

# Kappus GmbH General Terms and Conditions of Purchase

## 1. Scope

- 1.1. All orders for soap, raw material, or any other products ('Goods') Kappus GmbH ('Kappus', or 'we') places with its business partners or Suppliers ('Suppliers') are made on the basis of and subject to the conditions of these General Terms and Conditions of Purchase ('Terms and Conditions of Purchase'). The Terms and Conditions of Purchase will also apply to future orders, even if the Terms and Conditions of Purchase are not separately agreed upon again. The version of the Terms and Conditions of Purchase valid upon concluding the contract are binding. The Terms and Conditions of Purchase are available on our website <https://www.Kappus.com> and can be saved in reproducible form.
- 1.2. The Supplier acknowledges, either before or else upon the start of the implementation of the contract, that the Terms and Conditions of Purchase for the respective contract are binding. These Terms and Conditions of Purchase apply exclusively. Deviating, conflicting, or supplementary General Terms and Conditions of the Supplier only become an integral part of the Contract if, and insofar as, we have expressly consented to their application in writing for each individual case. This requirement of consent applies in any event; for example, even if we accept the Supplier's deliveries without reservation in full knowledge of the Supplier's General Terms and Conditions.
- 1.3. Any individual agreements made with the Supplier on a case-by-case basis (including supplementary agreements, amendments, and modifications) in any event prevail over these Terms and Conditions of Purchase. Subject to proof to the contrary, a written contract or our written confirmation is decisive regarding the content of such agreements.

## 2. Order

We may cancel any order without incurring any costs if we do not receive a confirmation of the order within two weeks after receipt of the order by the Supplier.

## 3. Delivery period and delay in delivery

- 3.1. Confirmed delivery dates are binding. The delivery period is seven working days from the execution date of the contract if the delivery period is not specified in the order and no other agreement has been made. If it becomes foreseeable that the agreed delivery period or the agreed delivery date will be exceeded, the Supplier shall, without prejudice to its other obligations, inform us immediately of the expected delay and the duration of the delay.
- 3.2. Unless otherwise agreed, the timeliness of deliveries is determined by the receipt of the goods at the destination specified by us.
- 3.3. If the delivery is not made or is not made within the agreed delivery period or if the Supplier is delayed, Kappus' rights - in particular, the rights to withdraw from the contract and to damages - will be governed by the statutory provisions.

## 4. Shipping, packaging, and passing of the risk

- 4.1. Unless otherwise agreed, delivery must be made to the location specified in the order ('Destination'). If no Destination is specified in the order and unless otherwise agreed, the goods must be delivered to Kappus' registered place of business.
- 4.2. Unless otherwise agreed, delivery is DDP (Incoterms 2020), i.e. shipping and packaging costs are borne by the Supplier. Unless we have specified a mode of transport, the goods must be shipped at the lowest possible cost in each case for delivery and pricing ex works or ex warehouse of the Supplier. Transport insurance may only be invoiced to us if this has been agreed. Any packaging costs that we must reimburse must be invoiced at the Supplier's cost price. Should any additional costs arise because shipping or packaging instructions have not been followed, the supplier shall bear these fees. Any additional costs arising from the need to meet the delivery deadline by way of expedited delivery must also be borne by the Supplier.
- 4.3. The goods must be properly packaged if their nature requires packing during transport. The packaging must be safe for transportation and must comply with the transportation regulations applicable to the chosen mode of transportation and with any packaging instructions stated in our order.
- 4.4. Packaging material (loaned containers) will only be returned by us if it is recognisable as such by the owner's imprint or if a return delivery has been separately agreed with us.
- 4.5. Unless otherwise agreed, express consignments must be sent to the Destination with a note. Where consignments from different orders are made ready for delivery within one calendar week, these consignments must be dispatched as groupage/grouped consignments. This does not apply to deliveries with fixed deadlines.
- 4.6. The risk of accidental loss of and accidental damage to the goods passes to Kappus upon handover at the place of performance.
- 4.7. If the goods arrive at the Destination with damaged packaging or if they are made available for the agreed collection in damaged packaging, we are entitled to reject the goods without checking the contents. The Supplier shall pay the costs of a return shipment required as a result of this.
- 4.8. Each delivery must be accompanied by a delivery note stating the product designation specified in our order as well as the delivered quantity, the order and product numbers, and any other agreed documents. If the delivery note is missing or incomplete, we will not be responsible for any resulting delays in processing and payment.

## 5. Formal acceptance

- 5.1. At all times, acceptance is subject to the reservation of any and all rights, including but not limited to those rights that arise from defective or delayed delivery.
- 5.2. We reserve the right to accept goods only after they have passed a quick test of the quality of the raw materials carried out by us on site in a random sampling procedure upon delivery.
- 5.3. If formal acceptance is prevented or considerably impeded by circumstances beyond our control, we shall be entitled to postpone formal acceptance for the duration of these circumstances. Circumstances of the aforementioned kind are deemed to include, in particular, all interventions by public authorities affecting our operations, the processing, sale or other use of the goods, such as import and export restrictions, natural events such as fire and water damage, the scarcity of raw materials or means of transport, operational disruptions such as strikes and work stoppages, the interruption or restriction of the energy supply and all other circumstances which lead to a stop or significant restriction of our production. If these circumstances last for more than four weeks, the Supplier will be entitled to withdraw from the contract if we continue to refuse acceptance of the goods. Further claims are excluded.

