

General Terms and Conditions Kellner Engineering GmbH

1. GENERAL

These Terms and Conditions (GTC) of the Kellner Engineering GmbH apply to all sales and deliveries of goods and services to companies. Other agreements deviating from these conditions are only valid if they were confirmed in writing on company letterhead drawing. Informal observations are ineffective. Solely the conditions are valid even if the customer or ordering party indicates otherwise. Counter-confirmations of the customer with regard to its business or purchase conditions only apply insofar as they are consistent with these terms and conditions. The acceptance of goods is in any case an acknowledgment of our terms and conditions. Any deviating modifications and amendments require our express consent and must be made in writing to be legally valid. Our terms and conditions are available on our website www.kellner-engineering.com

2. OFFER

Our offers are non-binding. Any Information about weights, dimensions, specifications, technical data, quantities and delivery times is not binding and is subject to production and model-dependent changes. Such changes do not constitute defects.

3. PLACING OF AN ORDER, CHANGE OF THE DELIVERABLE

3.1. Orders must be placed in writing by letter or email. We are deemed to have accepted an order not until after we have confirmed in writing or actually executed that order. Any arrangement and agreement reached verbally and by phone must be confirmed in writing.

3.2. We reserve the right to rescind the contract even after having accepted an order if information we have obtained about the customer's liquidity in the meantime suggests that the customer will not be able to pay for the entire or for part of the order.

3.3. Having accepted an order, we also reserve the right to change and improve the service or deliverable, e.g. in respect of its type and design, to the extent the customer can be reasonably expected to accept such changes and improvements in consideration of our interests (e.g. delivery of an equivalent or more sophisticated device). Such changes and improvements are deemed approved in advance.

3.4. The customer's cancellation or change of an entire or of part of an order requires our written consent and entitles us to charge the customer - in addition to the services already provided and costs accrued - a (cancellation) fee equal to 20 % of the order value and at least € 250.

4. PRICE AND TERMS OF PAYMENT

4.1. Prices are based on our offers and the price list, as amended from time to time, which is usually issued once a year. We reserve the right to change prices also during a year.

4.2. Prices are understood to be net prices without any taxes, duties or charges in the quoted currency, including packaging, ex our forwarding warehouse, unless otherwise indicated. We will not take back packaging and packing material.

4.3. We will not accept any objections to invoices which are received more than two weeks after receipt of an invoice. Unless otherwise indicated, invoices are due net 30 days from the invoice date; the payment date is the date on which a payment is received by us. In case of delayed payment the statutory interest rate calculation applies in the contracting business under § 456 UGB. Accordingly, the legal interest rate is 9.2% above the base rate, as a result, default interest in the amount of 10% per annum be invoiced. Furthermore, we are entitled in the event of default, to demand all costs associated with the collection of our claim, including without limitation, dunning and collection charges.

4.4. If payment by instalments has been agreed, the maturity date will be accelerated if the customer is in default in respect of only one instalment.

4.5. We may make deliveries dependent on advance payment.

4.6. The customer may not withhold or set off payments in reliance on warranty or other claims.

5. DELIVERY TIME

5.1. Indicated delivery times are non-binding and reference times only, although we endeavour to meet indicated deadlines. The customer has no right to insist on compliance with a certain delivery time. As a consequence, delays in delivery will not entail any claims for damages and do not entitle the customer to rescind the contract. The same holds true if delivery deadlines are not met due to force majeure, strike or other events outside our control.

5.2. Changes of delivery dates must be announced by the customer in writing to the company Sonasafe GmbH 5 working days before the delivery date. Otherwise we are obliged to charge cancellation costs of transport of at least 250 EUR to the customer.

5.3. We will not accept penalty claims asserted by the customer under any circumstances.

5.4. Partial deliveries are permitted.

5.5. If the ordering party is in arrears on an earlier delivery, Solflex may withhold deliveries pending payment of the earlier delivery and is not required to pay to the ordering party any damages in this respect.

6. ACCEPTANCE OF DELIVERIES, TRANSFER OF RISK, DELAYED ACCEPTANCE

6.1. Unless otherwise agreed, deliveries are made CIP (Incoterms 2010) to the named destination

6.2. In principle, delivery CIP covers only minimum transport insurance. Additional transport insurance will be purchased only if explicitly requested by customer and subject to a separate agreement and at the customer's cost and expense.

6.3. The customer must immediately check deliverables received by him or directly by his customers for any transport damage, and he must record any damage to the packaging or the device in the delivery note and shall refuse delivery towards the forwarding agent. If the customer finds out only later that goods are damaged, the customer shall report any such damage to us, immediately, in no case later than three working days after delivery; otherwise, any insurance claim may expire.

6.4. If the customer accepts goods with delay, we - notwithstanding our other rights - may charge the goods as delivered or may otherwise dispose of them without setting a time limit. If we otherwise dispose of the goods, the delivery time will recommence on the day we receive the customer's written request calling for delivery of the goods.

6.5. We may charge the customer for any costs incurred due to late acceptance, including, without limitation, any storage costs.

7. RESERVATION OF TITLE

7.1. We will retain title to goods delivered pending full payment of all claims arising from our business relationship with the customer, even if the purchase price for specifically designated claims was paid. If our conditional goods are processed, we will acquire title to the new item without consideration. If the goods delivered by us are mixed, processed or combined with other items, the customer hereby assigns to us in proportion of the value of our invoices an ownership or co-ownership right of the combined or new item, both in respect of the interim and the final products.

