

General Terms and Conditions of Sale
of
KGS Nederland B.V.
KGS HOLDING B.V.
(trading under the name KGS INTERNATIONAL)

Issue date: June 2020

I. General

1. The provisions of these general terms and conditions of sale ("GTC") shall apply to all current and future offers and agreements for the delivery of goods or services by KGS DIAMOND Holding B.V. and by KGS Diamond Nederland B.V. ("KGS") to or with a professional person or entity ("Buyer"), even if no particular reference is made to this fact.
2. The GTC shall also apply to any agreements with KGS for the performance of which the services of third parties are needed.
3. The GTC together with any amendments or special conditions, to be understood in line with any previous communication, agreed upon and referred to on an order confirmation shall constitute the entire agreement between KGS and Buyer.
4. Only these GTC shall apply to any agreement for the provision of goods or services by KGS to Buyer. The Buyer's general terms and conditions of purchase shall not apply, irrespective of their nature, and of whether 'without limitation'-terms and conditions are mentioned in the Buyer's order request or receipt-of-invoice confirmation. It is understood and agreed by Buyer that any documents received from Buyer by KGS that contain standard terms and conditions have no contractual effect and are present merely as a result of being pre-printed on said documents.
5. If Buyer places an order that deviates from the offer made by KGS these GTC apply with a similar exclusion of Buyer's general terms and conditions, unless KGS has expressly acknowledged a desire in writing to be bound by Buyer's deviating terms and conditions.
6. KGS is entitled to amend the GTC. KGS will inform the Buyer about such modifications and of the date of the legal effectiveness of such modifications at least one month before the date of effectiveness.
7. If any provision or partial provision of these GTC are declared either void or nullified, the other provisions of these GTC shall remain fully applicable. In such case, if necessary, KGS shall replace said void or nullified (partial) provision with a valid provision, of which the purpose, purport and the legal and financial effect most closely resembles that of the original provision.

II. Offers and agreements

1. All offers made by KGS are without obligation and may be changed at any time, unless stated otherwise in writing by KGS. Orders placed by Buyer and the acceptance of our offer by Buyer are binding on Buyer.
2. Offers made by KGS in catalogues, sales literature and also – unless expressly stated as firm - on the website are without obligation on the part of KGS, i.e. they shall only be understood as an invitation to send an order request.
3. A binding agreement with KGS enters into force when KGS has confirmed the order in writing within 8 days of receiving an order for the purchase of goods or services, or if KGS has begun the execution of an order without sending confirmation. In the case of immediate execution of an order, the delivery note or invoice for the products shall also constitute an order confirmation. Any additions or amendments to the order are only binding on KGS if KGS has confirmed them in writing.
4. If the notice of acceptance deviates from the offer made, also in the event of aspects of minor importance, KGS shall not be bound by it until KGS has sent a revised and corresponding order confirmation.
5. A composite quotation does not oblige KGS to supply part of the goods offered at a proportionate part of the price offered.
6. Offers shall not automatically be deemed to apply to follow-up orders.

III. Prices and costs

1. Prices on KGS's price lists, offers and order confirmation are indicative and may be changed at any moment without prior notice until a binding agreement has entered into force.
2. KGS may charge on price increases, also if they are due to foreseeable change in circumstances, if significant price increases occurred with regard to, among others, exchange rates, wages, raw materials, unfinished goods and packaging materials between the moment of offering and the performance of the Agreement.
3. The prices applied by KGS are exclusive of VAT and any other (government) levies as well as any costs to be incurred in connection with the Agreement, including shipping and administrative costs, unless explicitly stated otherwise in writing.

IV. Payment

1. Invoices of KGS are payable upon receipt thereof by Buyer. Payment will – without any deduction or set-off – be made by Buyer in advance or, if indicated by KGS, within 30 days of the date of invoice, unless a different payment term has been given by KGS on the invoice. Payment will be made in the way indicated by KGS and in the currency invoiced, unless KGS has explicitly agreed in writing to any deviating payment arrangements. Any objection to the invoiced amounts shall not be deemed to suspend the payment obligation. KGS shall at all times be entitled to suspend the fulfilment of its obligations, also during the performance of an agreement, until the Buyer has at the request and to the satisfaction of KGS paid the invoiced amount or provided security for the fulfilment of its obligations under the Agreement. If payment is not made or security not provided within 10 working days following a request to that effect, KGS shall be entitled to rescind all pending supply agreements.
2. If the Buyer fails to effect payment within the indicated period of thirty days, or such period as may have explicitly been agreed on in writing, the Buyer shall be deemed to be legally in default. The Buyer must then pay an interest rate in an amount of one percentage point per month from the due date on, unless this amounts to a lower interest rate than 8 percentage points above the base interest rate of the European Central Bank per year, in which case the latter interest rate applies. KGS reserves the right to claim damages for default beyond that amount.
3. In the event of no payment on the due date, a winding up, involuntary liquidation or bankruptcy, attachment or suspension of payment (in accordance with bankruptcy law) of

