

Sale and Supply Conditions of the Kendrion Group ("Kendrion") for international transactions

1. General, Area of Application

- 1.1 These General Sales Conditions for International Transactions ("GSCIT") apply to all – including future – contracts for the supply of goods and other services ("Contracts").
- 1.2 These GSCIT apply exclusively. Additional, conflicting or deviating general conditions of the Customer only become part of the Contract if and to the extent that Kendrion expressly agrees to their application in writing. This requirement applies in all cases even if Kendrion with knowledge of the general conditions of the Customer conducts the supply to the Customer without reservation.
- 1.3 Kendrion includes the following companies:
 - Kendrion (Villingen) GmbH with business seat in Villingen-Schwenningen;
 - Kendrion (Donaueschingen/Engelswies) GmbH with business seat in Donaueschingen and Engelswies;
 - Kendrion (Markdorf) GmbH, with business seat in Markdorf;
 - Kendrion (Aerzen) GmbH, with business seat in Aerzen;
 - Kendrion (Eibiswald) GmbH with business seat in Eibiswald, Austria;
 - Kendrion (UK) Ltd. with business seat in Bradford, UK;
 - Kendrion (Prostějov) s.r.o. with business seat in Prostějov, Czech Republic;
 - Kendrion Kuhnke Automotive GmbH with business seat in Malente;
 - Kendrion Kuhnke Automation GmbH with business seat in Malente;
 - Kendrion Automotive (Sibiu) s.r.l. with business seat in Sibiu, Romania;
 - Kendrion Industrial (Sibiu) s.r.l. with business seat in Sibiu, Romania;
 - any subsidiaries of the aforementioned companies.

2. Conclusion of contract, reservation of amendment

- 2.1 Kendrion's offers are non-binding and freely changeable. This applies even if Kendrion sends the Customer offer documents in particular drawings, models, samples, cost quotations.
- 2.2 The ordering of goods or other services by the Customer is deemed to be a binding offer to contract.
- 2.3 Kendrion is entitled to accept this offer to contract within three (3) weeks. The contract comes into existence (i) by order confirmation or (ii) by Kendrion's direct performance of the order.
- 2.4 Descriptions of goods in catalogues, prospectuses and/or any other similar documents do not constitute guarantees of quality.
- 2.5 Design and material changes are reserved if the usual or contractually intended use of the object is not significantly affected.
- 2.6 Excess or short deliveries unavoidable on technical grounds are admissible within usual practice in the industry and must be accepted by the Customer with corresponding change of price.

3. Offer documents and software

Kendrion reserves all ownership rights, copyright and intellectual property rights (including the right to register these rights) to its offer documents, in particular drawings, models, samples, cost quotations and possible software. The said documents may be made accessible to third parties

only in the absence of evident need for confidentiality. They are to be returned to Kendrion without delay and upon first request if Kendrion's offer is not accepted.

4. Price, price amendment

- 4.1 The prices stated apply ex works plus freight, insurance and other transport costs and plus VAT at the statutory rate from time to time, if applicable.
- 4.2 Kendrion selects the packaging and charges for this separately at cost price.
- 4.3 In the case of Contracts with an agreed delivery period of more than three months, Kendrion can demand a change in the agreed price to the extent that cost increases which are not avoidable arise after the conclusion of the Contract in particular due to collective bargaining agreements or changes to the price of material. The price amendment must be limited to the amount necessary to compensate for the cost increases which have occurred.

