orally, by phone, or through representatives require written confirmation by kmb Metalltechnik GmbH for their validity.

### Prices

a. Prices in effect on the delivery date are binding (= net value plus sales tax at the applicable legal rate). Additional expenses, especially packaging, freight, postage, insurance and delivery charges, assembly, etc., will be billed separately.

b. Fixed prices require an explicit written agreement.

c. Price complaints must be made within 14 days.

### Payment Terms

a. Payment terms as stated on the delivery note and/or invoice are applicable.

b. Invoices are to be paid in cash, by bank transfer, or by check in the order of invoice issuance.

c. In case of non-compliance with payment deadlines, interest will be charged at the current bank rates for overdrafts, but not less than 9%. Proof of higher or lower damages is permissible.

d. The customer is not entitled to withhold payments or offset against any counterclaims, even if they are undisputed or legally established.

e. Deliveries to customers with whom there is no ongoing business relationship will be made on a cash-on-delivery or advance payment basis.

### Default and Installment Payments

a. The customer is considered in default after the first reminder. In this case, kmb Metalltechnik GmbH is entitled to charge interest at a rate of at least 9% per year, calculated based on its own credit costs. A fee of 5 euros will be charged for each reminder. This provision does not restrict the right to claim further damages. If a specific payment date is set in the calendar, the customer is considered in default if they do not pay at the specified time without the need for a reminder.

b. In case of payment default, kmb Metalltechnik GmbH is entitled to withhold deliveries and services to secure its claim until full payment or, if the delivery has already occurred, to repossess the goods. After setting a grace period, kmb Metalltechnik GmbH is further entitled to withdraw from the contract or demand damages for non-performance.

## **Delivery and Performance Time, Partial Deliveries**

a. kmb Metalltechnik GmbH strives to deliver as quickly as possible and to meet the specified delivery times and dates. If the delivery is delayed, the customer can set a grace period, and after 2 weeks, withdraw from the contract. Claims for damages due to delay or non-performance are not valid.

b. For shipped goods, the day of dispatch is considered the delivery day; otherwise, the day on which the customer receives notice of the shipping or pick-up readiness is considered the delivery day.

c. Partial deliveries and partial performances are permissible and may be billed separately.

## **Revocation and Returns**

a. Products purchased from kmb Metalltechnik GmbH can be returned within 2 weeks, subject to a 20% restocking fee, with presentation of the invoice.

## **Shipping and Risks**

a. The risk passes to the customer as soon as kmb Metalltechnik GmbH hands over the goods to a carrier or transport company for shipment. This also applies to partial deliveries or if kmb Metalltechnik GmbH has taken on other services, such as shipping costs.

## **Retention of Ownership**

a. All deliveries are made subject to retention of ownership. The goods remain the property of kmb Metalltechnik GmbH until full payment of all claims arising from the business relationship with the customer has been made. This includes claims entered into in the customer's interest by kmb Metalltechnik GmbH.

b. The customer is only authorized to process, transform, combine, and assemble the goods with other items within the ordinary course of business (extended retention of ownership).

c. If the reservation of ownership is lost for any legal or factual reason, the customer hereby assigns the claims resulting from this to kmb Metalltechnik GmbH.

d. The customer is obligated to immediately inform kmb Metalltechnik GmbH of any seizure or other impairment of the reserved property and assigned claims by third parties. Furthermore, the customer must notify third parties in advance of the rights of kmb Metalltechnik GmbH regarding the goods and assigned claims. The customer bears the costs of kmb Metalltechnik GmbH's intervention.

## **Warranty / Liability for Defects**

- a. kmb Metalltechnik GmbH provides a warranty that the commercial goods it delivers are free from defects in material and workmanship that would significantly diminish their value or fitness for the ordinary or contractually assumed use.
- b. kmb Metalltechnik GmbH does not accept liability for loss or impairment of usability and for damages caused by failure to follow operation, maintenance, and installation instructions, improper use, improper handling, excessive strain, incorrect, incorrect, or incomplete information about the intended operating conditions, and other incorrect information from the customer or third-party interventions in the delivered item. The buyer must prove and demonstrate professional implementation.
- c. The customer is obligated to promptly examine the delivery. Obvious defects, along with a precise description of the defect, must be reported within 3 days after delivery. Not immediately apparent defects must be reported in writing as soon as they become apparent but no later than 6 months after delivery. Upon request, the customer must return the defective goods to kmb Metalltechnik GmbH.
- d. In the case of timely and justified claims of defects, kmb Metalltechnik GmbH provides warranty through repair, replacement delivery, or credit.
- e. Other costs, especially for disassembly and reassembly, are borne by kmb Metalltechnik GmbH up to 25% of the invoice amount for the respective delivery item if they have been coordinated with kmb Metalltechnik GmbH in advance.
- f. If the buyer is not a consumer, the seller has the choice of repair, replacement delivery, or credit.
- g. In the case of repair or replacement delivery, kmb Metalltechnik GmbH covers the costs of delivery and shipping of the repaired or replaced item.
- h. The costs of unjustified complaints are borne by the customer.
- i. The limitation period for material defects (warranty period) is 1 year for newly manufactured items, provided the buyer is not a consumer. Otherwise, the statutory limitation period applies. For used goods (excluding used vehicles), the limitation period is 4 weeks if the buyer is a consumer. If the buyer is not a consumer, the sale of used items is excluded from any material defect liability. In addition, the assertion of warranty claims is excluded.
- j. Claims for damages due to the presence of a defect or an assured characteristic are only valid for the replacement of the delivery item. Personal injury and damages resulting from a business interruption can only be demanded if there is an explicit written assurance on the contract documents.
- g. kmb Metalltechnik GmbH may refuse to fulfill the above warranty claims until the customer has fulfilled their due obligations.

## **Claims for Damages**

a. Claims for damages of any kind and regardless of the legal basis, including fault in contract formation, positive breach of contract, tort, and infringement of property rights, against kmb Metalltechnik GmbH, except in the case of intent and gross negligence, and in the case of assured characteristics, are excluded. This includes claims for incorrect advice or inaccurate information provided by kmb Metalltechnik GmbH employees. In the case of demonstrable gross negligence by the agents and other employees of kmb Metalltechnik GmbH, such claims are limited to the invoice amount of the delivery item. This provision applies exclusively in business transactions with merchants.

The right to exchange does not cover the costs of removing the defective item and installing the defect-free item.

## **Place of Performance and Jurisdiction**

a. The place of performance is Vorchdorf.

b. The place of jurisdiction for all disputes arising from the contractual relationship is Gmunden (local jurisdiction).

c. Austrian substantive law applies to this contractual relationship. The applicability of the UN Convention on Contracts for the International Sale of Goods is excluded.

## **Final Provisions**

a. Should any provision of these terms and conditions or any provision in other agreements be or become invalid, this shall not affect the validity of all other provisions or agreements.