

As of November 1, 2019

1. Exclusive application

(1) These Terms and Conditions of Sale apply exclusively. KEMPER shall not recognize any deviating or conflicting conditions unless KEMPER has expressly agreed to them in writing.

(2) These Terms and Conditions of Sale shall also apply to all future transactions between the parties, even if KEMPER delivers goods in full knowledge of deviating or conflicting terms and conditions.

(3) These Terms and Conditions of Sale shall only apply in relation to entrepreneurs, legal entities under public law or special funds under public law within the meaning of Section 310 (1) of the German Civil Code (BGB).

2. Offer and product information

Data concerning power requirement, performance and operating costs are valid for normal average conditions. KEMPER reserves the right to change the design and form of the goods, unless the goods are changed in a way that is unreasonable for the Customer.

3. Orders and conclusion of contracts

An order is placed by sending a written purchase request. The order may also be placed via fax transmission or email. In all cases, a purchase contract is not concluded until the Customer has received an order confirmation. If, after acceptance of the order, justified doubts arise as to the solvency or creditworthiness of the Customer, KEMPER shall be entitled, at its discretion, to demand cash payment or security before delivery. If the Customer refuses to provide either of the above, KEMPER may withdraw from the contract and demand refund of its expenses from the Customer.

4. Scope of delivery and delivery time

(1) The order confirmation is decisive for the service to be rendered by KEMPER. If there is any deviation from the order, the order shall be deemed to have been approved

by the Customer unless the Customer informs KEMPER otherwise within 14 days of receipt of the order confirmation.

(2) Requests for changes to the confirmed scope of delivery can only be considered if they are received by KEMPER no later than six weeks before the confirmed delivery date.

(3) The delivery period shall be extended by the period of a temporary impediment to performance for which KEMPER is not responsible, even if such situations arise at subcontractors. If the delay lasts longer than 3 months, both parties are entitled to withdraw from the contract. This also applies during a delay on the part of KEMPER.

(4) If delivery is delayed for reasons for which KEMPER is responsible, and if a reasonable grace period to be set by registered letter has expired, the Customer shall be entitled to withdraw from the contract by written notification to KEMPER.

(5) KEMPER shall be entitled to make partial deliveries provided this is reasonable for the Customer.

5. Shipping and transfer of risk

Delivery is ex works, but performance risk and price risk shall only pass to the Customer once the goods have been handed over to the carrier, which KEMPER may choose at the Customer's request. In this case, KEMPER shall arrange transport at the Customer's expense, but is not responsible for choosing the most economical shipping.

6. Acceptance and notification of defects

(1) The delivery item shall be deemed to have been accepted if it has been handed over to the Customer or to a person authorized to receive it. Obvious material defects must be reported to the carrier, but KEMPER must be notified of them in writing within 14 days of acceptance at the latest. The Customer may not refuse acceptance because of a non-significant defect. Section 377 HGB remains unaffected in all other respects.

(2) If ordered goods are not collected within one week of receipt of notification of readiness for collection or, in the case of shipping, are not accepted within one week of the first offer to deliver, the Customer shall be in default of acceptance. In case of default of acceptance, KEMPER shall be entitled to charge the costs incurred due to storage, subject however to a minimum of 1% of the invoice amount for each month of storage. The foregoing is without prejudice to KEMPER's further legal rights (due to default of acceptance in particular).

7. Prices

Prices are always quoted ex works including loading at the works, plus value added tax at the rate applicable at the time of order confirmation.

8. Payment

(1) Unless expressly agreed otherwise in writing, all payments are due upon acceptance, at latest however within 30 days of the date of issue of the invoice received by the Customer.

(2) If the agreed payment periods are exceeded by more than four calendar days, interest on arrears shall become due starting on the fifth calendar day after the due date of payment without the need for a reminder. Interest on arrears shall be nine percentage points above the current base interest rate of the European Central Bank per annum. Furthermore, the outstanding amount is due immediately. This shall also apply in the event of dispossession or liquidation, material changes in the Customer's financial circumstances, relocation of the Customer's principal domicile and/or transfer of the delivery items to a location outside the Federal Republic of Germany.

(3) The Customer may only offset claims for payment against other claims not resulting from the same contractual relationship if they are undisputed or legally established.

9. Retention of title

(1) KEMPER shall retain title to the goods until all claims to which KEMPER is entitled or which may arise from the business relationship with the Customer have been fully satisfied.

(2) The Customer is revocably entitled to sell the goods at any time in the ordinary course of business. The Customer shall be obliged, in its agreements with third parties, to reserve the transfer of ownership until the purchase price plus costs and interest have been paid in full. The rights arising from such retention of title and all claims under purchase contracts with third parties are assigned here and now to KEMPER.

(3) The Customer is entitled and obliged to collect the claims assigned to KEMPER, unless KEMPER has revoked such authorization. Upon request, the Customer shall indicate to whom it has sold the goods and what claims it has arising from the sale. It shall notify KEMPER without delay of any impairment of rights to goods owned by KEMPER.