5. Delivery time, reservation of supplies, lack of performance capacity of the Customer, delay in acceptance

- 5.1 Agreed delivery times begin at the earliest with the conclusion of the Contract, not however prior to the receipt of the documents, approvals, releases to be obtained by the Customer and the complete clarification of technical questions to be answered by the Customer. The time in which the Customer is in delay with the agreed payment is not included in the delivery period i.e. the delivery period is extended by the time during which the arrears exist. The compliance with the delivery period requires at all times the punctual and due performance of all obligations of the Customer. If the Customer demands an amendment to the Contract due to which compliance with the original delivery time is not possible, the delivery time shall be reasonably extended.
- 5.2 The delivery period is extended reasonably on the happening of force majeure and all unforeseeable obstacles arising after the conclusion of the Contract for which Kendrion is not responsible if such obstacles are proved to influence the provision of the performance due. This applies even if these circumstances arise with Kendrion's suppliers. The beginning and the ending of such obstacles will be notified to the Customer as soon as possible. If the obstacle lasts for more than three months or it is clear that it will last for more than three months, both the Customer and Kendrion can rescind the Contract.
- 5.3 Clause 5.2 applies accordingly in the case that Kendrion does not receive punctual or proper supplies from its suppliers if Kendrion has concluded a congruent transaction for supplies.
- 5.4 If it is evident after the conclusion of the Contract that Kendrion's right to payment is at risk due to the absence of payment capacity of the Customer, Kendrion is entitled to refuse performance and preparatory acts. The right to refuse performance is lost if payment is affected or security for payment provided. The Customer must provide for payment/security within 8 working days. After the expiry of this period without success Kendrion is entitled to rescind the Contract.
- 5.5 If the Customer falls into delay with acceptance with the delivered objects or with payment of the purchase price, Kendrion can, after the expiry without success of a reasonable period necessary according to statute or set by Kendrion, rescind the Contract and/or claim compensation instead of performance. When claiming compensation instead of performance Kendrion can demand liquidated damages
 - of 20 % of the purchase price as compensation for lost profit if the goods are mass products or standard products or

- 100 % of the purchase price if the goods constitute special production according to specific wishes of the Customer and Kendrion has incurred expense in order to be in a position to deliver.

The Parties may prove higher or significantly lower de facto loss. In addition, Kendrion is entitled in the case of delay of the Customer in acceptance to charge the additional expenses including, but by no means limited to, the warehouse costs incurred. In the case of storage in Kendrion's own premises, the local warehouse costs will be charged.

- 5.6 The delivery period is complied with if within the period the circumstances affecting the passing of the risk according to clause 6.3 have occurred.

6. Delivery, passing of risk, transport insurance

- 6.1 The delivery is ex works, which is also the place of performance.
- 6.2 At the request of the Customer, the goods will be sent to another place. Unless otherwise agreed, Kendrion is entitled to decide the manner of sending (in particular the carrier, the manner of sending, the packaging). The transport is for the account and at the costs of the Customer.
- 6.3 If the goods are collected by the Customer, the risk of accidental destruction and accidental deterioration of the goods passes to the Customer at the latest with their handover. If the goods are sent to the Customer at its request, the risk of accidental destruction and accidental deterioration of the goods passes with the handover of the goods to the carrier, the transporter or other persons specified to perform the transport.
- 6.4 Transport insurance will be concluded only on the separate instructions of the Customer and on its account and at its cost.
- 6.5 Partial deliveries and services are admissible.

7. Payment conditions

- 7.1 Kendrion's invoices are, unless otherwise agreed, payable ten (10) days after the date thereof in full. The payment is deemed to have been made only after receipt of the money on Kendrion's account.
- 7.2 Bills of exchange and cheques will be accepted as performance and apply only after payment has been credited without reservation. All costs thereby arising in particular bank, discount, bill of exchange and other expenses and VAT shall be borne by the Customer and are due immediately.
- 7.3 From the happening of delay, interest for delay of eight (8) percentage points per annum above the base rate of the European Central Bank in each case shall be due. Further claims and Kendrion's rights under clause 5.5 remain unaffected thereby.

8. Defect complaints, rights in the case of material defects

- 8.1 If the delivery is a trading transaction for both Parties, the Customer must complain of defects of all kinds within eight (8) working days from delivery in writing, latent defects however only without delay after their discovery, at the latest however within eight (8) working days. Otherwise the goods are deemed to be accepted. Saturday is not deemed to be a working day.
- 8.2 If the goods delivered are defective, Kendrion can firstly choose whether to provide subsequent performance by remedying the defect (improvement) or by supplying goods free of defect (replacement delivery).
- 8.3 The Customer is obliged to give Kendrion time and opportunity for the necessary subsequent performance due in particular to return to Kendrion without delay the

goods complained of for examination. In the event of replacement delivery, the Customer is obliged to return to Kendrion without delay the defective object in accordance with the statutory provisions.

