

## GENERAL TERMS AND CONDITIONS OF SALE FOR KEMPER PRODUCTS

- Status 1 November 2014 -

### 1. Exclusive validity

- (1) These terms and conditions of sale apply exclusively. KEMPER shall not accept any deviating or contradictory terms and conditions unless KEMPER has expressly agreed to these in writing.
- (2) These terms and conditions of sale shall also apply to all future transactions between the parties even if KEMPER carries out the delivery of goods with notification of deviating or contradictory terms and conditions.
- (3) These terms and conditions shall only apply to business organisations, legal entities under public law or special assets under public law according to § 310 (1) of the German Civil Code (Bürgerliches Gesetzbuch, BGB).

### 2. Offer and product information

Information on power consumption, performance and operating costs applies to normal average conditions. KEMPER reserves the right to make changes to the design and form provided that the goods are not changed in a manner that is unacceptable to the customer.

### 3. Orders and conclusion of contracts

An order is made by sending a written purchase order. The order can be placed by fax or email. In all cases, a purchase contract shall only be formed upon receipt of an order confirmation by the customer. If, after acceptance of an order, there are well-founded doubts as to the customer's ability to pay or creditworthiness, KEMPER shall be entitled, at its discretion, to demand cash payment or provision of a security. If the Customer refuses to comply with one of these services, KEMPER may withdraw from the contract and demand compensation for its expenses from the customer.

### 4. Scope of delivery and delivery time

- (1) The order confirmation shall be decisive with respect to the services to be provided by KEMPER. In the event of any deviations from the order, such deviations shall be deemed approved by the customer unless it sends KEMPER a notification to the contrary within 14 days following receipt of the order confirmation.
- (2) Change requests with respect to the confirmed scope of delivery can only be considered if they have been received by KEMPER no later than six weeks prior to the confirmed delivery deadline.
- (3) The delivery deadline shall extend by the time period of any temporary delivery impediment for which KEMPER is not responsible, even if such circumstances are attributable to sub-suppliers. If the delay lasts for longer than 3 months, both parties shall be entitled to withdraw from the contract. This shall even apply in the event that KEMPER is in default.
- (4) If delivery is delayed due to reasons for which KEMPER is responsible, and if a reasonable period of grace to be set by way of registered letter has expired, the customer shall have the right to withdraw from the contract by giving written notification to KEMPER.
- (5) KEMPER shall have the right to make partial deliveries provided that this is not unreasonable for the customer.

### 5. Dispatch and transfer of risk

Delivery is Ex Works; however, the performance and price risk shall only pass to the customer upon handover to the freight carrier, which KEMPER shall be entitled to select at the request of the customer. In such case, KEMPER shall organise transportation at the customer's expense, although it shall not be responsible for securing the cheapest shipment.

### 6. Acceptance and notification of defects

- (1) The delivery item shall be deemed accepted if it has been handed over to the customer or a person who has been authorised to receive the item. Apparent material defects must be reported to the freight carrier and a written complaint must be sent to KEMPER within 14 days of acceptance at the latest. The customer shall not be entitled to refuse acceptance on account of a minor defect. In all other respects, § 377 of the German Commercial Code (Handelsgesetzbuch, HGB) shall remain unaffected.
- (2) If ordered goods are not collected within a week of receipt of notification of their readiness for collection or if, in the event of shipment, they are not accepted within a week of the first delivery offer, the customer shall, following issuance of a warning, enter into acceptance default. In the event of acceptance default, KEMPER shall be entitled to charge for the storage costs incurred and this shall correspond to at least 1% of the invoice amount for each month of storage. This shall not affect KEMPER's additional statutory rights (in particular with respect to acceptance default).

### 7. Prices

Prices shall always be Ex Works and inclusive of loading in the factory plus VAT in the amount applicable at the time of the order confirmation.

### 8. Payment

- (1) Unless otherwise expressly agreed in writing, all payments shall be due 30 days following the issue date of the payment invoice sent to the customer.
- (2) If the agreed payment deadlines are exceeded by more than 4 calendar days, default interest shall become payable on the 5th calendar day following the payment due date, without any requirement to give a warning. Default interest will be charged, per annum, at 9 percentage points above the base rate of the European Central Bank as applicable at the time in question. Moreover, the outstanding amount shall become payable immediately. This shall also apply in the event of business or property liquidation, significant changes to the customer's economic circumstances, change of the customer's main domicile and/or shipment of the delivery items outside the Federal Republic of Germany.
- (3) With respect to KEMPER's payment demands that are due, the customer shall only be entitled to off-set these against receivables that are undisputed or which have been established by a final court judgment, or to assert a possessory lien.