## 6. Prices, payment, and assignment

- 6.1. The price stated in the order is binding. All prices are deemed to include VAT at the statutory rate unless VAT is shown separately.
- 6.2. On the day of dispatch, the invoice must be sent to us separately in duplicate, stating our order number and containing an exact list of contents and weights and showing VAT. A separate invoice must be issued for each VAT rate. Sending an invoice that does not meet the above requirements or deviates from our order will not start a payment period and thus neither a period for claiming early payment discount.
- 6.3. Unless otherwise agreed, payment must be made within fourteen days at a 3% discount or within thirty days without deduction after receipt of the goods and the invoice. Any set-off is equal to payment.
- 6.4. We are entitled to set-off and retention rights as well as the defence of non-performance of the contract according to the statutory provisions. In particular, we are entitled to withhold due payments as long as we are still entitled to claims against the Supplier arising from incomplete or defective performance.
- 6.5. The Supplier has a right of set-off or retention only in the case of counterclaims that either have been established by a court of law in a final and absolute decision or are undisputed.
- 6.6. The deadline for payment will in no event begin before the agreed delivery date.
- 6.7. Any claims arising from the contracts concluded with us may only be assigned to or collected by third parties upon our written consent.

## 7. Warranty and liability

- 7.1. The Supplier warrants that the goods are free of defects, in particular that the goods have the contractually agreed properties, comply with the relevant statutory provisions and the generally accepted codes of practice. The Supplier further warrants that the design and composition of the delivered goods have not been changed in comparison with previously similar, defect-free deliveries, unless such change has been agreed with us prior to the conclusion of the contract.
- 7.2. The commercial duty to report defects is governed by the statutory provisions (Sections 377 and 381 German Commercial Code [Handelsgesetzbuch – HGB]), with the proviso that:
  - a) our duty to inspect is limited to defects that are obvious upon visual inspection of the incoming goods, including the delivery documents (e.g. transport damage, wrong deliveries and short deliveries), or upon spot checks during quality control procedures.
  - b) Notwithstanding our duty to inspect, our complaint (notification of defects) shall in any event be deemed to be prompt and timely if it is sent within four (4) days of delivery in the case of obvious defects that become apparent during a proper inspection of incoming goods or within two (2) weeks of discovery in the case of other defects that only become apparent later.
- 7.3. If the goods delivered are defective, Kappus shall have the right to choose between remedying the defect (subsequent improvement) or delivering goods free of defects (replacement).
- 7.4. Without prejudice to our statutory rights, the following applies:
  - a) If the Supplier fails to fulfil its obligation to either repair or replace the delivered goods within a reasonable period defined by Kappus, Kappus may remedy the defect or have it remedied by a third party and demand compensation from the Supplier for the necessary expenses or an equivalent advance payment.
  - b) If subsequent performance by the Supplier is unsuccessful or if Kappus cannot reasonably be expected to accept it (e.g. due to particular urgency, because disproportionate damage or health hazards or the endangerment of operational safety is imminent), no deadline needs to be set; Kappus will inform the Supplier of such circumstances immediately, if possible in advance.

The rights to compensation for damages or expenses, withdrawal or reduction of the price remain unaffected by this provision.