the Buyer or another circumstance that may entail the inability of the Buyer to fulfill its payment obligations, any amount due to KGS shall be payable immediately.

4. KGS shall be entitled to use payments by the Buyer in the first place to be offset against the costs, subsequently to be offset against the interest due and finally to be offset against the principal and the accrued interest. KGS may, without being deemed to be in default, reject an offer for payment if the Buyer applies a different allocation order. KGS is entitled to refuse full repayment of the principal, if the same is not accompanied by payment of interest fallen due and accrued interest as well as costs.

V. Performance of the Agreement

1. If and insofar as required for a proper performance of the Agreement, KGS shall be entitled to have work carried out by third parties.
2. The Buyer shall ensure that all information which KGS indicates is necessary or which the Buyer should reasonably understand is necessary for the Agreement are provided to KGS in time. If such information is not provided to KGS in a timely manner, KGS shall be entitled to suspend the performance of the Agreement until such information has been received and/or to charge the Buyer for the costs resulting from the delay according to the customary rates.
3. KGS shall not be liable for any damage caused by the fact that KGS relied on incorrect and/or incomplete information provided by the Buyer, unless the information was so obviously incorrect that KGS's reliance thereon is considered negligent.
4. If it is agreed that the duties contained in the Agreement will be performed in phases, KGS may suspend parts of the Agreement belonging to the next phase until the Buyer has approved the results of the previous phase in writing.
5. If KGS or any third party engaged by KGS in the context of the order performs work at the Buyer's location or at a location designated by the Buyer, the Buyer shall without charge provide such facilities as KGS or third party may reasonably require.
6. The Buyer shall indemnify KGS against any claim by any third party that, in connection with the performance of the Agreement, suffers a loss which is attributable to the Buyer.

VI. Delivery

1. Delivery shall take place ex factory/warehouse of KGS.
2. If delivery takes place on the basis of the "Incoterms", the most recent version of the "Incoterms" available on the date of conclusion of the Agreement shall apply.
3. The Buyer shall take delivery of the goods when KGS delivers the same or has the same delivered to the Buyer or when the same are put at the Buyer's disposal in accordance with the Agreement.
4. If the Buyer refuses to take delivery of goods or fails to provide information or instructions required for delivery thereof, KGS shall be entitled to store such goods for the Buyer's account and risk. KGS shall then be entitled to demand payment from the Buyer as if delivery had taken place.
5. If KGS needs certain information to be provided by the Buyer in the context of the performance of the Agreement, the period of delivery shall commence only after the Buyer has put such information at the disposal of KGS.
6. Delivery dates confirmed by KGS shall be deemed to be provided by way of indication and only commit KGS to use its best endeavors to meet said dates. Delivery dates requested by Buyer are only deemed to be accepted if specifically confirmed in writing by KGS. In the event that a period of delivery is exceeded, the Buyer must first declare KGS to be in default in writing. However, even this shall not entitle the Buyer to claim damages or to suspend or dissolve the Agreement. KGS shall never be liable for any excess of delivery times.
7. KGS shall be entitled to deliver part of the goods, unless otherwise agreed on conclusion of the Agreement or unless such part delivery is not considered to be an independent delivery. KGS shall be entitled to invoice the goods thus delivered separately.

VII. Drawings, calculations, specifications, samples, models etc.

1. Any catalogue, illustration, drawing, statement of dimensions and weights, sample, model, etc. shown and provided to the Buyer is to be interpreted as an indication, without the relevant goods having to be in conformity therewith, unless explicitly stated otherwise by KGS.
2. KGS shall retain the ownership of any drawings, calculations, programmes, specifications, models, tools, etc. made or provided by KGS as well as of the information contained therein and of information regarding the manufacturing or construction methods for the goods, irrespective of whether any cost has been charged. The Buyer shall guarantee that such information, except when used for the performance of the Agreement, will not be copied, published or disclosed to and used by third parties, unless permitted in writing by KGS.

