

Terms of Delivery and Payment KYOCERA Fineceramics Europe GmbH

1. Scope

Our terms of delivery and payment apply exclusively; we do not accept deviating or contradictory terms by the customer, even where we have not expressly rejected these. Our terms of delivery and payment are only applicable, if the customer is a merchant, a legal entity under public law or a special fund under public law.

2. Conclusion of Contract – Confidentiality

- 2.1 Our quotations are not binding. A contract shall only be concluded if we confirm the order in writing. Our order confirmation shall be decisive for the content and scope of the contract.
- 2.2 Any illustrations, drawings, calculations, files, documents and other information provided by us must be kept confidential. We reserve the right of ownership and copyright for these. Written authorisation must be obtained from us prior to disclosure to third parties.
- 2.3 Changes in the technical design of the ordered goods are permitted as long as these do not cause essential functional changes or where the customer can prove that the changes are not acceptable.
- 2.4 We assume a guarantee for the properties of a good only if this has been stated expressly in our order confirmation or in our advertising.

3. Delivery Times – Delivery Quantities

- 3.1 The delivery period begins once all technical queries have been resolved.
- 3.2 All delivery times and periods are subject to ourselves being supplied properly and in good time.
- 3.3 In the event of subsequent changes requested by the customer or in the event of obstacles to delivery for which we are not responsible, the delivery period shall be extended accordingly.
- 3.4 As a result of the multi-stage production of ceramic components, compliance with the ordered quantity cannot always be ensured. Excess or shortfall quantities of up to 10 percent shall therefore be deemed to be in accordance with the contract. The customer is also obliged to accept partial deliveries

4. Prices – Terms of Payment

- 4.1 Our prices are ex works, loaded, plus VAT. Insurance, packaging, dispatch and custom clearance prices will be invoiced separately. We reserve the right to adjust our prices if after completion of the contract cost increases or reductions occur especially due to changes in the technical design as per Section 2.3, following wage settlements or changes in material cost. We will provide evidence of these if requested by the customer.
- 4.2 Invoices are payable net within 30 days from invoice date.
- 4.3 We reserve the right in individual cases to accept bills of exchange and cheques. Bills of exchange and cheques are accepted only on account of performance. The claim is fulfilled only once payment has been made or credited. All costs incurred are the responsibility of the customer.
- 4.4 Where payment conditions are not honoured or in circumstances bringing into question the credit worthiness of the customer, we are authorised to demand immediate cash payment for all deliveries. We are furthermore authorised to prohibit the reselling of the goods delivered with retention of title as well as demand the immediate return of the goods at the customer's expense once we have withdrawn the contract.

5. Transfer of Risk – Insurance

- 5.1 The risk shall pass to the customer upon provision of the delivery and notification of readiness for shipment. This shall also apply if the shipment is delayed due to circumstances for which we are not responsible. If we fail to notify the customer that the goods are ready for shipment, the risk shall pass to the customer when the goods are handed over to the carrier, but no later than when the goods leave the factory or warehouse. This also applies when our own carriers are used or delivery is carriage paid.
- 5.2 The customer is obliged to adequately insure the goods for as long as our retention of title applies. Irrespective of this, we shall be entitled - but not obliged - to insure the goods for transport to the customer in Germany and to invoice the customer for the costs incurred.

6. Notice of Defects – Claims for Defects – Period of Limitation

- 6.1 The customer shall inspect the received goods for defects immediately upon receipt. The customer shall give notice of defects in writing immediately upon receipt of the goods, but not later than within 14 days after receipt. For hidden defects, the same period shall apply from the time of discovery. For defects not notified in time, the claims for defects shall be waived.
- 6.2 Where complaints are justified, we will, at our discretion, either remedy the defect or supply a replacement. If we do not remedy the defect or deliver replacement within a reasonable period of time or after a maximum of two attempts, the customer has the right to withdraw from the contract or to demand a reduction of the purchase price. The withdrawal is excluded if there is only an insignificant breach of duty on our part.
- 6.3 The limitation period for claims for defects is one year. The period begins with the delivery of the goods.
- 6.4 A defect shall be deemed to exist if the delivered goods are not the ordered goods, subject to Section 3.4 do not correspond to the ordered quantity and/or do not have the agreed quality (according to the agreed specification/drawing).

7. Retention of Title

- 7.1 Our deliveries are always made subject to retention of title. The goods remain our property until full payment of all claims arising from the business relationship with the customer. The reserved property shall be deemed security for our claims where accounts remain unsettled.
- 7.2 The customer is entitled to resell the delivered goods in the ordinary course of its business. In this event, customer shall assign its purchase price claim

to us in the amount of the value of the reserved goods. At our request, the customer shall inform us of the debtors of the assigned claim and notify them of the assignment. The customer is obliged to inform us immediately of any seizure or any other impairment of our security rights by third parties.

- 7.3 We undertake to release the securities to which we are entitled at the request of the customer to the extent that the realisable value of our securities exceeds the claim to be secured by more than 10%; the choice of securities to be released remains with us.

8. Force Majeure – Right to Withdrawal

If we are prevented from fulfilling our delivery obligation by an event of force majeure or other circumstances beyond our control, or if the fulfilment of our obligations becomes unreasonable for us for such reasons, we have the right to withdraw from the contract. The customer is precluded from claiming for damages in such an event. The right of withdrawal shall also exist if the customer was initially notified of an extension of the delivery period.

9. Limitation of Liability – Liability in case of Infringements of Industrial Property Rights

- 9.1 In the event of injury to life, body or health attributable to us, we shall be liable in accordance with the statutory provisions.
 - 9.2 For other damages the following applies:
 - a) We shall be liable in accordance with the statutory provisions for damages based on an intentional or gross negligent breach of duty by us or our legal representatives or vicarious agents.
 - b) For damages based on the violation of essential contractual obligations based on simple negligence by us, our legal representatives or vicarious agents, our liability shall be limited to the foreseeable damage typical for the contract up to a maximum of the value of the delivered good.
 - c) Claims for other damages in the event of a breach of ancillary obligations or non-essential obligations in the event of simple negligence shall be excluded.
 - d) Claims for damages arising from delay due to simple negligence shall be excluded; the statutory rights of the customer after expiry of a reasonable grace period shall remain unaffected.
 - 9.3 The exclusions of liability or limitations of liability do not apply if a defect has been fraudulently concealed by us or if we have assumed a guarantee for the quality of the good.
 - 9.4 The customer's claim for reimbursement of frustrated expenditures instead of damages in lieu of performance and the liability according to the Product Liability Act shall remain unaffected.
 - 9.5 If the ordered goods are based on customer-specific requirements, the customer shall be responsible for ensuring that the ordered goods and the plans, drawings and technical information provided to us by the customer for this purpose do not infringe the industrial property rights or other rights of third parties. In this respect, the customer shall indemnify us against all claims of third parties.
- 10. Non-assignment clause**
Unless expressly agreed otherwise with the customer, the customer shall not be entitled to transfer any rights under the contract to third parties without our consent.

11. Applicable rights – Place of Jurisdiction

- 11.1 German law shall apply exclusively to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- 11.2 The exclusive place of jurisdiction for disputes between the contracting parties shall be the court having jurisdiction for Mannheim. However, we reserve the right to take legal action against a customer before the otherwise competent courts at our discretion.

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