

**§1 Scope of validity**

(1) All deliveries, services and offers of Kroschke Ges. m.b.H. I (hereinafter referred to as "Kroschke") shall be made exclusively on the basis of these General Terms and Conditions of Delivery. They shall be an integral part of all contracts concluded by Kroschke with its contractual partners (hereinafter also referred to as "you") for the deliveries or services offered by Kroschke. They shall also apply to all future deliveries, services or offers, even if they are not separately agreed upon again.

(2) Your terms and conditions or the terms and conditions of third parties shall not apply, even if Kroschke does not separately object to their application in individual cases. Even if Kroschke refers to a letter that contains or refers to your terms and conditions or those of a third party, this does not constitute an agreement to the validity of those terms and conditions.

(3) Our offer is aimed exclusively at entrepreneurs from industry, trade, crafts, commerce and self-employed professionals. In addition to the verification of your entrepreneurial status within the framework of the ordering process, we are entitled to demand proof of your entrepreneurial status through the presentation of suitable and current documents, e.g. extract from the commercial register or business registration.

(4) The negotiation and contract language is German. An English translation of these general terms and conditions of business is also available. In the event of discrepancies, the German version is decisive. The same applies to all individually concluded agreements. The contract text is not saved by us.

**§ 2 Offer and conclusion of contract**

(1) All of Kroschke's offers are subject to change without notice and are non-binding unless they are expressly marked as binding or contain a specific acceptance period. This applies in particular to our representations in the online shop and catalog. Kroschke may accept orders or contracts within 14 days of receipt.

(2) In the online shop, you can select products from the range and initially place them in the so-called "shopping cart" without obligation. Before sending your binding order, you can correct your entries at any time by using the correction tools explained for this purpose in the order process. By clicking the order button, you place a binding order for the products in the shopping cart.

(3) When you place an order in the online shop, Kroschke will then send you an automatic order summary by e-mail, in which your order is listed again. You have the option to print it out using the "print" function. With your order, you confirm that the contract is made in the exercise of your commercial or self-employed professional activity. The automatic order overview only documents that we have received your order and does not represent an acceptance of the application. The contract is not concluded until Kroschke issues a declaration of acceptance, which

is sent in a separate e-mail or when the goods are shipped.

(4) The legal relationship between the contracting parties shall be governed solely by the written purchase contract, including these General Terms and Conditions of Delivery. This contract fully reflects all agreements between the contracting parties regarding the subject matter of the contract. Oral promises made by Kroschke prior to the conclusion of this contract are not legally binding and oral agreements between the contracting parties are replaced by the written contract, unless it is expressly stated in each case that they continue to be binding.

(5) Information provided by Kroschke on the subject matter of the delivery or service (e.g., weights, dimensions, utility values, load-bearing capacity, tolerances, and technical data) as well as our representations of the same (e.g., drawings and illustrations) are only approximately authoritative unless the usability for the contractually intended purpose requires exact conformity. They are not guaranteed quality features, but descriptions or identifications of the delivery or service. Deviations that are customary in the trade and deviations that occur due to legal regulations or represent technical improvements, as well as the replacement of components with equivalent parts, are permissible insofar as they do not impair the usability for the contractually intended purpose.

(6) Kroschke retains ownership or copyright of all offers and cost estimates submitted by Kroschke as well as drawings, illustrations, calculations, brochures, catalogues, models, tools and other documents and aids provided. You may not make these items available to third parties, disclose them, use them yourself or through third parties, or reproduce them, either as such or in terms of content, without Kroschke's express consent. Upon Kroschke's request, you shall return these items in their entirety and destroy any copies made if they are no longer required by you in the ordinary course of business or if negotiations do not lead to the conclusion of a contract. This does not apply to the storage of electronically provided data for the purpose of standard data backup.

**§ 3 Prices and payment**

(1) The prices stated are net prices and apply to the scope of services and deliveries in Austria, listed in each case. Additional or special services will be charged separately. The prices are quoted in EUR ex works plus packaging, the statutory value added tax, customs duties for export deliveries as well as fees and other public charges.