(4) During the retention of title, the Customer may neither pledge the goods nor grant third parties rights thereto.

(5) If creditors of the Customer assert rights to goods delivered under retention of title, the Customer shall notify KEMPER of this immediately in writing. It shall bear the costs of any countermeasures arising from the assertion of supposed rights of third parties.

(6) KEMPER shall be entitled to satisfy itself of the existence and proper condition of the goods at any time. The Customer is obliged to provide KEMPER with information about the place where the goods are stored and to notify KEMPER of any changes without delay.

(7) However, KEMPER shall only make use of its rights under the retention of title insofar as the outstanding liabilities represent more than an insignificant part of the amount.

10. Warranty

(1) In the event of a material defect, the Customer may claim the statutory warranty rights with the following modifications.

(2) If a material defect occurs, the Customer shall be obliged to notify this immediately in writing. All parts which prove to be defective due to a circumstance occurring before or at the time risk is transferred shall be repaired or replaced by KEMPER free of charge. After consultation with KEMPER, the Customer shall allow KEMPER the time and opportunity to carry out all repairs and replacements which KEMPER deems necessary; otherwise, KEMPER shall not be liable for the resulting consequences. Only in urgent cases of danger to operational safety or to prevent excessive damage, in which case KEMPER must be informed immediately, shall the Customer be entitled to remedy the defect itself or have it remedied by third parties and demand refund of the necessary expenses from KEMPER.

(3) Of the costs of repair or replacement, KEMPER shall – insofar as the complaint proves to be justified – bear the costs of spare parts including shipping and reasonable costs of dismantling and installation, plus, if reasonable given the circumstances of the individual case, the costs of sending its fitters and assistants where required.

(4) The Customer shall be entitled to withdraw from the contract in line with statutory provisions if KEMPER – taking statutory exceptions into account – allows a reasonable deadline notified to KEMPER for carrying out repair or replacement due to a material defect to expire without result. In the case of a non-significant defect, the Customer shall only be entitled to a reduction of the contract price. The right to a reduction of the contract price shall otherwise be excluded.

(5) No warranty is provided in the following cases in particular: Unsuitable or improper use or modification of the product, faulty assembly or commissioning by the Customer or third parties, natural wear and tear, faulty or negligent handling, improper maintenance, unsuitable operating materials, chemical, electrochemical or electrical influences – provided KEMPER is not responsible for them.

(6) Where the Customer carries out repairs, defective items shall be the property of KEMPER and they shall be made available and if necessary sent in by the Customer for inspection in the condition in which they were at the time the defect was identified.

(7) Warranty rights are enjoyed only by the Customer itself and are not transferable to third parties.

(8) If the Customer or a third party carries out repairs improperly, KEMPER shall not be liable for the resulting consequences. The same shall apply to changes made to the delivery item without KEMPER's prior consent.

(9) The limitation period for warranty claims is 1 (one) year from the date on which the item is delivered to the Customer.

11. Compensation, liability

For damage that has not occurred to the delivery item itself, KEMPER shall only be liable – for whatever legal reasons – in the case of

- intent,
- gross negligence on the part of the owner, the executive bodies or executive senior staff,
- culpable injury to life, body or health,
- defects that it has maliciously concealed,
- defects covered by warranty,

- defects of the delivery item, insofar as liability is assumed under the Product Liability Act for personal injury or material damage to privately used items.

In the event of culpable breach of material contractual obligations, KEMPER shall also be liable for gross negligence on the part of non-executive employees and for minor negligence, the latter being limited to reasonably foreseeable damage typical of the contract.

Any further claims are excluded.

12. Export control and prevention of corruption

- The Customer undertakes to observe the applicable export control regulations and sanctions lists.
- The Customer shall ensure that the Customer itself, its employees and other third parties acting on its behalf:

do not bribe domestic or foreign public officials or persons with special public service obligations, civil servants, employees in the public sector, political parties, private individuals or private companies and their employees or unlawfully grant them other advantages; it shall comply with the applicable laws and regulations for the prevention of corruption in the context of its activities for KEMPER. These include, but are not limited to, the OECD (Organization for Economic Cooperation and Development) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the United Nations Convention against Transnational Organized Crime and Corruption, the US Foreign Corrupt Practices Act (FCPA), the UK Anti Bribery Act and any other applicable national anti-corruption legislation;

record all incoming and outgoing payments and all other benefits received as part of a proper accounting system and retain such records for the statutory periods.

If the Customer becomes aware that it has violated one of the aforementioned provisions, it shall inform KEMPER immediately and support KEMPER in the event of an official investigation.

13. Place of performance and jurisdiction

(1) The place of performance for all claims is Stadtlohn, Germany.

(2) The exclusive place of jurisdiction for all disputes, in particular those relating to documents, bills of exchange and checks, shall be Münster, Germany. Irrespective of this, KEMPER shall be entitled to bring an action against the Customer at its general place of jurisdiction.

(3) The contract is governed by German law, to the exclusion of the UN Sales Convention.