

## Terms of Delivery of KURZ Schweiz AG ("KCH-TD")

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### 1. Validity

- 1.1 The KCH-TD shall apply to all deliveries and services (e.g. decorative and functional foils, labels, foil-based products in different stages of production, designs, artwork, origination, shims, matrices, consumables [e.g. ink, varnishes, adhesives and paints], stamping tools, performance of application services for finished decorated parts and foils) (collectively "**Delivery**"), which the KURZ Schweiz AG ("**KCH**") provides on the basis of a contract concluded between KCH and a business customer ("**Customer**"). The Customer and KCH collectively are hereinafter referred to as "**Parties**" and individually as "**Party**".
- 1.2 Deviating terms from the KCH-TD shall not apply unless KCH has expressly agreed to them in writing.
- 1.3 The KCH-TD shall apply in the context of a continuous business relationship also for future business between KCH and the Customer, even if, in individual cases, KCH did not expressly refer to the inclusion of the KCH-TD at the time of conclusion of the contract.
- 1.4 Amendments to the contract shall be made in writing.

### 2. Offer

- 2.1 The description of the quality of the Delivery is exclusively and conclusively defined in the respective technical specification ("**TS**").
- 2.2 KCH reserves all rights of ownership and copyright to the documents included in the offer (e.g. illustrations, drawings, plans, construction documents etc.).
- 2.3 A pre-contractual performance during the offer stage that KCH provides on request of the Customer (e.g. development of design, artwork, origination, matrices, samples, injection-moulded parts etc.) shall be invoiced by KCH, even where no contract is subsequently entered into by the Parties.
- 2.4 The offer of KCH is binding for a period of 45 calendar days from the date of the offer.

### 3. Terms of Delivery, Transfer of Risk

- 3.1 Delivery shall be EXW (EX WORKS) KCH in Wallisellen Incoterms® 2020 ("Place of Delivery").
- 3.2 Prices are net prices in Swiss Franc (CHF), including the necessary packaging plus additional cost for packaging on request of the Customer and plus the current value added tax (VAT) in force at the time of delivery without further deductions.
- 3.3 The minimum order value per Delivery is CHF 80.00 net. If the minimum order value of CHF 80.00 net per Delivery is not reached, a minimum quantity surcharge applies, which increases the order value to CHF 80.00 net per Delivery. For Deliveries under CHF 300.00 net price, KCH charges a flat rate of CHF 22.50 for shipping costs.
- 3.4 Partial delivery is allowed unless it is unreasonable to accept for the Customer.
- 3.5 The transfer of risk to the Customer shall take place at the time KCH provides the Delivery at the Place of Delivery. This shall also apply to free delivery as well as to delivery that will be dispatched or collected on the request of the Customer. In case the Delivery will be dispatched the Customer shall bear the costs incurred thereby (e.g. transport, insurance, customs).

- 3.6 KCH has the right to increase or reduce the delivery up to  $\pm 5\%$ . This is to be balanced at the agreed price.

#### 4. **Reservation of Self-Delivery**

In the event that the Delivery is not available because KCH has not received deliveries from its own suppliers or the delivery stock of KCH is depleted, **KCH is entitled to make a Delivery which is equivalent in quality and price to the contractually agreed Delivery. If this is not possible, KCH may rescind the contract.**

#### 5. **Terms of Payment, Setoff, Right of Retention**

- 5.1 Unless otherwise agreed between the Parties, the invoice is due for immediate payment and without deduction.
- 5.2 The Customer can only set off a counterclaim against a claim of KCH or exercise the right of retention if its counterclaim is undisputed or confirmed by a final and unappealable judgement.
- 5.3 If the Customer is in default of payment, suspension of payment, opening or applying for bankruptcy, insolvency or composition proceedings or rejection of such due to non-existing assets, protest of a bill, valuation of the Customer with a high business risk by a recognized information or rating agency, or in the event of comparable sustainable reasons which suggest the Customer's insolvency, KCH is entitled to demand immediate payment of all claims which are not yet due. In addition, KCH is entitled to make each Delivery subject to an advance payment.