(2) Each party shall be entitled to demand price negotiations due to changed market conditions. The parties understand changed market conditions to be a change in the wholesale price index of the Federal Statistical Office by 10 (in words: ten) percent compared to the same month of the previous year. If no agreement is reached in these negotiations, the parties shall each be entitled to remove the products concerned from the agreed product catalogue. If the agreed prices are based on Kroschke's list prices and the delivery is to take place more than four months after the conclusion of the contract, Kroschke's

list prices valid at the time of delivery shall apply (in each case less an agreed percentage or fixed discount).

(3) In principle, you pay by invoice. The invoice amounts are to be transferred within 30 days without deduction. In the case of partial deliveries, Kroschke may demand pro rata payment in accordance with the previous regulations.

(4) The date of receipt by Kroschke shall be decisive for the date of payment. Payment by cheque is excluded unless agreed separately in individual cases. If you fail to make payment when due, interest of 5% p.a. shall be charged on the outstanding amounts from the due date; the right to claim higher interest and further damages in the event of default shall remain unaffected. In addition, we must charge you a lump sum in the amount of € 40.

(5) Offsetting with counterclaims or the retention of payments due to such claims shall only be permissible insofar as the counterclaims are undisputed or have been legally established or arise from the same order under which the delivery in question was made. You shall only be entitled to a right of retention if your counterclaim is based on the same contractual relationship.

(6) Kroschke is entitled to perform or render outstanding deliveries or services only against advance payment or provision of security if, after the conclusion of the contract, Kroschke becomes aware of circumstances which are likely to substantially reduce your creditworthiness and which jeopardize the payment of Kroschke's outstanding claims by you from the respective contractual relationship (including from other individual orders to which the same framework agreement applies).

(7) You agree to the transmission of all invoices by e-mail. The consent can be revoked at any time.

#### § 4 Delivery and delivery time

(1) Orders that are entered in our merchandise management system by 4 p.m. respectively by 1p.m. (on Fridays) on weekdays (but not on Saturdays) will be handed over to the shipping service provider on the same day for delivery on the next working day (but not on Saturdays) (Ordered today - arrives tomorrow!). For articles for which a different delivery time is stated in our catalogues or in the online shop in connection with the truck symbol, the delivery time stated there applies on the basis of an order placed by 4.00 p.m. (Mondays to Thursdays) or 1.00 p.m. (Fridays). Delivery times stated in order confirmations are binding.

Excluded from this are orders in which the customer requests changes after the order has been placed, later additional or extension orders are placed, as well as orders in which files, drawings, image and text files, print releases are only submitted by the customer after confirmation of receipt, as well as orders that are submitted on holidays at Kroschke's headquarters. In these cases, the delivery time stated in the order confirmation does not begin to run until after receipt. The same applies to orders for which, due to the volume, agreed down payments have not been made on time.

(2) If the product ordered by you is not available from us because we are not supplied by our reliable supplier through no fault of our own despite placing a congruent order, we will inform you of this immediately in the order confirmation. We are thereby released from our obligation to perform and may withdraw from the contract. If you have already made payments, we will refund them to you without delay. Subject to punctual self-delivery, we will ensure prompt delivery. If a part of the order cannot be delivered immediately because we are not supplied in time by our reliable supplier through no fault of our own, despite the placement of a congruent order, we will subsequently deliver the remaining goods without charging the shipping costs again, insofar as this is reasonable for you.

(3) Kroschke delivers only by mail order. Unfortunately, it is not possible to pick up the goods yourself. We do not deliver to packing stations. Packaging that is covered by §10 I VerpackVO will only be taken back at Kroschke's location. The customer shall bear the transport costs incurred.

If your order is not placed via the online shop, the delivery condition "ex works" shall apply.

(4) If you do not fulfill your contractual obligations to Kroschke or do not fulfill them in a timely manner, the delivery or performance period shall be extended accordingly. The rights arising from default remain unaffected.

