

Terms and Conditions of Sales

Kaschke Components GmbH (03/2016)

I. Scope of application

1. These Terms and Conditions of Sales apply to offers, deliveries and other services performed by the Kaschke Components GmbH ("Kaschke"). They are integral part of every agreement between Kaschke and their business partners ("buyer") about offered products and services. These Terms and Conditions of Sales govern every future deliveries, services and performances without special arrangement.
2. Kaschke objects the Terms and Conditions of buyer and any additional or divergent provisions that may appear on any document given by buyer or third parties. The Terms and Conditions of buyer are not binding for Kaschke even if Kaschke does not reject them explicitly.
3. These Terms and Conditions of Sales apply to agreements with merchant in the course of business only.

II. Agreements, orders and specifications

1. Kaschke`s offers are non-binding unless otherwise explicit stated as binding.
2. The business relationship between Kaschke and buyer is governed by the written agreement including these Terms and Conditions of Sales. Oral order confirmations are non-binding.
3. Descriptions of products (technical values, measures, tolerances) are approximately significant. This does not apply if an exact match is necessary to allow the usability for the contractual intended purpose. These descriptions do not constitute guaranteed characteristics. Commercial deviations, deviations due to legal provisions and deviations due to technical improvements do not constitute a defect as long as they do not affect the usability for the contractual intended purpose.
4. Kaschke reserves the right of title and copyright of given offers, specifications, drawings and other documents. Buyer commits to keep all documents secret and not to develop to third parties without prior written agreement of Kaschke nor duplicate them. On demand, buyer returns documents and other tools completely and destroys copies, if they are not needed in orderly business or if negotiations do not result in an agreement. This does not apply for data which is subject of usual backup.

III. Price and payment

1. Prices are valid for the delivery stated in the order confirmation. Additional or special services will be invoiced separately. Prices are quoted in EURO ex works plus value added tax (VAT) and in case of export deliveries plus custom duties as well as charges and other public dues.
2. Invoices shall be paid within 30 calendar days after the invoice date without deduction to one of the bank accounts specified in the bill. Decisive is the monetary entrance on Kaschke`s bank account. A

discount can only be agreed if payment has always been on time and all debts resulting out of prior deliveries are settled. The agreement requires the written form to become effective.

3. If the buyer defaults to pay on time, Kaschke is entitled to charge the buyer interest at the rate of 9 per cent per annum above the base interest rate of the European Central Bank. The assertion of further rights or remedies remains unaffected.
4. The set-off with counterclaims of the buyer or the withholding of payment due to this counterclaim is only permitted as far as these counterclaims are undisputed or has been established in law.
5. Kaschke reserves the right to deliver only against prepayment if circumstances occur which are able to affect the creditworthiness of buyer essentially and through which the outstanding accounts are threatened.

IV. Delivery and delivery time

1. Deliveries are made ex works Incoterms 2010 unless otherwise agreed.
2. Delivery dates and deadlines stated by Kaschke are unbinding unless otherwise agreed.
3. Delivery dates can only be kept if significant questions are responded, especially if all technical prerequisites are clarified, and if the buyer has fulfilled his obligations (especially gave approvals for series production, but also fulfilled information duties). Kaschke is entitled to demand the extension of delivery time or a postponement of the delivery date for the period of time in which buyer did not fulfill his obligations.
4. The rights of Kaschke due to default of payment remain unaffected.
5. Kaschke is not liable for delayed or impossible deliveries as far as they are based on force majeure or other reasons which were not foreseeable at the time of the conclusion of the agreement and for which Kaschke is not responsible, for example all kinds of business interruption, fever, floods, difficulties in procurement of energy or material – even raw materials –, delay in transit, war, industrial action, legal lockout, lack of employees, virus or other attacks on the IT-system of Kaschke, difficulties due to legal measures or difficulties to obtain necessary authorization as well as missing, defective or delayed deliveries of Kaschke`s supplier.
6. If the circumstances mentioned in the previous paragraph are just temporarily, the date of delivery will be postponed for the duration of the circumstances plus an appropriate lead time. If these circumstances are not temporarily and the delivery is substantially complicated or impossible, Kaschke is entitled to withdraw from the agreement. The buyer can withdraw through immediate written notice if the acceptance of delivery is unreasonable.
7. Kaschke is entitled to partial delivery under the following conditions: the delivered products can be used by buyer for the contractual purpose, the delivery of the pending products is ensured and no additional costs will arise for buyer.
8. Kaschke`s liability due to delayed or impossible delivery is limited to no. VIII of these Terms and Conditions of Sales.