#### 6. **Delivery Period**

- 6.1 Observance of the agreed delivery period is conditional on the timely receipt of complete documents, necessary permits and approvals, especially of plans to be provided by the Customer as well as fulfillment of the agreed terms of payment and other obligations by the Customer (e.g. advance payment, partial payment). In case these conditions are not fulfilled on time, the delivery period shall be extended accordingly; this shall not apply if KCH is solely responsible for the delayed Delivery. The delivery period is interrupted for the duration of the time used for the examination (e.g. of test prints, samples) by the Customer.
- 6.2 If non-observance of the delivery period is due to events such as natural disasters, mobilization, war, terrorist acts, computer virus and further attacks by third parties on the IT-system of KCH despite compliance of KCH with the safety precautions of the usual security measures, riot, strike, lock-out, impediments resulting from Swiss, US-American and other applicable national, European or international foreign trade laws, breakdowns in production or other plant interruptions, traffic problems or other comparable circumstances for which KCH is not responsible ("Force Majeure"), the delivery period of KCH shall be extended reasonably. Should any event of Force Majeure last for a period of more than 60 calendar days, the Customer or KCH shall be entitled to rescind the contract in whole or in part. In such case no Party shall have a right to seek damages against the other Party. This shall also apply if any event of Force Majeure occurs at the time when KCH is in delay with the Delivery.
- 6.3 In the event that KCH is responsible for a delayed Delivery, the Customer may seek liquidated damages of 0.5 % for every completed calendar week of delay but in no event shall the aggregate of such damages exceed a total of 5 % of the net price for that part of the delayed Delivery which due to the delay could not be put to the intended use by the Customer. The obligation to pay the liquidated damages requires proof by the Customer that any damage has occurred, but not of its amount. KCH shall be entitled to provide evidence that the Customer suffered lower or no damage.
- 6.4 Further claims and remedies of the Customer due to the delayed Delivery in particular indirect or consequential damages, loss of profit or loss of production beyond the limits specified in 6.3, are excluded, even after expiry of any deadline for Delivery set by the Customer. This shall not apply in case of liability of KCH based on intent, gross negligence or due to loss of life, bodily injury or damage to health.
- 6.5 The Customer shall only be entitled to rescind the contract provided that KCH is solely liable for the delayed Delivery and after reaching the maximum amount of compensation in 6.3 and the Customer has set an adequate delivery period to KCH within KCH has to supply the Delivery and such delivery period has expired. A change in the burden of proof to the detriment of the Customer shall not be implied hereby.
- 6.6 At the request of KCH the Customer shall declare within a reasonable period whether the Customer will rescind the contract due to the delayed Delivery or insist on the Delivery.

#### 7. **Retention of Title**

- 7.1 The Delivery shall remain the property of KCH ("**Secured Goods**") until the Delivery price has been paid. The Customer may not damage, alter, remove or render unrecognisable the numbers, marks, type plates, company and/or brand names and other inscriptions affixed by KCH to the Secured Goods.

