

General Terms and Conditions of Sale of Robert Karst GmbH & Co. KG**(Version October 2016)****1. Sphere of Application**

- 1.1 All sales of goods or services by us are provided or performed on the basis of these General Terms and Conditions of Sale.
- 1.2 Our General Terms and Conditions of Sale apply exclusively; we do not acknowledge terms and conditions of the customer which contradict or diverge from our General Terms and Conditions of Sale unless we have expressly agreed to their application in writing. Our General Terms and Conditions of Sale also apply if we provide delivery to the customer without reservation even in the knowledge of terms and conditions of the customer which contradict or diverge from our General Terms and Conditions of Sale.
- 1.3 All agreements reached between us and the customer for the purpose of the implementation of this contract are recorded in writing in this contract.
- 1.4 Our General Terms and Conditions of Sale only apply in relation to entrepreneurs as defined in Section 310 (1) German Civil Code.
- 1.5 Our General Terms and Conditions of Sale also apply in their respective applicable version to all future purchase contracts with the customer, in particular in case of subsequent orders, possibly by telephone, without our having to repeatedly point them out in each individual case; we will inform the customer about changes to our General Terms and Conditions of Sale immediately.
- 1.6 Individual agreements reached with the customer in an individual case (including side agreements, additions and alterations) take precedence over these General Terms and Conditions of Sale in each case. A written contract or our written confirmation (also by fax or E-Mail) is decisive for the content of such agreements.
- 1.7 Legally relevant explanations and notifications which must be provided to us by the customer after the conclusion of the contract (e.g. statement of deadlines, warning notices, declaration of withdrawal) must be in written form in order to be valid.
- 1.8 We are entitled to electronically store and process customer data connected with the business relationship with the customer as defined in the Federal Data Protection Act. In this context, we have an obligation to use the data provided by the customer solely for our own purposes and not to pass it on to outside third parties.

2. Offer – Offer Documentation

- 2.1 If the order is to be qualified as an offer as defined in Section 145 German Civil Code, we can accept it within a time-limit of two weeks.

- 2.2 We reserve rights of title and copyright to images, drawings, calculations and other documents. This also applies to written documents which are classified as “confidential”. The customer needs our express written consent prior to their being passed on to third parties.

3. Prices – Payment Conditions

- 3.1 Unless something different is evident from the order confirmation, our prices apply “ex factory”, excluding packaging; this will be invoiced separately if necessary.
- 3.2 Our prices do not include statutory value added tax; it will be shown separately on the invoice at the statutory rate on the date on which the invoice is issued.
- 3.3 The deduction of a discount must be agreed separately in writing (or by Fax, E-Mail).
- 3.4 Unless something different is evident from the order confirmation, the net purchase price (without deductions) falls due for payment within 30 days from the date of the invoice. The statutory regulations regarding the consequences of delay with payment apply.
- 3.5 The customer is only entitled to rights of set-off if his/her counterclaims have been finally and bindingly decided in law, are undisputed or have been acknowledged by us. In addition, the customer is entitled to exercise a right of retention to the extent to which his/her counterclaim is based on the same contractual relationship.

4. Delivery Period

- 4.1 The start of the delivery period stated by us presupposes that all technical issues have been clarified in advance.
- 4.2 Fulfilment of our delivery obligation also presupposes the customer’s proper fulfilment of his/her obligation in good time. We reserve the right to object that the contract has not been fulfilled.
- 4.3 If the customer falls into delay with acceptance or culpably breaches other duties of cooperation, we are entitled to require reimbursement for any loss and/or damage we suffer in this context, including any additional expenditure. We reserve the right to assert further-reaching claims or rights.
- 4.4 If the preconditions set forth in fig. 4.3 are fulfilled, the risk of accidental destruction or accidental deterioration of the property purchased passes to the customer at the time at which the customer falls into delay with acceptance or as a debtor.
- 4.5 We are liable in accordance with the statutory provisions to the extent to which the purchase contract forming the basis of the transaction is a transaction at a fixed date as defined in Section 286 (2) no. 4 German Civil Code or Section 376 German Commercial Code. We are also liable in accordance with the statutory provisions if, as a consequence of a delay with delivery for which we are responsible, the customer is entitled to assert that his/her interest in the further fulfilment of the contract has fallen away.