VIII. Inspection

1. On delivery, or at any rate within the smallest possible amount of time, the Buyer shall check whether the quality and quantity of the goods delivered are as has been agreed on or at least comply with the requirements applying in normal commercial practice.
2. Buyer will give notice to KGS in writing of any visible defects or shortcomings within 5 working days after delivery. Buyer will notify KGS of hidden defects or shortcomings within 10 days after detection, however no later than 6 months after delivery.
3. If a notice of complaint is given in time as specified in the previous paragraph, the Buyer shall nevertheless continue to be obliged to take delivery of and effect payment for the goods purchased. If the Buyer wishes to return defective goods, the same shall take place subject to the prior written permission of KGS and in the way indicated by KGS.

General Terms and Conditions of Sale
of
KGS Nederland B.V.
KGS HOLDING B.V.
(trading under the name KGS INTERNATIONAL)

Issue date: June 2020

IX. Guarantee and Complaints

1. KGS guarantees that the goods that have been manufactured by KGS are in conformity with the customary requirements and standards and furthermore guarantees that they are free from any defects. This also applies to hidden defects that could not be observed immediately on inspection or transfer testing, insofar as the Buyer notifies KGS within 10 days of discovery and proves that these defects surfaced within 6 months after delivery either exclusively or predominantly as a direct result of a fault in the construction by KGS, poor workmanship, use of inferior materials or improper fitting/ installation by KGS. The costs of the inspection or transfer testing remains for the Buyer's account, if no construction or material faults, improper fitting/installation or poor workmanship are found to exist. Complaints should be addressed to the corporate or accounting departments of KGS. Complaints made to sales representatives are only considered to be received by KGS once KGS has sent written confirmation to Buyer.

2. The guarantee referred to under the first paragraph of this clause shall apply for a period of 6 months after delivery, or, if fitting/installation is carried out by KGS, for a period of 6 months commencing on the date of completion of fitting/installation by KGS.

3. Complaints on account of defects or incomplete deliveries shall be lodged in writing as soon as possible following detection thereof but, in any case, no later than 10 days after detection and no later than 5 working days after expiry of the guarantee period; if these periods are exceeded, any claim against KGS for such defects shall be deemed invalid. If the Buyer is unsatisfied with the solution offered and wishes to start legal proceedings concerning the defect, Buyer undertakes to institute these within 1 year after giving timely notice of the defect to KGS, under penalty of nullity of its claim.

4. If goods supplied do not comply with the provisions of these guarantees, KGS shall within a reasonable period after delivery or, if they cannot reasonably be returned, after written notification by the Buyer of the relevant defect, replace or repair such goods at the option of KGS. In the event of replacement, the Buyer undertakes to return to KGS the goods to be replaced and transfer the ownership thereof to KGS. The costs of the replacement, in particular transportation, travel, labor and material costs shall be borne by KGS. If said costs exceed 50% of the value of the original order, KGS is entitled to refuse providing a replacement.

5. The aforementioned guarantee shall not apply if the defect is due to injudicious or improper use or if, without written permission by KGS, the Buyer or any third party made alterations to the goods, made efforts thereto or used such goods for purposes other than those intended.

6. Defects which are not covered by the guarantee are those that occur in or which are fully or partly due to:

- a. non-compliance with operating and maintenance instructions or any use other than the intended normal use;
- b. normal wear;
- c. fitting/installation or repair by any third party, however, including the Buyer;
- d. the application of any government regulation regarding the nature or quality of the materials used;
- e. used materials or items applied in consultation with the Buyer;
- f. materials or items which the Buyer provided to KGS for processing/incorporation;
- g. materials, items, working methods and constructions/ structures, insofar applied as explicitly instructed by the Buyer, and materials and items supplied by or on behalf of the Buyer;
- h. parts which KGS obtained from a third party, insofar as such third party has not submitted a guarantee to KGS.

7. If the guarantee provided by KGS relates to items manufactured by a third party, it shall be limited to the guarantee provided by the manufacturer.