# Kappus GmbH General Terms and Conditions of Purchase

- 7.5 After a failed attempt to render subsequent performance by the Supplier, we may withdraw from the contract and/or demand compensation for damages in lieu of performance; the Supplier shall not be entitled to any further attempt at subsequent performance. Where the Supplier's performance is only partially defective, we reserve the right to withdraw from the contract or to claim damages in lieu of performance either with regard to the respective part of the contract or the entire contract.
- 7.6 The defective goods, for the purpose of remedying the defects, must be made available to the Supplier at our option either at the place where they are located when the defect is discovered or at the Destination. The Supplier is obliged to collect the goods from there if it is not possible to remedy the defects on the spot and then return them there.
- 7.7 The Supplier shall bear the necessary expenses and costs incurred for the purpose of subsequent performance (including, but not limited to, costs of transport as well as infrastructure use, labour, and material costs).
- 7.8 The period of limitation of warranty claims will be suspended by a notice of defect received by or sent to the Supplier within the warranty period. During the time in which subsequent performance is being rendered, the warranty periods will also be suspended.
- 7.9 The Supplier shall otherwise be liable for their obligations under the statutory provisions, unless otherwise explicitly stipulated in these Terms and Conditions.
- 8. Production materials**
- 8.1 All production materials such as drafts, drawings, models, samples, measuring and testing equipment, delivery and testing instructions, printing templates and the like, as well as tools, which we are providing to the Supplier for the execution of the order will remain our property.
- 8.2 Any production materials that are manufactured and invoiced by the Supplier in fulfillment of the order will become our property upon their manufacture. They must be kept by the Supplier for us until they are handed over.
- 8.3 The aforementioned production materials and the items manufactured with them must not be used for other purposes, reproduced, or provided to third parties without our written consent. The materials must be secured against unauthorised inspection and use. The Supplier shall return them to us unprompted when the Supplier no longer needs them for further fulfilment of delivery or performance of service and if we do not explicitly leave them with the Supplier.  
We shall have the exclusive right to commercialise the developments given rise to by the order and any further developments resulting from these.
- 9. Property rights**
- The Supplier guarantees that the delivered goods or their use do not infringe any industrial property rights or other rights of third parties. Where such rights do exist, the Supplier shall compensate us for any damage resulting therefrom, irrespective of the Supplier's and our knowledge. The Supplier is also obliged to indemnify us against any third-party claims arising from industrial property rights.
- 10. Retention of title**
- Retention of title by the Supplier is excluded unless we have given our express written consent.
- 11. Secrecy**
- 11.1 The Supplier undertakes to treat as confidential all Confidential Information which become known to it during the implementation of this contract and to use it for contractually agreed purposes only. Confidential Information within the meaning of this provision means all financial, technical, legal information and information relating to business activities, employees, business partners, or management, or other information (including data, records, templates, production materials according to the above clause 8; specifications, if any, and know-how) of Kappus that become known to the Supplier due to, or in connection with, the cooperation of the contractual relationship between the parties, in the course of its preparation, execution, and performance. The carrier medium of the information is irrelevant; this also includes oral information specifically. Likewise, the Supplier undertakes not to make Confidential Information accessible to third parties, to protect it against third-party access by taking appropriate steps, and not to make it the subject of an application for industrial property protection by the Supplier.
- 11.2 The above obligations do not apply to such Confidential Information which were already known to the Supplier prior to their disclosure under this agreement, which were independently developed or otherwise lawfully obtained by the Supplier, or which are generally known or become generally known without violation of these Terms and Conditions of Purchase.
- 11.3 The Supplier shall ensure that, by taking the appropriate steps, the employees, freelancers, and subcontractors called in by the Supplier in the execution of the contract will also observe confidentiality as mentioned above.
- 11.4 In the event that the Supplier thinks they are obliged to disclose information due to a court order, an order by a government authority or other institution or law, the Supplier will immediately, as far as possible or legally permissible, in due time before disclosure, inform Kappus in writing so that Kappus will be able to prevent disclosure by taking legal steps. The Supplier shall disclose only that Confidential Information which must be disclosed.
- 12. Limitation of actions**
- 12.1 Unless otherwise stipulated below, the parties' claims vis-à-vis each other will lapse after the periods defined in the statutory provisions.
- 12.2 By way of derogation from Section 438(1) no. 3 German Civil Code (Bürgerliches Gesetzbuch - BGB), the general limitation period for raising claims for defects is three years from the passing of risk. Where formal acceptance has been agreed, the limitation period will commence upon formal acceptance. The 3-year period of limitation applies accordingly to raising claims arising from defects of title, while the statutory period of limitation for third-party claims in rem for the restitution of property (Section 438(1) no. 1 German Civil Code) shall remain unaffected; furthermore, claims arising from defects of title will in no event become statute-barred as long as the third party may still assert the right - in particular because it has not become statute-barred - against us.
- 12.3 The limitation periods under the above section 12.2 apply to all contractual claims for defects. The regular limitation period (Sections 195 and 199 German Civil Code) applies to any non-contractual claims we may have for damages on account of defects unless the application of the limitation periods under the law governing the sale of goods leads to a longer limitation period in any given case.
- 13. Place of performance**
- If Kappus collects the goods, the place of performance is the collection address notified to Kappus; if the goods are delivered, the place of performance is the Destination. Place of performance for payments is Kappus' registered office.
- 14. Partial invalidity**
- Should any of the provisions of this agreement be or become invalid, this will not affect the validity of the respective contract and the remaining provisions. The invalid provision must be replaced by a provision, which, in a permissible manner, most closely approximates the parties' economic interests. If and to the extent that these Terms and Conditions of Purchase contain loopholes, such legally effective provisions are to be deemed agreed to close such loopholes that the parties would have agreed considering the economic intents and the purpose of these Terms and Conditions of Purchase had they been aware of the loophole.
- 15. Venue and governing law**
- The venue for any disputes is Freiburg/Breisgau. However, we are also entitled, at our discretion, to sue the Supplier at another permissible venue. This provision does not affect any mandatory statutory provisions on exclusive venues. These Terms and Conditions of Purchase and the entire legal relationship between the Supplier and Kappus is governed by the laws of the Federal Republic of Germany and the UN Sales Convention (CISG) does not apply.
- \*\*\*