- 8.4 The expenses, in particular transport, transit, labour and material costs, necessary for the purpose of examination and subsequent performance will be borne by Kendrion if in fact a defect exists. If the demand of the Customer to remedy a defect turns out to be unjustified, Kendrion can demand compensation from the Customer for the costs incurred by Kendrion as a result.

- 8.5 In the case of inappropriate or wrongful use or treatment of the goods by the Customer or in the case of natural wear (in particular wearing parts) the Customer has no claim for material damage.

Kendrion refers in particular to the instructions for use supplied in each case and their precise observance. Any inappropriate use deviating from the descriptions in the instructions for use or inappropriate in any other manner, excludes the rights due to defects in the goods.

- 8.6 If the object supplied is a third party product, Kendrion is entitled to assign its material defects claim against its supplier to the Customer and to refer the Customer to enforcing that claim. Material defect claims can be made by the Customer against Kendrion only if the assigned claim against Kendrion's supplier is not enforceable or the claim is unreasonable in a particular case.

- 8.7 Claims of the Customer for compensation or reimbursement for expenses in vain arise only in accordance with clause 9 and are otherwise excluded.

9. Limits on liability

- 9.1 Kendrion's liability for compensation, irrespective of the legal ground therefore, in particular due to impossibility, delay, defective or false delivery, breach of contract, breach of duty in contract negotiations and tort is limited in accordance with this clause 9.
- 9.2 Kendrion is liable to the Customer without limit for direct loss due to damage caused by intentionally or grossly negligent. Any other liability is explicitly excluded.
- 9.3 Kendrion shall not be liable for any consequential or indirect loss or damage, such as but not limited to, loss of product, loss of production, loss of use, loss of revenues or profit, loss of interest, cost of delays or any loss or damage resulting there from
- 9.4 If Kendrion's liability is excluded or limited by the above provisions, this also applies for personal liability of its employees, workers, staff, representatives and agents.

10. Limitation

- 10.1 The limitation period for claims arising from material defects and defects of title is six months from delivery. This does not apply if Kendrion has acted with intent or grossly negligent.

11. Retention of title and other security

- 11.1 Kendrion retains ownership of the supplied goods (Retention Goods) until complete performance of all – including future – obligations (including all ancillary claims such as for example bills of exchange costs, financing costs, interest) from the business with the Customer. If a current account agreement was made with the Customer, the retention of ownership continues until full payment of the acknowledged current account balance. The acceptance of a cheque or bill of exchange only constitutes performance if the cheque or bill of exchange is honoured and Kendrion can dispose over the amount without regress risks. If payment by cheque-bill of exchange is agreed with the Customer, the retention of ownership also extends to the presentation of the bill of exchange issued to Kendrion by the Customer and is not extinguished by the crediting of the relevant cheque received by Kendrion.