- 7.2 The Customer agrees that KCH may have the retention of title entered in the relevant register of title retention without the Customer's involvement and at the Customer's expense until full payment has been received. The Customer undertakes to make all declarations necessary for the valid establishment of the retention of title, to transmit the necessary information, and to take actions, and to do so unconditionally, without delay, and on first demand.
- 7.3 The Customer is prohibited from pledging or transferring the Secured Goods by way of security. The Customer shall immediately notify KCH in writing of any seizures, confiscations, or other dispositions and interventions by third Parties.
- 7.4 **For the event that the Customer resells the Secured Goods, it now already assigns to KCH its future claims (including value added tax) from the resale against its clients with all ancillary rights as security (assignment by way of security) without this requiring any further special declarations.** The regulation according to 7.5 remains reserved. Upon complete payment for the Secured Goods, the assignment by way of security shall lapse (resolutive condition). If the Secured Goods are resold together with other items without an individual price having been agreed for the Secured Goods, then the Customer shall assign to KCH that part of the total price claim that corresponds to the price of the Secured Goods invoiced by KCH. KCH now already accepts the respective assignment.
- 7.5 **If the Customer has sold claims against its buyers from the sale of Secured Goods within the framework of genuine factoring, the Customer now already assigns to KCH by way of security the Customer's claims against the factor that take their place (assignment by way of security).** KCH now already accepts the assignment. Upon complete payment for the Secured Goods, the assignment by way of security shall lapse (resolutive condition).
- 7.6 In the event that the Customer is in breach of an obligation, in particular, a default of payment, KCH is entitled to rescind the contract and to take back the Secured Goods, after the expiration of a reasonable time limit within which the Customer shall rectify the breach. The Customer is obliged to return the Secured Goods to KCH. The legal provisions which dispense of the requirement to set a deadline in case of a serious and/or final refusal of performance shall remain unaffected.
- 7.7 In the event of processing or combining, the provisions regarding the assignment by way of security pursuant to 7.4 and 7.5 shall also apply mutatis mutandis for the new product. However, the assignment shall only apply up to the amount corresponding to the value of the Secured Goods invoiced by KCH that are processed.
- 7.8 Until revoked by KCH, the Customer shall be entitled to collect assigned claims from the resale. KCH shall be entitled to revoke the Customer's collection authorisation at any time and to notify the Customer's buyer of the assignment by way of security. In addition, KCH shall be entitled to collect the assigned claims after prior warning and observance of a reasonable period of time.
- 8. Warranty for Material Defects**
- 8.1 **All claims of the Customer against KCH due to material defects (including damages) shall be governed exclusively by the provisions in 8. and 10. of this KCH-TD. Any further warranty as well as claims other than those provided for in 8. and 10. of the Customer are excluded.** The limitation of the statutory warranty obligation shall not apply in case of intent or gross negligence or due to culpable loss of life, bodily injury or damage to health or in case of fraudulent concealment of a material defect by KCH.
- 8.2 KCH warrants that upon transfer of risk the Delivery will have the quality specified in the respective TS, subject to the following restrictions: In the case of only insignificant deviation from the quality according to the TS or in the case of only insignificant impairment of usability, there shall be no material defect. To avoid misunderstandings: In the case of, for example, natural wear and tear or damage arising after the transfer of risk as a result of faulty or negligent handling, excessive strain, unsuitable production facilities or operating resources or due to external influences, there shall also be no material defect. It is the sole liability of the Customer to examine the suitability of the Delivery for the intended use. In case the Customer requests additional tests which were not included in the respective TS, these shall be agreed separately in writing and paid by the Customer.
- 8.3 The Customer is obliged to carefully check the condition of the Delivery immediately upon receipt. Any material defects that are identifiable during a proper inspection must be reported to KCH without delay in writing and substantiated (notice of defects). If the Customer fails to do so, the Delivery shall be deemed approved. All material defects which were not recognisable upon receipt during proper inspection (hidden material defects) shall be reported by the Customer in writing and substantiated immediately after their discovery (notice of defects), otherwise the Delivery shall also be deemed approved with regard to these material defects. The notice of defects must always include the data relating to the Delivery (e.g. offer number, blanking plate: batch number, bar code). In the event of an unjustified notice of defects, the Customer shall be obliged to reimburse KCH for the expenses thereby incurred.

