

General Terms and Conditions of Sale, Delivery and Payment

1. Scope of application

The following General Terms and Conditions of Sale, Delivery and Payment (GTCS) apply to all offers and orders of VKK Standardkessel Köthen GmbH (VKK) and are deemed to be agreed at the latest when the order is placed. Other terms and conditions of the buyer do not apply, even if they are not expressly contradicted. Unless otherwise agreed, the GTCS in the version valid at the time of the buyer's order, but in any case in the version communicated to him in text form, also apply to similar future contracts without VKK having to refer to them again in each individual case.

2. Conclusion of contract

(1) The order of the scope of delivery and services by the buyer is considered a binding offer of contract. Unless otherwise stated in the order, VKK is entitled to accept this offer of contract within 2 weeks after receipt by VKK.

(2) Acceptance may be declared either in writing (e.g. by order confirmation) or by delivery of the goods to the buyer.

3. Scope of deliveries and services

(1) All deliveries and services not expressly described in VKK's offer are not part of the scope of the order.

(2) The choice of make and design shall be made exclusively in accordance with **VKK's factory standard**. We reserve the right to make changes to technical details.

(3) If, after the date of the order confirmation and until the delivery and/or handover of the scope of delivery and/or services of VKK, changes in execution or additions become necessary as a result of changed regulations, implementation provisions or official requirements or a changed state of the art, which make an additional delivery or change in the agreed scope of delivery necessary, these costs shall be borne by the buyer. In this case, the parties are obliged to make adjustments to the deadline or warranty.

4. Delivery

(1) Unless otherwise agreed, delivery ex works shall be deemed agreed. Even if carriage paid delivery has been agreed, this shall be at the risk of the buyer.

(2) Interim dates are given as precisely as possible for planning purposes but are not binding. In the case of pure delivery contracts, contractually binding dates are exclusively the delivery date. In the case of contracts in which assembly services and/or commissioning services are also owed, the agreed completion date is for the respective last act of performance.

(3) If the delivery is not accepted on the agreed delivery date for reasons for which VKK is not responsible, the day of delivery is the day on which VKK has notified readiness for shipment. On this day, the payment due for the day of delivery also becomes due.

(4) If, for reasons for which VKK is not responsible, any subsequent services cannot be performed on the contractually agreed dates, the respective subsequent installments will also be due on the contractually agreed date.

5. Transfer of risk

(1) Delivery shall be ex works, which is also the place of performance of the delivery. At the buyer's request and expense, the scope of delivery and services will be shipped to another destination (sale by delivery to a place other than the place of performance). Unless otherwise agreed, VKK is entitled to determine the type of shipment (in particular transport company, shipping route, packaging) itself.

(2) The risk of accidental loss and accidental deterioration of the scope of delivery and performance shall pass to the buyer at the latest upon handover. In the case of sale by delivery to a place other than the place of performance, however, the risk of accidental loss and accidental deterioration of the scope of delivery and performance as well as the risk of delay shall already pass upon delivery of the scope of delivery and performance to the forwarding agent, the carrier or the person or institution otherwise appointed to carry out the shipment. Insofar as a work performance is in question and an acceptance has been agreed between the parties, this shall be decisive for the transfer of risk. Otherwise, the statutory provisions of the law on contracts for work and services shall apply mutatis mutandis to an agreed acceptance. The handover or acceptance shall be deemed equivalent if the buyer is in default of acceptance.

(3) If the buyer is in default of acceptance, fails to cooperate, or if VKK's delivery is delayed for other reasons for which the buyer is responsible, VKK is entitled to demand compensation for the resulting damage, including additional expenses (e.g. for storage costs).

6. Force majeure

If the fulfilment of the contract is made difficult or impossible by events of force majeure, official measures, plant shutdowns, strikes, or comparable events for which VKK is not responsible, VKK is released from the fulfilment of the contractual obligations assumed for as long as these events last. The same applies if VKK does not receive deliveries from sub-suppliers or does not receive them on time and is not responsible for this.

7. Transport costs

If transport is contractually included in the scope of delivery and services of VKK, VKK will only bear the costs for heavy transport or for transport by truck free to the construction site.

All other costs in connection with police transport escorts, with unknown conditions from the permits, all costs for traffic control measures, for disassembly and reassembly of traffic facilities, for lifting/shutting down telecommunication and/or supply lines, all costs for static recalculations of bridge structures, etc., any additional costs incurred as a result will be invoiced separately and are not included in the agreed transports of our order scope.

8. Testing, Inspections, Acceptance

- (1) All costs for tests and inspections within the scope of the manufacturing process are borne by VKK; costs within the scope of commissioning and costs for repeated tests are borne by the buyer. The tests and inspections are carried out by the ZÜS.
- (2) If tests cannot be performed in the presence of VKK during assembly, commissioning, or trial operation, the resulting additional services are to be remunerated on the basis of the valid assembly and commissioning rates (domestic) of VKK.
- (3) The scope of delivery and services of VKK is automatically deemed accepted upon commercial use.
- (4) In case of delivery ex works (EXW, FCA), the scope of delivery and services is deemed accepted upon collection.

