



# Management Handbuch

## Lieferbedingungen FO 7.5.1.002E

Autor: T. Oberauer

Datum: 15.05.2020

Status: Freigegeben

Revision: 02

### General Delivery Conditions

#### 1. Field of application

- 1.1 These general delivery conditions only apply in respect of entrepreneurs in the context of section 14 of the Civil Code.
- 1.2 We provide all of our deliveries and services solely under these general delivery conditions. We do not acknowledge any contrary or deviating conditions by the client unless we have expressly agreed to them in writing.

#### 2. Quotation and order

- 2.1 Our quotations are without obligation and are not binding unless they are expressly marked as binding quotations.
- 2.2 The order is subject to our written confirmation of order, which may take the form of an invoice being sent with the goods. If the client has any objections to the content of the confirmation of order, he must oppose the confirmation of order immediately and no later than within 14 days of receipt. Otherwise the contract will be effected in accordance with the confirmation of order.

#### 3. Prices and payment conditions

- 3.1 The prices given in the confirmation of order are definitive. Unless otherwise agreed, our prices are considered to be ex works and do not include packaging, freight, insurance, customs or VAT.
- 3.2 Packaging is charged separately at cost, it is not possible for the packaging to be taken back.
- 3.3 Insurance is only taken out at the client's wish and cost.
- 3.4 Bills of exchange and cheques are only taken as payment on the basis of an express agreement. Any costs expenses or costs that arise are to be paid by the client.

#### 4. Offsetting and withholding

- 4.1. The client may only offset against an undisputed or legally valid counter-claim. The client may only enforce a withholding right if it concerns the same contractual relationship.

#### 5. Delivery

- 5.1 The risk of accidental destruction or accidental damage of the goods passes to the client when the goods are handed over or in the case of despatch when the item is given to the freight forwarder.
- 5.2 If we choose the type of despatch, the route or the carrier, we are only liable for gross negligence in the choice made.
- 5.3 The client may only withdraw from the contract because delivery dates are exceeded if he first set us a reasonable extension threatening refusal and the delivery has not been made within the extended time. This does not apply if in accordance with section 323, para. 2 of the BGB setting a date is unnecessary.

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- 5.4 If we are late in delivering, we are only liable in respect of damages arising from the delay for the client in the case of gross negligence.
- 5.5 We are entitled to make a reasonable amount of part deliveries and to charge for these separately.

## 6. Retention of ownership

- 6.1 We retain ownership of all goods supplied by us until complete payment of all amounts owed from the whole business relationship. Claims also include cheques and bills outstanding and amounts owed from current invoicing. If liability arising from a bill in connection with the payment is established for us, retention of ownership will not end until our claim from the bill is eliminated.
- 6.2 If the client is late in paying, or it can be seen that our payment demands are at risk due to insufficient ability to pay on the part of the client, we are entitled to reclaim the goods on the basis of the retention of ownership. Withdrawal from the contract is not a prerequisite for these demands for the goods to be returned.
- 6.3 Barring cancellation permitted for just cause, the client is entitled to have possession of the article supplied within the proper course of business. The goods covered by the retention of ownership may however only be passed on from the client to the purchaser if the client is not in arrears with his obligations to us. In the case of a resale, the client here and now assigns to us all claims from the resale, particularly payment demands, but also other claims in connection with the sale to the extent of the invoice amount (including VAT). This applies regardless of whether the article supplied has been resold without any processing or after processing. Until permitted cancellation by us for just cause, the client is entitled to collect the assigned amounts receivable on trust. For just cause we are entitled to announce the assignment of claim to the third-party debtors, even in the name of the client. The client's authority to collect ends when the assignment is reported to the third-party debtor. If the authority to collect is cancelled, we may demand that the client announces to us the assigned amounts receivable and the parties that owe them, makes all necessary statements for the collection, provides the corresponding documents and advises the debtors about the assignment.
- 6.4 Processing and transformation of the supplied article by the client is always performed for us. We are considered to be the manufacturer in the sense of section 950 of the BGB without further obligation. If the supplied article is processed with other articles that do not belong to us, we acquire co-ownership of the new item in the proportion of the value of the article supplied to the value of the other articles processed at the time of processing. For the items resulting from processing, moreover the same conditions apply as for the item supplied under reservation.