(5) Kroschke shall not be liable for impossibility of delivery or for delays in delivery to the extent that they are caused by force majeure or other events that were not foreseeable at the time of the conclusion of the contract (e.g. disruptions of any kind, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, shortages of labor, energy, or raw materials, difficulties in procuring necessary official permits, official measures, or the lack of, incorrect, or untimely delivery by suppliers, new or ongoing pandemics and epidemics, virus variants) for which Kroschke is not responsible. If such events make the delivery or service substantially more difficult or impossible for Kroschke and if the hindrance is not only of temporary duration, Kroschke is entitled to withdraw from the contract. In the case of hindrances of temporary duration, the delivery or service deadlines are extended or the delivery or service deadlines are postponed by the period of the hindrance plus a reasonable start-up period. If you cannot reasonably be expected to accept the delivery or service as a result of the delay, you may withdraw from the contract by immediately notifying Kroschke in writing. You must explain the circumstances.

#### § 5 Custom-made products

(1) Custom-made products according to your specifications must be ordered in writing or in the online shop. Kroschke does not check compliance with any regulations. The following applies to print results: Excess or short deliveries of up to 10 % of the ordered print run cannot be objected to. The delivered quantity will be charged.

(2) We exclude any liability if rights, in particular copyrights of third parties, are infringed by the execution of your order. You shall indemnify us against all claims of

third parties due to such an infringement of rights by placing the order upon first request.

(3) The films, templates, lithographs, punching tools, digitalizations, files and the like used by us for the production of the custom-made product shall remain the property of Kroschke, even if they are charged to you separately, and shall not be delivered. We are under no obligation to store films, digitalizations or the like for longer than 6 months.

#### **§ 6 Place of performance, dispatch, packaging, transfer of risk, acceptance**

(1) The place of performance for all obligations arising from the contractual relationship shall be Klosterneuburg, unless otherwise stipulated. If Kroschke is also responsible for the installation, the place of performance shall be the place where the installation is to take place.

(2) The method of shipment and packaging shall be at Kroschke's discretion.

(3) The risk of damage in transit, accidental loss, and accidental deterioration for any reason whatsoever shall pass to you at the latest upon handover of the delivery item (whereby the beginning of the loading process shall be decisive) to the forwarding agent, carrier, or other third party designated to perform the shipment. This shall also apply if partial deliveries are made or Kroschke has assumed other services (e.g., shipping or installation). If the shipment or handover is delayed due to a circumstance caused by you, the risk shall pass to you on the day the delivery item is ready for shipment and Kroschke has notified you thereof. § 377 and § 378 UBG shall apply accordingly.

(4) Kroschke will insure the shipment against theft, breakage, transport, fire and water damage or other insurable risks only at your express request and at your expense.

(5) Insofar as acceptance is to take place, the object of sale shall be deemed to have been accepted when

- the delivery and, if Kroschke also owes the installation, the installation is completed,
- Kroschke has informed you with reference to the fiction of acceptance according to this § 6 (5) and has requested him to accept the goods,
- since delivery or installation twelve working days have elapsed or you have started to use the purchased item (e.g. the delivered system has been put into operation) and in this case six working days have elapsed since delivery or installation and
- you have failed to accept the goods within this period for a reason other than a defect notified to Kroschke which makes the use of the purchased goods impossible or substantially impairs their use.

(6) Otherwise, the obligation to inspect and give notice of defects regulated in § 377 UBG shall apply among merchants. If you fail to make the notification regulated therein, the goods shall be deemed to have been approved, unless it is a defect which was not recognizable

during the inspection. This does not apply if we have fraudulently concealed a defect.

#### **§ 7 Warranty, material defects**

(1) The warranty period shall be 24 months from handover of the purchased item, also for claims for compensation for consequential damage. The statutory limitation periods for the right of recourse according to § 478 BGB remain unaffected. In the event of timely and justified complaints, we shall, at our discretion, either replace the goods free of charge or remedy the defects.