- 8.4 If a Delivery has a material defect upon transfer of risk and a complaint about this is made by the Customer in a valid and timely manner, KCH **only undertakes to provide supplementary performance through rectification or (partial) replacement Delivery** (at KCH's discretion). Any further **warranty claims are excluded (with the exception of any damages pursuant to 10.)**. Subject to the following provision, **the Customer shall in particular not be entitled to rescission or the reduction of the purchase price**. The Customer shall give KCH the time and opportunity required for supplementary performance. If the Customer does not give KCH the opportunity to remedy the defect within a reasonable period of time, KCH shall be released from the warranty (including damages). If supplementary performance is not possible, or if the period for supplementary performance expires unused, or if the material defects cannot be completely remedied after two subsequent improvements, then the Customer may withdraw from the contract or reduce the purchase price. Withdrawal is only possible if the defect is material.
- 8.5 All warranty claims of the Customer against KCH **shall be subject to a statute of limitations of 12 months of Delivery**, but no later than 18 months after KCH has notified the Customer that the goods are ready for shipment. **Supplementary performance by KCH shall not initiate a new limitation period**.
- 8.6 The Customer shall have no claim with respect to expenses incurred in the cause of Supplementary Performance, especially transport, road, labor and material costs, to the extent that expenses were increased because the Delivery was subsequently brought to another location than the Place of Delivery..

## 9. Rights in Case of Defects of Title

- 9.1 All of the Customer's claims against KCH based on defects of title (including damages) shall be governed exclusively by 9. and 10. of this KCH-TD. Any further warranty and claims of the Customer apart from those provided for in 9. and 10. are excluded. The limitation of the statutory warranty obligation shall not apply insofar as KCH has intentionally or with gross negligence concealed the rights of third Parties from the Customer.
- 9.2 KCH warrants that upon transfer of risk the Delivery is free from industrial property rights, copyrights of third Parties and/or any other third party right with respect to the country at the Place of Delivery which impair the use of the Delivery for the Customer ("Third Party Right").
- 9.3 Immediately upon becoming aware of Third Party Rights asserted by third parties, the Customer shall notify KCH thereof in writing with substantiation (notice of defects). **The Customer is obliged to not acknowledge the asserted Third Party Right and to reserve all defensive measures and settlement negotiations for KCH and to serve third-Party notice in all court proceedings, otherwise it forfeits any claims from the legal warranty**. If the Customer wishes to discontinue the use of the Delivery in good faith due to the assertion of the Third Party Rights, it must threaten KCH in good time and offer KCH the conduct of the process without success. **To the extent that the Customer ceases to use the Delivery voluntarily and without a court order or consent from KCH, it does so at its own risk; it shall not be entitled to any claims against KCH as a result of this**. In any case, the Customer shall inform the third Party that the discontinuation of use does not constitute an acknowledgement of an infringement of the Third Party Right.
- 9.4 If KCH is liable for defects in title, KCH shall, at its option and expense, only either obtain a right of use for the Delivery in question, modify the Delivery in such a way that the Third Party Right is not infringed, or replace the Delivery. If this is not possible for KCH at reasonable conditions, the Customer shall be entitled to damages in the event of the partially successful assertion of the Third Party Right and to a right of withdrawal in the event of the fully successful assertion of the Third Party Right.
- 9.5 A claim of the Customer against KCH shall be excluded if the Customer is responsible for the infringement of the Third Party Right, or the infringement of the Third Party Right is caused by specific demands of the Customer, or by use of the Delivery not foreseeable by KCH, or the Delivery is altered by the Customer or used together with products not provided by KCH.

## 10. Other liability, Compensation for Damages

- 10.1 **KCH shall be liable for damages only in the following cases** (regardless of the legal grounds and for contractual and non-contractual claims):
- in case of intent or gross negligence,
  - in case of culpable loss of life, bodily injury or damage to health,
  - in case of a Customer claim arising from product liability.
- Beyond this the Customer has no claim against KCH for damages.**
- 10.2 The Customer acknowledges that any **application advice** shall be provided by KCH free of charge and without obligation. **KCH assumes no liability for the accuracy of advice provided**. Advice from KCH shall also never constitute a warranted quality of the Delivery. Consulting services provided by KCH employees therefore do not replace consulting services provided to the Customer by qualified experts. **In particular, the Customer shall not be released from its obligation to examine the Delivery on its own responsibility for the intended use**. This shall also apply if the Customer's intended use of the Delivery is known to KCH.