8. If the Buyer fails to comply with any obligation arising from the Agreement concluded with KGS or any agreement connected therewith, KGS is not bound by any guarantee made in this clause regarding the proper functioning of goods.

9. Failure by KGS to comply with any guarantee obligation, either fully or partly, shall not release the Buyer from its obligations arising from any agreement concluded with KGS.

X. Liability

1. If goods supplied by KGS are defective, KGS is only liable insofar as it has made, and to the extent of, any guarantees as provided for in these terms and conditions under "Guarantees".

2. KGS's liability for a failure attributable to KGS or on the basis of any laws is, insofar as permitted by law, limited to repair of the defect, replacement of the defective items, performing again the duties under the agreement or to refund the amount received from the Buyer in connection with the performance that was deemed faulty, in which case the agreement will be considered dissolved for the refunded parts of the agreement. KGS will not be liable for damage to persons or goods other than the goods that form a part of the agreement, and its liability for direct loss shall at any time be limited to twice the amount invoiced for the performance of the duties to which the liability relates.

3. Direct loss shall exclusively be understood to mean:

- the costs reasonably incurred to establish the cause and extent of the loss, insofar as relating to damage/loss within the meaning of these terms and conditions;
- any reasonable costs incurred to cause the imperfect performance of KGS to comply with the Agreement, unless the relevant defect or shortcoming cannot be imputed to KGS;
- any reasonable costs incurred to prevent or limit any damage/ loss, insofar as the Buyer proves that such costs have resulted in limiting the direct damage/loss as referred to in these GTC.

4. KGS shall never be liable for

- a. any indirect loss, including consequential loss, loss of profit, missed opportunities for savings, and loss due to delays;
- b. any loss due to guarantees or delivery periods stated by the Buyer or third parties;

c. the effects of faults or shortcomings in designs, calculations, drawings, technical descriptions, technologies, goods, services, goods, etc. by third parties whose services, information or goods were used by KGS;

d. any violation of patents, licences or any other rights of third parties due to the use of information provided by or on behalf of the Buyer;

e. any damage to or loss of raw materials, semi-finished products, models, tools, equipment and any other items made available by the Buyer.

5. If KGS in any way assists in fitting/installation or advises the Buyer, without this being included in the order or invoice, this shall be for the Buyer's risk and KGS cannot be held liable.

6. The limitations of the liability for direct loss included in these terms and conditions shall not apply if such loss is due to gross negligence or intention of KGS or its employees.

7. Whenever KGS's liability is excluded or limited, the same shall be the case for the personal liability of KGS's staff, employees or personnel.

XI. Changes in the Agreement

1. If during the performance of the Agreement it turns out that, for a proper performance, it is necessary that the work to be carried out is changed and/or supplemented, the Parties shall in good time and in mutual consultation change the Agreement accordingly.

2. If the Parties agree on the Agreement to be changed and/or supplemented, this may affect the time of completion of the performance of the Agreement. If so, KGS shall inform the Buyer thereof as soon as possible.

3. If such change and/or addition to the Agreement should have any consequences, financially or in terms of quality, KGS shall inform the Buyer thereof in advance.

4. If a fixed price has been agreed on, KGS will inform Buyer to what extent such change and/or addition to the Agreement will affect the agreed-upon price.

5. Unless provided otherwise in the Agreement or confirmed in writing by Buyer, KGS shall not be allowed to charge extra costs if such change and/or addition is the result of circumstances that can be attributed to KGS.

XII. Retention of title

1. KGS retains the ownership of all goods delivered supplied to Buyer by KGS until all claims KGS has against the buyer arising out of this or other agreements have been settled, including future claims arising from simultaneously concluded contracts.

2. The Buyer may not pledge or otherwise encumber any goods subject to retention of title.

3. If any third party attaches any goods supplied under retention of title or wishes to establish any right to or exercise any right in respect of such goods, the Buyer shall inform KGS thereof as soon as reasonably can be expected.

4. The Buyer undertakes to have and maintain any goods supplied under retention of title insured against fire, explosion, water damage and theft, and to submit the relevant policy for inspection on first demand thereto.

5. Goods supplied by KGS under retention of title pursuant to paragraph 1 of this Clause X may be resold only in the context of normal business operations and may never be used for payment.