(2) If a defect cannot be remedied either by our rectification or by a replacement delivery or if we are not willing to do so after being requested to do so, you may demand a reduction in the purchase price or withdraw from the purchase contract. In the event of failure, i.e. impossibility, unreasonableness, refusal or unreasonable delay of the rectification or replacement delivery, you may withdraw from the contract or reduce the purchase price appropriately.

(3) If acceptance is required, the warranty period shall be one year from delivery.

This period does not apply to claims for damages arising from injury to life, body or health or from intentional or grossly negligent breaches of duty by Kroschke or its vicarious agents, which are each subject to the statute of limitations according to the statutory provisions.

(4) Assurances and guarantees are only validly given if we grant them expressly and in writing. In particular, information in catalogues (or in the online shop), price lists or other information material provided to you by us as well as product-describing information shall under no circumstances be understood as guarantees for a special quality of the goods.

(5) At Kroschke's request, a rejected delivery item shall be returned to Kroschke freight prepaid. In the event of a justified complaint, Kroschke shall reimburse the costs of the most favorable shipping route; this shall not apply if the costs increase because the delivery item is located at a place other than the place of intended use.

(6) If a defect is based on Kroschke's fault, you may claim damages under the conditions specified in § 8.

(7) In the event of defects in components of other manufacturers that Kroschke cannot remedy for licensing or factual reasons, Kroschke shall, at its option, assert its warranty claims against the manufacturers and suppliers for your account or assign them to you. In the event of such defects, warranty claims against Kroschke shall exist under the other conditions and in accordance with these General Terms and Conditions of Delivery only if the legal enforcement of the aforementioned claims against the manufacturer and supplier was unsuccessful or is futile, e.g., due to insolvency. For the duration of the legal dispute, the statute of limitations of the respective warranty claims against Kroschke shall be suspended.

(8) The warranty shall not apply if you modify the delivery item or have it modified by a third party without Kroschke's consent and the elimination of the defect becomes impossible or unreasonably difficult as a result. In any case, you shall bear the additional costs of the defect removal resulting from the modification.

(9) Any delivery of used items agreed with you in individual cases shall be made to the exclusion of any warranty for material defects.

### **§ 8 Liability for damages due to fault**

(1) Kroschke's liability for damages, regardless of the legal reason, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of duties during contract negotiations, and tort, is limited in accordance with this paragraph to the extent permissible.

(2) Kroschke shall not be liable in the event of simple negligence on the part of its corporate bodies, legal representatives, employees, or other vicarious agents, unless a breach of material contractual obligations is involved. Material contractual obligations are the obligation to deliver and install the delivery item in a timely manner, to ensure that the delivery item is free of defects of title and material defects that impair its functionality or usability more than insignificantly, as well as advisory, protective, and custodial obligations that are intended to enable you to use the delivery item in accordance with the contract or to protect the life and limb of your personnel or to protect your property from significant damage.

(3) Insofar as Kroschke is liable for damages on the merits pursuant to § 8 (2), this liability shall be limited to damages that Kroschke foresaw as a possible consequence of a breach of contract at the time of the conclusion of the contract or that we should have foreseen by exercising due care. Indirect damages and consequential damages that are the result of defects in the delivery item are also only eligible for compensation insofar as such damages are typically to be expected when using the delivery item as intended.

(4) In the event of liability for simple negligence, Kroschke's obligation to pay compensation for property damage and further financial losses resulting therefrom shall be limited to the typical foreseeable damage, even if a breach of material contractual obligations is involved.

(5) The above exclusions and limitations of liability apply to the same extent in favor of Kroschke's corporate bodies, legal representatives, employees, and other vicarious agents.

(6) Insofar as Kroschke provides technical information or acts in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by Kroschke, this is done free of charge and to the exclusion of any liability.

(7) The limitations of this § 8 do not apply to Kroschke's liability for intentional conduct, for guaranteed characteristics, for injury to life, body or health, or under the Product Liability Act.