### 9. Retention of title

- (1) KEMPER shall retain the title to the goods until all receivables payable to KEMPER under the business relationship with the customer, and which are still outstanding, have been settled in full.
- (2) The customer shall have the revocable right to sell the goods in the course of its usual business operations. The Customer, for its part, shall be obliged to reserve transfer of title in its agreements with third parties until it receives full payment of the purchase price plus costs and interest. The rights associated with this retention of title as well as all claims arising out of the purchase contract with the third party are hereby assigned to KEMPER.
- (3) The customer shall be entitled and obliged to collect the receivables assigned to KEMPER provided that KEMPER has not revoked this authority. The customer must, upon request, disclose the parties to whom it has sold the goods as well as the receivables owing to it in connection with the sale. It must inform KEMPER immediately of any impairment to the rights over goods owned by KEMPER.
- (4) During the period of the retention of title, the customer may not pledge the goods or grant rights over them to third parties.
- (5) In the event that creditors of the customer assert rights over delivered goods subject to a retention of title, the customer must inform KEMPER of this immediately in writing. It must bear the costs of any countermeasures arising in connection with assertion of alleged third party rights.
- (6) KEMPER shall be entitled to verify the existence and proper state of the goods at any time. The customer shall be obliged to inform KEMPER of the respective storage location and to notify KEMPER immediately of any changes.
- (7) Kemper will only be entitled to exercise its rights arising from retentions of title in case of a payment default which is not insignificant.

### 10. Guarantee

- (1) In the event of a material defect, the customer shall be entitled to the statutory warranty rights with the following modifications.
- (2) If a material defect occurs, the customer must give immediate written notification of this. At KEMPER's discretion, all such parts that are found to be defective, due to a cause existing prior to or at the time of the transfer of risk, shall be subsequently improved or new parts shall be delivered. The customer shall, after consultation with KEMPER, give KEMPER the necessary time and opportunity to carry out all subsequent improvements and replacement deliveries that KEMPER deems necessary; otherwise KEMPER shall not be held liable for the resulting consequences. The customer shall only have the right to remedy the defect itself or to arrange for it to be remedied by a third party and demand compensation for the necessary expenses in urgent cases of danger to operational safety or to prevent excessive damage and KEMPER must be notified immediately thereof.

(3) With respect to the costs incurred in connection with the subsequent improvement or replacement delivery, KEMPER shall – provided that the complaint proves to be justified – bear the costs for the replacement item, including shipping and the reasonable costs for removal and installation plus, if this can reasonably be requested in the individual case, the costs for any necessary filters and assistants.

(4) If KEMPER allows a reasonable deadline that it has set for performing a subsequent improvement or replacement delivery due to a material defect to expire without success, the customer shall, allowing for the statutory exceptions, have the right to withdraw from the contract in accordance with the statutory provisions. If only a minor defect is present, the customer shall only have a right to a reduction of the contract price. The right to a reduction of the contract price is otherwise excluded.

(5) No warranty is given in the following cases in particular: Unsuitable or improper use, faulty assembly or commissioning by the customer or a third party, natural wear and tear, faulty or careless handling, improper maintenance, use of unsuitable operating materials, chemical, electro-chemical or electrical influences, provided that KEMPER is not responsible for these.

(6) In the event of a subsequent improvement by the customer, defective items shall be the property of KEMPER, in the state they were in at the time of discovery of the defect; the customer must make such items available for inspection and send them if necessary.

(7) Warranty rights apply solely to the customer itself and may not be transferred to third parties.

(8) If the customer or a third party does not perform a subsequent improvement properly, KEMPER shall not incur any liability for the consequences resulting therefrom. The same shall apply to alterations to the delivery item carried out without KEMPER's prior consent.

(9) Warranty claims shall be time-barred after 1 (one) year following delivery of the item to the customer.

#### **11. Compensation for damages, liability**

Regarding damage not incurred to the delivery item itself, KEMPER shall only be liable - irrespective of the legal grounds -

- for intent,
- gross negligence on the part of the owner/governing bodies or management staff,
- for death, personal injury or damage to health due to intent or negligence,
- defects which it has fraudulently concealed,
- in the context of a guarantee promise,
- for defects in the delivery items provided that there is liability under the German Product Liability Act for personal injury or property damage to privately used objects.

KEMPER shall be liable in the event of a culpable breach of an essential contractual obligation, including for gross negligence on the part of non-managerial staff and for ordinary negligence; in the latter case, KEMPER's liability shall be limited to reasonably foreseeable damage that is typical for this type of contract.

Other claims are excluded.

#### **12. Export control and prevention of corruption**

- The customer undertakes to comply with the applicable export control regulations and sanctions lists.
- The customer guarantees that it, its employees and any other third parties acting on its behalf: will not bribe or illegally bestow other benefits on domestic or foreign officials, persons subject to special public service obligations, civil servants, public service employees, political parties, private persons or private companies and their employees; and will comply with the applicable laws and regulations for the prevention of corruption in the course of its work for JOHN DEERE. This shall apply in particular, but not exclusively, to the "OECD (Organisation for Economic Cooperation and Development) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions", the United Nations Convention against "transnational organised crime and against corruption", the U.S. Foreign Corrupt Practices Act (FCPA), the UK Anti Bribery Act and all other applicable national regulations relating to the prevention of corruption; as part of proper accounting, record all incoming and outgoing payments as well as all other benefits received and store these within the statutory deadlines. If the customer discovers that it has breached one of the above regulations, it must inform Kemper of this immediately and assist with any official investigations against Kemper.

#### **13. Place of fulfilment and jurisdiction**

(1) Stadtlöhn shall be the place of performance for all claims.

(2) Münster shall be the exclusive place of jurisdiction for all disputes, in particular with respect to the processing of documents, bills of exchange and cheques. Notwithstanding the above, KEMPER shall be entitled to commence legal proceedings against the customer at its general place of jurisdiction.

(3) The contract is subject to German law with the exception of the United Nations Convention on Contracts for the International Sale of Goods.