V. Packaging, transfer of risk

1. Kaschke decides about packaging at its reasonable discretion. This does also apply for the shipping method unless otherwise agreed.
2. The risk of loss or damage passes to the buyer according to the agreed Incoterms. Apart from that, the risk of loss or damage passes with handing over the delivery the forwarder (decisive is the begin the of charging).
3. In the event buyer is responsible for the delay of shipping or delay of handing over, the risk passes at the moment the delivery is ready for shipment and Kaschke informed buyer. Kaschke's right to charge inventory costs remains unaffected.
4. In case of delivery an acceptance – an therefore the transfer of risk – is deemed to be done if
 - the delivery is excluded,
 - Kaschke informs buyer about this circumstance, refers to the assumed acceptance in terms of this no. V. 4. and asks buyer for acceptance,
 - since the delivery 7 working days have passed or buyer has started using the delivery and 3 days since delivery have passed and
 - buyer refrained the acceptance within this period for some other reason than a defect which prevents the usage of the delivery or which affects the usage substantially.

VI. Warranty, defects

1. Buyer examines the products carefully immediately after delivery (incoming goods inspection). Apparent defects and other defects recognisable during the incoming goods inspection are considered to be authorized if not rebuked by buyer in written form within 7 calendar days since delivery.
2. Other defects are considered to be authorized if they are not rebuked by buyer in written form within 7 calendar days since their detection. In the event that – during ordinary use – the defect could have been recognised by buyer at an earlier date, this prior date is relevant.
3. A defect is not given if the delivered products have the same quality as the initial sample parts and the initial sample parts were not rebuked by buyer. Furthermore a defect is not given in cases of non-significant defects.
4. On demand of buyer, Kaschke returns defect deliveries carriage free. Kaschke pays the costs of the cheapest transport rout in case of justified complaint. This does not apply if the costs increase because the delivery is located at another place than the place of intended use.
5. Kaschke is entitled and obliged to repair or to replace the products on its choice in case of defects within appropriate time. In the event that Kaschke fails, that is in case of impossibility, unreasonableness, denial or unreasonable delay of the repair or replacement, buyer is entitled to withdraw from the agreement or to reduce the price appropriately.
6. In case a defect is caused by Kaschke, the buyer can demand damages under the conditions of no. VIII of these terms and conditions.

7. If the delivered products were worked on through buyer or third parties without approval of Kaschke with the effect that the repair or replacement becomes impossible or unreasonable complicated for Kaschke, warranty rights of buyer are excluded. In each case the buyer has to pay the additional costs of eliminating the defect which were caused by the modification.
8. Furthermore, the warranty is not applicable if the buyer repairs the delivered products on its own or by third parties without approval of Kaschke. Further on, the warrant is no applicable if the delivered products were not used for the contractual purpose.
9. The warranty period shall take 1 year since delivery or acceptance, is this is necessary. This period does not apply to damage claims of the buyer due to the injury of life, heath and limb or due to willful intent or gross negligence of Kaschke or Kaschke's agents. This claims become time-barred in accordance with the statutory regulations.

VII. Industrial property rights, copy rights

1. Kaschke commits pursuant to no. VII of this Terms and Conditions of Sales that the delivered products do not infringe industrial property rights or copy rights of third parties. Each party commits to inform the other one immediately in written form if such claims were asserted.
2. In the event that delivered products infringe industrial property rights or copy rights of third parties, Kaschke replaces or modifies the products on its choice and costs in a manner that the rights will not be infringed anymore but the products still fulfil the agreed functionality. Optionally, Kaschke is entitled to provide buyer the right of use. Buyer is entitled to withdraw from the agreement or to reduce the price in the event that Kaschke fails to conclude a license agreement within an appropriate period. Damages claimed by buyer are limited pursuant to no. VIII of this Terms and Conditions of Sales.
3. Buyer commits to inform Kaschke immediately in written form about the enforcement of infringement. Moreover buyer is obliged to maintain all measures of defence, which especially means that buyer is not allowed to admit the infringement of industrial property rights or copy rights. Buyer commits to inform the third party about the fact that the suspension of use does not accompany with the acceptance of a claim. If buyer breaks these obligations the result will be the limitation of his claims as stated above.
4. In the event that the products of a sub-supplier of Kaschke infringe an industrial property right or copy right, Kaschke will on its choice assert the claims for the account of buyer or transfer the claims. Kaschke is only liable pursuant to No. VIII of this Terms and Conditions of Sales if the legal enforcement of the claims against sub-supplier is unsuccessful or does not promise success.
5. Buyer's claims are excluded if he is liable for the infringement of industrial property rights or copy rights or in the event that the infringement is based on his guidelines respective demands.