- 4.6 We are also liable in accordance with the statutory provisions if the delay with delivery is based on a wilful or gross negligent breach of contract for which we are responsible; fault on the part of our representatives or persons employed by us for the fulfilment of our obligations is attributable to us. If the delay with delivery is based on a grossly negligent breach of contract for which we are responsible, our liability for compensation is limited to foreseeable typical damage/loss.
- 4.7 We are also liable in accordance with the statutory provisions to the extent to which the delay with delivery for which we are responsible is based on the culpable breach of a significant contractual obligation; however, in this case the liability for compensation is limited to foreseeable typical damage/loss.
- 4.8 The customer is entitled to reserve the right to assert further statutory claims and rights.

5. Passing of Risk – Packaging Costs

- 5.1 Unless something different is evident from the order confirmation, delivery is agreed “ex factory”.
- 5.2 Separate agreements apply to the return of packaging.
- 5.3 At the customer’s request, we will cover the delivery by transport insurance; the costs incurred in this context will be borne by the customer.

6. Defect Liability

- 6.1 Claims by the customer due to defects presuppose that the customer has properly fulfilled his/her obligations of inspection and complaint in accordance with Section 377 German Commercial Code.
- 6.2 To the extent to which the property purchased is defective, the customer is entitled to choose subsequent performance in the form of the rectification of the defect(s) or delivery of a new item free of defects. In case of the rectification of the defect(s) or replacement delivery, we have an obligation to bear all expenditure necessary for the purpose of subsequent fulfilment, in particular costs for transportation, travel, work and materials to the extent to which these are not higher because the property purchased was taken to a place other than the place of performance.
- 6.3 If the subsequent performance fails, the customer is entitled to choose between a demand for withdrawal or reduction of the purchase price.
- 6.4 We are liable in accordance with the statutory provisions if the customer asserts claims for compensation which are based on wilful intent or gross negligence, including wilful intent or gross negligence by our representatives or persons employed by us for the fulfilment of our duties. To the extent to which we are not accused of wilful breach of contract, our liability for compensation is limited to foreseeable typical damage/loss.

- 6.5 We are liable in accordance with the statutory provisions if we culpably breach a significant contractual obligation; in this case too, however, liability for compensation is limited to foreseeable typical damage/loss.
- 6.6 To the extent to which the customer is otherwise entitled to a claim for compensation for damage/loss due to a negligent breach of duty instead of performance, our liability for compensation is limited to foreseeable typical damage/loss.
- 6.7 Liability for culpable injury to life, body or health remains unaffected; this also applies to mandatory liability under the Product Liability Act.
- 6.8 To the extent to which nothing different is regulated above, liability is excluded.
- 6.9 The period of prescription for claims due to defects is 24 months, calculated from the time of passing of risk onwards. This does not apply to the extent to which the property purchased is usually used for a building and has caused the defect.
- 6.10 The period of prescription in case of claims for compensation due to delivery pursuant to Sections 478, 479 German Civil Code remains unaffected; it amounts to five years, calculated from the date of surrender of the defective property.

7. Overall Liability

- 7.1 Further-reaching liability for compensation over and above what is provided for in Section 6 is excluded, regardless of the legal nature of the claim asserted. This in particular applies for compensation claims arising from fault at the time of conclusion of the contract, for other breaches of duty or due to claims in tort for the compensation of damage to property as defined in Section 823 German Civil Code.
- 7.2 The restriction specified in fig. 7.1 also applies to the extent to which the customer requires compensation for pointless expenditure instead of asserting a claim to compensation for damage/loss in place of performance.
- 7.3 To the extent to which liability for compensation in relation to us is excluded or limited, this also applies in relation to personal liability for compensation on the part of our employees, workforce, staff, representatives and persons employed by us in the fulfilment of our duties.