9. Prices/Terms of Payment

- (1) Unless otherwise agreed in individual cases, VKK's prices at the time of conclusion of the contract apply ex warehouse without packaging.
- (2) In the case of a mail-order purchase (clause 5.1 of these GTCS), the buyer bears the transport costs from the warehouse and the costs of any transport insurance requested by the buyer.
- (3) The value added tax applicable at the time of invoicing shall be charged additionally and visibly shown on the invoice. Advance payments shall be made with value added tax.
- (4) Unless otherwise agreed, the following payment installments shall apply: 1/3 of the order value no later than 30 days after the order placement, 1/3 of the order value after expiry of half the performance period, 1/3 of the order value after delivery. If services such as installation, commissioning, trial operation or proof of performance are owed subsequently, the last payment installment shall be due upon completion of the last service owed in each case. A payment term of 30 days after invoicing shall apply in each case.
- (5) If the buyer defaults on acceptance or payment of a delivery, or if there is a significant deterioration in the buyer's financial situation, or if justified doubts about the buyer's solvency arise after conclusion of the contract, the entire purchase price becomes due immediately and VKK is entitled to demand advance payments or appropriate securities.

10. Rights of retention/offset

The buyer shall only be entitled to rights of set-off or retention insofar as his claim has been legally established or is undisputed. In the event of defects in the delivery, the buyer's counter rights shall remain unaffected.

11. Retention of title

- (1) All delivered goods remain the property of VKK (reserved goods) until all claims arising from the underlying contract have been fulfilled.
- (2) Processing, combining and mixing of the goods subject to retention of title is done for VKK as the manufacturer. If the buyer processes, combines or mixes the reserved goods with other goods, VKK is entitled to (co-)ownership the new item in proportion to the invoice values of the processed, mixed or combined goods. The buyer may only sell the goods subject to retention of title in the ordinary course of business. In the event of the sale of the goods subject to retention of title and the expiration of VKK's ownership of the goods subject to retention of title due to processing, combining and mixing for security matters the buyer hereby assigns the claim against third parties to VKK arising from the sale of the goods subject to retention of title in total or in the amount of the possible co-ownership share in accordance with the provision above. VKK accepts the assignment.
- (3) The buyer remains authorized besides VKK to collect the claim. VKK agrees not to collect the claim as long as the buyer meets his payment obligations to VKK and there is no deficiency in his ability to pay. If the buyer does not meet his payment obligations to VKK and/or if there is a deficiency in his ability to pay, VKK may demand that the buyer informs VKK of the assigned claims and their debtors, provides all information necessary for collection, hand over all relevant documents, and inform the debtors (third parties) of the assignment. In this case, VKK is also entitled to revoke the buyer's authority to further sell and process the other goods subject to retention of title.
- (4) If the realizable value of the securities exceeds the claims of VKK by more than 10% at the request of the buyer, VKK will release securities of its choice

12. Warranty/Guarantee

- (1) VKK provides a warranty for the scope of delivery and services offered by VKK (the quality of the material and proper execution) for a period of 2 years, beginning with delivery or notification of readiness for shipment.
- (2) All parts that become defective during the warranty period and that are or will become defective as a result of poor materials or faulty workmanship will, at VKK's discretion, be repaired free of charge within a reasonable period of time to be agreed upon, or new parts will be delivered free of charge ex works without assembly and commissioning.
- (3) Wear parts (e.g. seals, rotating parts, brick lining) are excluded from the warranty. Wearing parts are those parts which are usually replaced or are to be replaced within max. 12 months after use as well as non-metallic parts which come into contact with fire.
- (4) Commissioning must be performed by VKK or authorized personnel.
- (5) In addition to warranty claims, liability of VKK due to the issuance of a guarantee can only be considered if there is an express contractual provision between the parties by which the parties have regulated the condition of the goods or the assurance of a property and have expressly clarified in this context by mentioning the word "guarantee" that VKK assumes a guarantee liability in this respect. If such a contractual provision has not been expressly agreed between the parties, there is only an agreement between the parties regarding the warranted quality or condition of the goods.

13. Other liability

(1) Unless otherwise stipulated in these GTCS, including the following provisions, VKK is liable for a breach of contractual and non-contractual obligations in accordance with the statutory provisions.

(2) VKK is liable for damages, regardless of the legal grounds, within the scope of fault liability in cases of intent and gross negligence. In the case of simple negligence, VKK is only liable for

a) for all damages resulting from injury to life, body, or health,

b) for damages resulting from the violation of an essential contractual obligation (obligation, the fulfillment of which makes the proper execution of the contract possible in the first place and on the fulfillment of which the contracting partner regularly relies and may rely); in this case, however, VKK's liability is limited to compensation for the foreseeable, typically occurring damage.

(3) VKK is liable for indirect damages, in particular consequential damages (e.g. loss of production) or loss of profit, only if VKK is guilty of gross negligence or intent.

(4) The limitations of liability resulting from section 13.2 also apply to breaches of duty by or in favor of persons whose fault VKK is responsible for according to legal regulations. They do not apply if VKK has fraudulently concealed a defect or has assumed a guarantee for the quality of the goods and for claims of the buyer under the Product Liability Act.

14. Miscellaneous

(1) All disputes arising from or in connection with this contract and its execution shall be governed exclusively by German law, excluding the UN Convention on Contracts for the International Sale of Goods. The place of jurisdiction shall be Köthen.

(2) Should any provision of these GTCS be or prove to be invalid, the invalid provision shall be replaced by a provision which comes as close as possible to the intention of the parties expressed in the invalid provision. The validity of the remaining provisions remains unaffected.

(3) VKK is entitled to store and process all data about the business partner related to the business relationship for the purpose of executing the contract in compliance with data protection regulations.

As of 25.05.2021