VIII. Damages

1. Kaschke's liability for damages regarding to claims – regardless of the legal reason – which requires

negligence is limited pursuant to no. VIII of this Terms and Conditions of Sales. This does especially apply for damages caused by the delivery of defective products, delayed delivery, impossibility of delivery or torts.

2. In the event of simple negligent Kaschke is not liable for damages of its corporate bodies, legal agents, employees or other vicarious agents, as far as it is not an infringement of essential obligations. Essential obligations are the obligations to deliver on time, to deliver without defects as well as the advisory or other duties which enable buyer to use the products according to the agreement or which have the purpose to secure personal injuries or damages to property.
3. As far as a liability on the merits of Kaschke is given due to this no VIII. 2., the liability is limited to damages which were foreseeable as a possible consequence of a breach of contract at the date of the conclusion of the agreement or which should have been foreseen by applying due care. Indirect damages and consequential damages which were result of defects of the delivered products are only eligible for compensation as far as the damages could be anticipated during intended use of the delivered products.
4. The obligation to compensate for property damages and following final losses is limited to an amount of EURO 5 million per case in the event that Kaschke is liable due to simple negligence. This does also apply to infringements of essential obligations.
5. The above mentioned limitations of liability do apply in the same extend to the corporate bodies, legal agents, employees or other vicarious agents of Kaschke.
6. If Kaschke gives technical or other advice beyond the agreed scope of performance, this happens free of charge and without any liability.
7. The limits stated in no. VIII of these Terms and Conditions of Sales does not apply for liability due to malicious conduct or gross negligence, for guaranteed specifications, in the case of personal injuries or for liability regarding to the legal provisions of the German product liability provisions (Produkthaftungsgesetz).

IX. Retention of title

1. The retention of title stipulated in this no. IX of these Terms and Conditions of Sales aims the saving of all current and future claims of Kaschke against buyers resulting of the business relationship between both parties about delivery of inductive components or ferrite (products).
2. The property of the products will not pass to the buyer until Kaschke has received full payment for all secured claims. This does also apply for goods which substitute the products delivered by Kaschke pursuant to the following provisions (replacing products). Products and replacing products are referred to as reserved products.
3. Buyer keeps safe the reserved products for Kaschke free of charge.
4. Buyer is entitled to use and sell the reserved products in the proper course of business unless the recovery event (no. IX. 8) occurs.
5. If the reserved products were processed by buyer, the parties agree that the processing takes place

on behalf and on the account of Kaschke. Furthermore, Kaschke obtains co-ownership respective the newly created product proportional to the value of the reserved products and the value of the newly created product. If Kaschke does not obtain co-ownership, Kaschke transfers ownership respective co-ownership of the newly created product already now to buyer for safety. If the reserved products were combined or inseparably mixed with other products into a unified product and one of the other products is regarded to be the main product, then Kaschke transfers – as far as the main product is title of Kaschke – the buyer the proportional co-ownership of the main product.

6. If the reserved products were sold by buyer, the buyer assigns the resulting claims thereof for security to Kaschke. This does also apply if buyer has the co-ownership. The same applies for other claims which buyer obtains in lieu, e.g. insurance claims. Kaschke authorizes buyer revocably to collect claims on behalf of Kaschke. Kaschke is only entitled to revoke this authorisation in case of recovery event.
7. If measures of third parties affect the title of Kaschke, especially through seizure, the buyer will immediately inform the third party about the title of Kaschke. Furthermore the buyer will immediately inform Kaschke in order to enable Kaschke the enforcement of rights. If the third party is incapable of paying possible costs of Kaschke caused by enforcement measures (not matter if judicially or not), the buyer is liable.
8. If Kaschke has withdrawn from the agreement due to non-contractual behaviour of the buyer (recovery event), Kaschke is entitled to demand the return of the reserved products.

X. Miscellaneous terms

1. In the event that any provisions of these Terms and Conditions of Sales is held invalid, unlawful or unenforceable by a court of jurisdiction or by any future legislative or administrative action, such holding or action does not negate the validity or enforceability of any other provisions of these Terms and Conditions of Sales. Any such provision held invalid, unlawful or unenforceable, will be substituted by a provision of similar import reflecting the original intent of the clause to the extent permissible under applicable law.
2. These Terms and Conditions of Sales are governed by the German law including the UN Convention on Contracts for the International Sale of Goods (CISG), dated 11.04.1980, in the English version. The CISG applies beyond its own area of application, and regardless of reservations adopted by other states. Beyond the application of the CISG, the non-harmonized German Law applies, particularly the BGB and HGB.
3. The place of performance and the exclusive place of jurisdiction for all disputes resulting directly or indirectly from this agreement shall be, as far as legally permitted, Göttingen, Germany.

Göttingen, 22.03.2016