10.3 KCH shall not be liable for damages caused by its auxiliary persons (in particular employees, carriers). The Customer also waives the assertion of any direct claims against the auxiliary persons of KCH. KCH excludes the principal's liability for negligence other than gross negligence.

10.4 All claims for damages on the part of the Customer shall be subject to a limitation period of 12 months from Delivery, subject to the longer limitation periods in Art. 127, 128 and 137 para. 2 OR (Obligationenrecht / Code of Obligations).

## 11. Impossibility of Performance, Contract Adjustment

11.1 In case the supply of the Delivery is impossible, the Customer shall have the right to claim damages unless KCH is not responsible for the impossibility. **The right of the Customer to claim for loss or damages shall be limited to 10 % of the net price of that part of the Delivery which due to the impossibility cannot be put to the intended use by the Customer.** This limitation shall not apply in case of liability based on intent, gross negligence or due to loss of life, bodily injury or damage to health. A change in the burden of proof to the detriment of the Customer shall not be implied hereby. The right of the Customer to rescind the contract shall remain unaffected.

11.2 The contract shall be reasonably adjusted in compliance with the principle of good faith where incidents of Force Majeure substantially change the commercial importance or the content of the Delivery or have a material adverse effect on the business of KCH. Where this adjustment is not economically justifiable, KCH shall have the right to rescind the contract. KCH shall inform the Customer of the exercising of the rescission of the contract without delay upon awareness of the consequences of the incident, even if initially an extension to the delivery period had been agreed with the Customer.

## 12. Supply of the Customer

12.1 The Customer shall incur liability for the use and transfer of decors, designs, company logos, trademarks, shim, stamping tools, samples, drafts and other creative elements supplied by the Customer to KCH ("Supply") – irrespective of the data medium - which infringe a Third Party Right. The Customer shall immediately indemnify and hold harmless KCH from any corresponding third party claims.

12.2 The Customer shall deliver his Supply to the Place of Delivery at his expense. The costs of storage, maintenance, repair and disposal for his Supply shall be borne by the Customer.

## 13. Confidentiality

13.1 Each Party shall not without the prior written consent of the other Party pass to third parties information, knowledge, templates, including such documents as illustrations, drawings, plans, construction documents ("Information") received from the other Party. This shall not apply to Information which at the time of receipt are generally known or were already known by the receiving Party without being obliged to maintain confidentiality or were transferred by a third party lawfully in possession thereof and who has the lawful power to disclose such Information or were independently developed by the receiving Party without using any Information of the disclosing Party. Information shall be returned by the receiving Party without delay if a contract is not awarded. A right of retention by the receiving Party is excluded.

13.2 A third party within the meaning of 13.1 shall not be deemed to be a company affiliated with KCH as well as a person or company entrusted with the task of performance of the contract by KCH insofar as they have been obliged to keep confidential in an equivalent manner.

13.3 Neither Party shall use the Information received from the other Party for purposes over and beyond the scope of the contract between the Parties without the express prior written consent of the other Party.

13.4 The obligation of confidentiality shall begin upon receipt of the Information and ends 5 years after the end of the business relationship.

## 14. Assignment

The assignment of a claim or a right under the contract is permitted only with the prior written consent of the other Party. This does not apply to a monetary claim.

## 15. Corporate Social Responsibility

15.1 As a member of the KURZ Group, KCH is committed to respect and observe the KURZ Code of Business Conduct.

15.2 The Customer confirms to observe the applicable law and legislation; the Customer shall not tolerate any kind of corruption or bribe, respect basic rights and the ban on child labor and forced labor. Furthermore the Customer shall take responsibility for the health and safety of its employees, shall ensure a fair compensation and reasonable working hours, shall act in accordance with the applicable environmental laws and shall use its best efforts to promote the observance of these principles among its suppliers.

**16. Applicable law**

The substantive law of Switzerland shall apply exclusively. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 shall be excluded.

**17. Jurisdiction**

The exclusive place of jurisdiction is Wallisellen, Switzerland.