- 11.2 The Customer is obliged to treat the Retention Goods with care. The Customer is obliged to carefully store the Retention Goods and to insure them against theft, flood, fire, water, transport and other damage.
- 11.3 The Customer may process and sell the Retention Goods in the normal course of business as long as it is not in delay with payment. The Customer may not, however, pledge or assign the goods as security.
- 11.4 In the case of a pledge, seizure, damage or loss of the Retention Goods, the Customer is obliged to inform Kendrion without delay. The Customer bears all costs which need to be expended in particular in the course of a third party defence claim for the release of a pledge and possibly for the recovery of the goods supplied if they cannot be recovered from the third party.
- 11.5 In the case of delay in payment or if the Customer otherwise breaches significant contractual obligations, Kendrion is entitled to recover the Retention Goods after setting a reasonable period for performance. The exercise of the right of recovery constitutes a rescission of the Contract. The costs arising from the exercise of the right of recovery (in particular for transport and storage) shall be borne by the Customer. Likewise, pledging of the Retention Goods also constitutes a rescission of the Contract. Retention Goods recovered by Kendrion may be realised by Kendrion. The proceeds of the realisation will be credited against the amount due to Kendrion by the Customer after Kendrion has deducted a reasonable amount for the costs of the realisation.
- 11.6 The Customer assigns the purchase price, payment for work or other claims (including the acknowledged balance on the current account or in the event of insolvency of the business partner of the Customer, the existing "causal balance") arising from the resale or the processing or other legal grounds (e.g. in the case of an insurance claim or tort) relating to the Retention Goods up to the amount of the value of the invoice for the Retention Goods hereby to Kendrion and Kendrion hereby accepts such assignment. Kendrion revocably authorises the Customer to collect the claims assigned to Kendrion for Kendrion in its own name. Kendrion's right to collect these claims itself is not thereby affected. However, Kendrion will not enforce these claims or revoke the authority to collect them as long as the Customer duly performs its payment obligations. If the Customer does not duly perform its payment obligations it is obliged at Kendrion's request to provide the data on the assigned claims and on the relevant debtors necessary for the enforcement of the claims, to provide the necessary documents and to notify the debtor of the assignment. The Customer may not assign these claims for the purpose of having them collected by way of factoring unless it irrevocably obliges the factor to pay the consideration directly to Kendrion as long as Kendrion's claims against the Customer exist.
- 11.7 The processing or alteration of the Retention Goods by the Customer will always be performed for Kendrion. If the Re-

tion Goods are processed with other goods not belonging to Kendrion, Kendrion acquires co-ownership to the new object in the proportion of the value of the Retention Goods (final amount of invoice including VAT) to the other processed goods at the time of the processing. For the goods arising from the processing, the same applies as for Kendrion's Retention Goods.

If the Retention Goods are inseparably combined or mixed with other goods not belonging to Kendrion to become a single object, Kendrion acquires co-ownership in the new object in proportion of the value of the Retention Goods (final amount of invoice including VAT) to the other combined or mixed goods at the time of the combination or mixing. If the Retention Goods are combined or mixed so that Kendrion's ownership is thereby extinguished, it is hereby agreed that the ownership of the Customer to the single object passes proportionately to Kendrion (i.e. in proportion to the value of the Retention Goods (final amount of invoice including VAT) to the other combined or mixed goods at the time of the combination or mixing). The Customer shall hold Kendrion's co-ownership free of charge. For the goods arising by the combination, the same applies as in the case of Retention Goods.

- 11.8 If the realisable value of the security granted to Kendrion in accordance with the above provisions exceeds Kendrion's claims against the Customer not only temporarily by more than 10%, Kendrion will release security at its own election to that extent at the request of the Customer. The above threshold of 110% cover shall increase if Kendrion is, in the course of the realisation of the security, charged VAT on the supply of the Customer to Kendrion subject to VAT, by this amount of VAT.

12. Set-off and Withholding Rights

The Customer may exercise set-off, performance refusal and withholding rights only to the extent that its rights and claims have been finally and conclusively adjudicated with legal effect or are undisputed.

13. Third Party Rights

The Customer is obliged to indemnify Kendrion against all claims made against Kendrion in connection with infringements of third party rights due to the Customer's instructions – including all court and out of court costs of the legal pursuit including Kendrion's own costs – on production of evidence.

14. Place of Performance, Applicable Law, Arbitration Clause

- 14.1 Unless otherwise agreed, the place of performance is the registered office of Kendrion's relevant group company in accordance with clause 1.3 with which the contractual relationship or delivery to the Customer exists.
- 14.2 The Contract is subject to the laws of The Netherlands excluding the CISG.
- 14.3 All disputes arising out or in connection with the Contract and / or these Sale and Supply conditions shall exclusively be submitted to the competent courts in Amsterdam, The Netherlands.

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