8. Reservation of Title as Security

- 8.1 We reserve title to the property purchased until receipt of all payments out of the delivery contract. In case of conduct by the customer in breach of contract, in particular in case of delay with payment, we are entitled to take back the property purchased. When we take back the property purchased, this constitutes withdrawal from the contract. We are entitled to sell the property purchased after we have taken it back; the proceeds of sale – less reasonable costs of sale – must be offset against the customer's liabilities.

- 8.2 The customer has an obligation to treat the property purchased carefully; he/she in particular has an obligation to sufficiently insure the property purchased against fire damage, water damage and theft to its replacement value when new, at his/her own expense. If servicing and inspection work is necessary, the customer must carry this out in good time at his/her own expense.
- 8.3 The customer must inform us in writing (or by fax, E-Mail) without undue delay of pledges or other encroachments by third parties, so that we can file an action pursuant to Section 771 German Code of Civil Procedure. To the extent to which the third party is not in a position to reimburse us for the costs of an action pursuant to Section 771 German Code of Civil Procedure in and out of court, the customer is liable for the loss we incur.
- 8.4 The customer is entitled to undertake onward sale of the property purchased in the ordinary course of business; however, he/she hereby already now assigns to us all claims up to the value of the final invoice amount of our claim (including statutory value added tax) to which he/she is entitled against his/her purchasers or third parties out of the onward sale, irrespective of whether the property purchased has been sold on with or without further processing. The customer still remains entitled to collect this claim even after assignment. This does not affect our entitlement to collect the claim ourselves. However, we undertake not to collect the claim as long as the customer fulfils his/her payment obligations out of the proceeds received, does not fall into delay with payment, and in particular as long as no application is filed for the commencement of settlement or insolvency proceedings or payments have stopped. If this is the case, however, we can require that the customer informs us about the assigned claims and their debtor, provides all information necessary for collection, surrenders the relevant documents and notifies the debtor(s) (third parties) of the assignment.
- 8.5 The processing or changing of the property purchased by the customer is always undertaken for us. If the property purchased is processed together with other items which do not belong to us, we acquire co-ownership of the new item in the ratio of the value of the property purchased (final invoice amount including statutory value added tax) to the other processed items at the time of processing. In addition, the same applies to the item resulting from processing as to the property purchased delivered subject to reservation.
- 8.6 If the property purchased is mixed together with other items which do not belong to us, we acquire co-ownership of the new item in the ratio of the value of the property purchased (final invoice amount including statutory value added tax) to the other mixed items at the time of processing. If the mixing takes place in such a way that the customer's item is to be viewed as the main item, it is deemed to have been agreed that the customer transfers a share of co-ownership to us. The customer is responsible for safekeeping the sole ownership or co-ownership which has arisen in this way.
- 8.7 The customer also assigns to us the claims to secure our claims against him/her which arise against a third party through the connection of the property purchased with a real property site.

8.8 We undertake to release the security to which we are entitled upon request by the customer to the extent to which the value of our security which can be realised exceeds the value of the claims to be secured by more than 10 %; we are entitled to choose which security is released.

9. Place of Jurisdiction – Place of Performance

9.1 If the customer is a businessman/woman, the place of jurisdiction is our registered place of business; however, we are also entitled to sue the customer at the court where he/she has his/her place of residence.

9.2 The law of the Federal Republic of Germany applies.

9.3 Unless something different is evident from the order confirmation, the place of performance is our registered place of business.

9.4 If individual provisions of these General Terms and Conditions of Sale are or become invalid as a whole or in part, this does not affect the validity of the remaining provisions. In such a case, the invalid provision or the invalid part of a provision must be replaced by a legally valid provision which comes as close as possible from an economic point of view in a legally permissible way to the regulatory purpose pursued by the invalid provision. This applies accordingly for provisions which cannot be actually implemented as well as regulatory gaps in these terms and conditions of sale.