7.2. The customer may resell goods delivered by us and the items created by processing, mixing or combining these only in the ordinary course of business. The customer hereby assigns to us any claims arising from such resale or from any other legal ground toward third parties, including, ancillary rights, in order to secure our - future - claims that may arise from our business relationship. The customer must record the assignment of these claims in his books not later than when the goods are resold.

7.3. Before having paid the purchase price of an item, the customer may resell that item only if he simultaneously informs the second buyer (end customer) that the resale proceeds have previously been assigned.

7.4. The customer may collect the assigned claims as long as he fulfils his payment obligations towards us according to the terms of the contract. The customer may not otherwise dispose of the conditional goods (e.g.: transfer of property by way of security, pledging).

7.5. The customer must immediately inform us of any attachment or other impairment of the conditional goods and/or the assigned claims and explain to the third party that we have retained title to those goods. Any related cost will be borne by the customer.

8. WARRANTY AND LIABILITY

8.1. Unless otherwise agreed and to the exclusion of any further claims, we are liable for any defects and the absence of warranted qualities as follows:

8.1.1. Unless otherwise indicated below, the warranty period is 24 months of the delivery date (delivery to the forwarding agent). This does not affect the applicability of Section 924 of the Austrian Civil Code.

8.1.2. The customer may assert a warranty claim only if the equipment is both installed and put into operation according to the installation instructions and regularly maintained according to the service notes. The actual product data is available on www.kellner-engineering.com. In a warranty event, we undertake, at our election, to replace or repair the defective goods or components. The customer may not assert other warranty or guarantee claims whatsoever. Labour cost, travel times or other costs will not be reimbursed.

8.1.3. No warranty and/or liability is accepted, unless the customer reports visible defects by giving written notice within 3 working days of delivery and other defects without delay after these have been discovered.

8.1.4. In addition to paragraphs 2 and 4, no warranty and/or liability is accepted for defects that have been caused by inadequate or improper use or treatment, failure to observe operating conditions or maintenance guideless, excessive use or inadequate operating facilities or substitute materials.

8.1.5. Unless we are granted the required time and opportunity to take all necessary warranty measures, we are released from any warranty claims and damages. If the customer continues to use defective goods, we warrant and/or are liable only for the original defect. We will not reimburse any cost of repairs which are carried out without our express prior consent. We disclaim any liability for the consequences of such repairs.

8.1.6. The warranty period for spare parts and other improvements is 6 months of delivery (delivery to the forwarding agent).

8.1.7. If a defect is remedied, the warranty period will not recommence for the replaced or repaired components.

8.1.8. We may refuse to remedy defects as long as the customer is in default with his payment obligations. The customer has no right to withhold payments, even if he gave justified notice of defects.

8.1.9. If third-party products are delivered and installed, warranty is restricted to assigning the warranty claims we may assert against the supplier of the third-party product. The customer may not assert any other warranty claims and may particularly not claim a price reduction.

8.2. We are liable for damage only if we demonstrably acted with intent or gross negligence. We disclaim any liability for slight negligence. We are particularly not liable for consequential damage (e.g. idle times due to wrong deliveries) and financial loss, lost profit, unachieved savings, loss of interest and any damage suffered from third-party claims against the customer, unless the foregoing is attributable to our intent or gross negligence. If damage is attributable to the defective condition of goods delivered by us, we are liable only to the extent the producer or upstream supplier is liable to us. Our liability does in any case not exceed the invoice value of the incriminated goods.

9. RETURNED GOODS

9.1. Goods can be returned and exchanged only upon our express and written consent. We accept returned goods only with a minimum net value of € 100 and a maximum net value of € 20.000 per return item quantity and only provided that those goods are not damaged, have not been used, are in original packaging and are fit for resale. In particular, returns of already installed units and returns of any made to order units as well as spare parts are not permitted.

9.2. The customer shall complete the "Request for Goods Return"-form (available at www.kellner-engineering.com) within 10 calendar days after delivery, otherwise we will not accept the return.

9.3. Goods must be returned freight paid at the risk of customer to the destination indicated by us.

9.4. In every case of a return, a maximum of 80% of the net price charged by us to the customer will be credited. All standard returns will be subject to a restocking / administration charge of 20 % of the net price.

9.5. All returns will be inspected by us. If goods are returned wrongly (i.e. not in compliance with paragraph 1. above), we may refuse the returns and have them returned back to the customer at the customer's risk and costs. Alternatively, we may charge a higher restocking / administration fee than the above mentioned 20%.

9.6. Any credit notes whatsoever will exclusively be set off against future deliveries.

10. PLACE OF JURISDICTION, APPLICABLE LAW

10.1. All disputes arising from or in connection with this agreement shall be exclusively referred to the courts in Vienna, Austria.

10.2. All contracts concluded by us and all disputes arising in connection with those contracts shall be governed by and construed in accordance with Austrian law without giving effect to its conflict of law rules and the UN Sales.

11. SEVERABILITY

Should any term of these commercial terms and conditions or of the contract concluded between us and the customer be invalid or ineffective, this shall not affect the remaining terms hereof or thereof. Invalid terms shall be replaced by lawful terms which closest reflect the parties' intent.