### **§ 9 Industrial property rights**

(1) Kroschke warrants in accordance with the provisions of this § 9 that the delivery item is free of industrial property rights or copyrights of third parties. Each contracting party shall immediately notify the other contracting party in writing if claims are asserted against it for the infringement of such rights.

(2) In the event that the delivery item infringes an industrial property right or copyright of a third party, Kroschke shall, at its option and expense, modify or replace the delivery item in such a way that no rights of third parties are infringed any longer, but the delivery item continues to fulfill the contractually agreed functions, or procure the right of use for you by concluding a license agreement with the third party. If Kroschke does not succeed in doing so within a reasonable period of time, you shall be entitled to withdraw from the contract or to reduce the purchase price appropriately. Any claims for damages are subject to the limitations of § 8 of these General Terms of Delivery.

(3) In the event of infringements of rights by products of other manufacturers delivered by Kroschke, Kroschke shall, at Kroschke's choice, assert its claims against the manufacturers and upstream suppliers for your account or assign them to you. In such cases, claims against Kroschke shall exist in accordance with this § 9 only if the legal enforcement of the aforementioned claims against the manufacturers and suppliers was unsuccessful or is futile, e.g., due to insolvency.

### **§ 10 Retention of title**

(1) Kroschke shall retain title to the goods until all claims arising from an ongoing business relationship have been settled in full. You may resell the goods subject to retention of title in the ordinary course of business; you assign to us in advance all claims arising from this resale - irrespective of any combination and mixing of the goods subject to retention of title with a new item - in the amount of the invoice amount, and we accept this assignment. You shall remain authorized to collect the claims until such time as you do so; however, we may also collect claims ourselves insofar as you fail to meet your payment obligations.

(2) If you combine, mix or process the reserved goods with other items, we shall acquire co-ownership of the new item in the ratio of the value of the reserved goods to the other processed items at the time of combination, mixing or processing. If your item is to be regarded as the main item, you shall transfer co-ownership to us on a pro rata basis. We shall release the securities to which we are entitled at your request to the extent that the value of the securities exceeds the claims to be secured by more than 10 %.

## § 11 Data protection

For all information in connection with the handling of personal data, we refer to our separate data protection declaration. This is available to you at <https://www.kroschke.at/datenschutzerklaerung.html>.

## § 12 Code of Conduct

The following standards apply to our company:

- [Trusted Shops quality criteria](#)
- [Code of Conduct of Klaus Kroschke Holding GmbH & Co. KG](#)

## § 13 Right of return

For standard items you have a right of return of 21 days from delivery. This applies to all items that arrive in saleable condition and in their original packaging. Custom-made products are excluded from return.

## § 14 Final provisions

(1) If you are a merchant, a legal entity under public law or a special fund under public law or if you do not have a general place of jurisdiction of Austria, the place of jurisdiction for any disputes arising from the business relationship between Kroschke and you shall be, at Kroschke's option, Klosterneuburg or your registered office. In such cases, however, the exclusive place of jurisdiction for actions against Kroschke shall be Klosterneuburg. Mandatory statutory provisions on exclusive places of jurisdiction shall remain unaffected by this provision.

(2) Supplements and amendments to the agreements made, including these General Terms and Conditions of Delivery, must be in writing in order to be effective. Transmission by telecommunication, in particular by fax or by e-mail, shall be sufficient to comply with the written form, provided that a copy of the signed declaration is transmitted. The language available for the conclusion of the contract is German. The text of the contract is not stored by us

(3) The relationship between Kroschke and you shall be governed exclusively by the laws of Austria. The United Nations Convention on Contracts for the International Sale of Goods of 11.4.1980 (CISG) shall not apply.

(4) Insofar as the contract or these General Terms and Conditions of Delivery contain loopholes, those legally effective provisions shall be deemed to have been agreed to fill these loopholes which the contracting parties would have agreed in accordance with the economic objectives of the contract and the purpose of these General Terms and Conditions of Delivery if they had been aware of the loophole.