## 7. Quality defects

- 7.1 When accepting or receiving any delivery, the client is obliged immediately to check and report any noticeable defects immediately to us in writing. Hidden defects must be reported in writing immediately they are discovered. Otherwise the delivery will be considered to have been accepted.
- 7.2 If there is a defect for which we are responsible, we are entitled to put this right by either removing the defect or supplying an item which is free of defects. If rectification by us is delayed, if it fails or is unreasonable for the client, the client may choose to withdraw or ask for a reduction.
- 7.3 Claims by the client regarding defects lapse after 6 months for spare parts and after 12 months for all other services from delivery. If start-up is agreed, claims regarding defects lapse 12 months after start-up, but no later than 15 months after delivery.



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This does not apply if the law on construction and construction matters in the case of malice or in the case of recourse by the contractor specifies longer times.

- 7.4 Natural wear and tear on wearing parts such as e.g. bearings, guides, gaskets, heaters, ultrasonic transducers and corrosion on installation components, etc. are not reasons for claims for quality defects.
- 7.5 We only accept liability for quality defects regarding the correct operation of installed spare parts if the installation has been carried out by specialist personnel. In the case of incorrect treatment, particularly if there is no regular maintenance, if the operating instructions are not followed or if there is improper intervention by third parties, our liability for material defects will not apply unless the client proves that these circumstances have not had any effect on the defect. Natural wear is not subject to quality defect liability.
- 7.6 In the case of defect reports which are made unjustly, we are entitled to charge for any transport costs incurred and reasonable payment for checking the complaint.

### 8. Compensation

- 8.1 We are liable for intent and gross negligence. For simple negligence we are only liable in the case of an infringement of important contractual obligations arising from the nature of the contract or where infringement endangers the purpose of the contract being achieved. Even then, compensation is limited to foreseeable damages that are typical of the contract. Otherwise, in the case of simple negligence claims for compensation by the client, on whatever legal grounds, are not accepted.
- 8.2 This limit of liability does not apply for claims arising from the product liability law, in the case of injury to life, bodily injury or injury to health.
- 8.3 Nor does the limit of liability apply in the case of claims for compensation with regard to quality defects if we maliciously conceal a defect or have accepted a guarantee for the constitution of the article. The provision under 7.3 applies accordingly with regard to the lapsing of claims for compensation.
- 8.4 If we have a claim for damages against the customer as the result of an unjustified withdrawal or an unjustified cancellation by the customer, we are entitled to claim, as a minimum lump-sum, compensation of our marketing and administration costs incurred in respect of this contract. The customer retains the right to prove that we suffered no damage at all or that it is significantly lower than this lump-sum. We retain the right to claim higher damages.

### 9. Information on Data Collection Pursuant to the General Data Protection Regulation (GDPR)

- 9.1 Karl Roll GmbH & Co. KG processes data it collects in the context of business relations or from public sources. It processes such data for the purpose of performing a contract, to comply with contractual or pre-contractual obligations and for direct marketing.
- 9.2 The collection and processing of data is necessary for performing contractual relationships and is based on Article 6 (1) (b) of the GDPR.
- 9.3 Such data will not be disclosed to any third parties.



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- 9.4 The data will be deleted as soon as they are no longer required for the purpose for which they were processed.
- 9.5 You have the right to object, at any time, to the use of your data for direct marketing purposes.
- 9.6 You may request, at any time, to be provided with information about the data stored about you in the company and you may request any incorrect data to be corrected or to have data deleted if such data were unlawfully stored.
- 9.7 You may contact our Data Protection Officer at [datenschutz@karl-roll.de](mailto:datenschutz@karl-roll.de) or at "Datenschutzbeauftragter, c/o Karl Roll GmbH & Co. KG, Kanalstraße 30, D-75417 Mühlacker, Germany.
- 9.8 Furthermore, you have the right to file a complaint with the supervisory body.

### 10. Place of jurisdiction, place of fulfilment and applicable law

- 10.1 For both parties, the place of fulfilment for delivery and payment is the company's domicile.
- 10.2 The place of jurisdiction for all legal disputes arising from the contractual relationship, and also regarding its creation and effectiveness, is, in the case of business people, our domicile for both parties. We may, as we choose, also institute proceedings at the customer's domicile.
- 10.3 The contractual relationship is subject exclusively to German law.

**Karl Roll GmbH & Co. KG, D-75417 Mühlacker-Enzberg**

**Mai 2020**