



General Terms and Conditions

Validity of the terms

All Karberg & Schmitz GmbH deliveries, services and bids are made solely on the basis of these terms of delivery and payment. They apply to all future business dealings, even where this has not been expressly agreed to again. These terms are deemed to have been accepted at the latest when the goods or services have been received. Statements in contradiction to these made by the customer and referring to his own terms and conditions of business will not be recognised.

To be valid, any agreements which differ from these general terms and conditions must be in writing. Employees of Karberg & Schmitz GmbH are not authorised to enter into any supplementary agreements or undertakings.

Prices

All bids made by Karberg & Schmitz GmbH remain non-binding and subject to possible cancellation, up to the day of delivery. Unless otherwise agreed the calculation of costs will be based on the prices valid on the day of delivery. All prices are ex factory of production or ex warehouse in Hamburg and exclude packaging and freight.

VAT

The prices are net prices, i.e. VAT at the appropriate legal rate is not included in the prices and will be included as a separate item in the invoice.

Delivery times

Times quoted for the delivery of goods or provision of services are always non-binding. If they are to be agreed as binding then to be effective they must be in writing and must include details of the time which is binding for the provision of the service.

In the event of force majeure or other occurrences which make it extremely difficult or impossible for Karberg & Schmitz GmbH to carry out the service or the delivery and where this situation is not a temporary one, then Karberg & Schmitz GmbH is not to be held responsible for such delays in services or deliveries, even where periods and dates are part of a binding written agreement. Such events and occurrences include strikes, lock-outs, instructions from authorities etc. In these cases the company is entitled to postpone the delivery or service for the duration of the delay plus an appropriate activation period. In terms of the part of the contract which had not yet been fulfilled the company is also entitled to withdraw from the contract either in part or in whole, without thereby making itself liable to damages. Karberg & Schmitz GmbH may only invoke the circumstances referred to if it informs the customer of them immediately.

Dispatch

The risk of destruction of or deterioration in the object of the service and delivery is transferred to the customer as soon as the consignment has been handed over to the person responsible for its transport, or as soon as it has left the premises of Karberg & Schmitz GmbH for the purpose of being dispatched. Should the customer request that the dispatch be delayed, then the risk transfers to the customer upon his being advised that the dispatch is ready for delivery.

The dispatch is made at the expense of the customer.

Payment

The valid terms of payment are those referred to by Karberg & Schmitz GmbH in the invoices. Should the date of payment be exceeded then the statutory rate of interest will be charged. Karberg & Schmitz GmbH reserves the right to charge a higher rate of interest, should any such have been incurred. In the event of continuing delays in payment, future deliveries will only be made by payment of net cash on delivery.

Warranty

Complaints concerning evident errors in the quantity and composition of the consignment are to be made to Karberg & Schmitz GmbH within two weeks of receipt of the consignment.

The period of warranty for identifiable and for hidden defects is twelve months.

Within the framework of its warranty Karberg & Schmitz GmbH undertakes that it will first make a substitute delivery, on invoice. The parts in dispute must be sent, carriage-free, to Karberg & Schmitz GmbH, so as to allow them to determine the extent of their obligation under the warranty. Karberg & Schmitz GmbH will refund these costs where it has been determined that they are liable. If the substitute delivery fails to achieve the intended outcome, then the customer can choose either to reduce the purchase price or to withdraw from the contract. All other claims against the warranty are excluded.

Limitation of liability

Claims for damages against Karberg & Schmitz GmbH, its agents and representatives are excluded, except in the case of deliberate action or gross negligence. This does not apply to claims resulting from injury to the life, body or health of persons, nor to claims based on product liability law or claims based on the liability of the producer.

Karberg & Schmitz GmbH is liable for damages, irrespective of the legal basis, which are based on breach of an important contractual obligation, and which were caused in such a way as to put at risk the achievement of the purpose of the contract, when and to the extent that Karberg & Schmitz is responsible for this. The liability is thereby limited to the damage typical for this type of contract, the occurrence of which each party to the contract could have been able to foresee at the time the contract was concluded, given the circumstances they were aware of at that time.

Extended reservation of title

Karberg & Schmitz GmbH will be granted the securities listed below until all the demands have been met which may fall due to Karberg & Schmitz GmbH against the customer, either now or in the future, and arising from any conceivable legal grounds whatsoever. The company may decide to release these securities on request when they exceed the value of outstanding demands over the longer term by more than 20%.

The goods remain the property of Karberg & Schmitz GmbH. Their processing or alteration are always made for Karberg & Schmitz GmbH as the manufacturer, but without any liability for it. Should the ownership or joint ownership due to Karberg & Schmitz GmbH be cancelled through association, then it is herewith agreed that the customer's share in the ownership or joint ownership is transferred to Karberg & Schmitz GmbH. The customer is to preserve Karberg & Schmitz GmbH's ownership or joint ownership at no charge. The goods to which Karberg & Schmitz GmbH have ownership or joint ownership are referred to in the following as "reserved goods".

The customer is entitled to process and transfer the reserved goods in the ordinary course of business, as long as he is not in arrears. Mortgaging the goods or transferring ownership in them by way of security, is not allowed. As a precaution, the customer herewith fully cedes to Karberg & Schmitz GmbH any receivables arising from the resale of the reserve goods or from any other legal grounds concerning the reserved goods. Karberg & Schmitz GmbH gives the customer a revocable authorisation to collect receivables which have been ceded to it for its invoice and in its own name. This direct debit authorisation can only be revoked if the customer does not regularly meet his own payment obligations. In case of seizure of the reserved goods by third parties, in particular in case of distraint of property, the customer will point to the ownership held by Karberg & Schmitz GmbH and will immediately inform Karberg & Schmitz GmbH so that it can assert its ownership rights.

In a deviation from § 449 para. 2 BGB (German Civil Code), behaviour by the customer which is in breach of contract will entitle Karberg & Schmitz GmbH, to take back the reserve goods without withdrawing from the contract, or to demand transfer of the customer's rights of return from third parties. The customer expressly declares his agreement to this procedure. The retraction or the attachment of the reserve goods by Karberg & Schmitz GmbH does not imply a withdrawal from the contract.

Other conditions

Where the customer is a businessman, a legal person under public law, or a special asset under public law, then Hamburg is agreed to as the sole place of jurisdiction for any disputes which may arise, directly or indirectly, from this contractual relationship.

Should a clause in these terms of delivery and payment be or become ineffective, or should a condition forming part of other agreements be or become ineffective, then this does not affect the validity of all the other conditions or agreements.