6. Any processing carried out by Buyer of goods under retention of title shall be made on KGS's behalf, without KGS becoming in any way liable as a result thereof. In the case of processing, composition or commingling of the goods under retention of title with other goods, KGS shall acquire a co-ownership share in the new product; in the case of processing, in the ratio of the value of the goods under retention of title (= gross invoice amount including ancillary costs and taxes) to the value of the new item; in the case of composition or commingling in the ratio of the value of the goods under retention of title to the other goods

7. To be prepared for the event that KGS wishes to exercise its retained ownership rights, the Buyer already gives now to KGS, and to any third party to be designated by KGS, its unconditional and irrevocable permission to both enter the locations and premises where the goods owned by KGS are held and to repossess such goods, including the carrying out of any necessary dismantling.

XIII. Collection costs

1. If the Buyer fails to comply with any of its obligations, all reasonable extrajudicial costs incurred to obtain fulfilment thereof shall be for the Buyer's account. If the Buyer fails to effect timely payment of an amount due, it shall be liable to forfeit an immediately payable penalty of 15% over the amount due, which, however, shall be at least EUR 100.

2. Any higher costs incurred by KGS which were reasonably necessary shall also qualify for compensation.

3. Any reasonable judicial costs and costs of execution incurred by KGS shall be borne by the Buyer.

4. The Buyer shall pay interest on the collection costs incurred.

XIV. Suspension and dissolution

1. KGS shall be entitled to suspend the fulfilment of its obligations or dissolve the Agreement, if:

- the Buyer fails to comply with its obligations under the Agreement, either fully or partly.
- after conclusion of the Agreement, on account of circumstances that have come to KGS's knowledge, there are good grounds to believe that the Buyer will not fulfil its obligations. If there are good grounds to believe that the Buyer will fail to fulfil its obligations properly or fully, suspension shall only be allowed insofar as justified by the relevant shortcoming.

- on conclusion of the Agreement, the Buyer was requested to provide security for the fulfilment of its obligations under the Agreement and if such security has not been provided or has proven to be insufficient. As soon as security has been provided, KGS's authority to suspend its obligations shall be deemed cancelled, unless fulfilment by the Buyer of its obligations has been unreasonably delayed on account thereof.

General Terms and Conditions of Sale
of
KGS Nederland B.V.
KGS HOLDING B.V.
(trading under the name KGS INTERNATIONAL)

Issue date: June 2020

2. KGS shall furthermore be entitled to dissolve the Agreement, if circumstances occur that render performance of the Agreement impossible or on account of which performance can in reasonableness and fairness no longer be required, or if any other circumstances occur on account of which KGS cannot reasonably be expected to uphold or continue the Agreement unchanged.

3. Upon dissolution of the Agreement, any claim which KGS may have against the Buyer shall be immediately payable. If KGS suspends the fulfilment of its obligations, it will retain any claims it may have by law and under the Agreement.

4. KGS shall at any time be entitled to claim damages.

XV. Return of goods made available

1. If during the performance of the Agreement KGS puts items at the Buyer's disposal, the Buyer shall return such items in their original condition, free from defects within 14 days. If the Buyer fails to do so, any resulting costs shall be for the Buyer's account.

2. If the Buyer, for any reason, after having been duly warned, fails to comply with the obligation referred to in paragraph 1 of this clause, KGS shall be entitled to recover the resulting loss and costs, including the costs of replacement, from the Buyer.

XVI. Transfer of risk

1. The risk of damage to or loss of the goods subject to the Agreement shall in any case, subject to other provisions or agreements, pass to the Buyer when the goods are placed under the control of the Buyer or any third party to be designated by the Buyer.

XVII. Force majeure

1. The Parties shall not be bound to comply with an obligation arising from their agreement and/or from the GTC if they are prevented to do so due to no fault of their own and for which they cannot be held responsible under any law, legal act or according to generally accepted practice.

2. In these general terms and conditions, force majeure shall, in addition to that provided by law and case law, be understood to mean all external circumstances, whether foreseen or unforeseen, beyond the control of KGS, on account of which KGS is unable to fulfil its obligations and which shall at any rate be deemed to include: strikes, lockouts, fire, water damage, natural disasters or any other external contingency, or mobilization, war or threats of war, traffic impediments, transport from abroad, government measures or regulations and other factors causing serious disturbance of the business operations of KGS and/or its suppliers/manufacturers. Force majeure shall also be deemed to exist if, for any reason, the supplier from which KGS has bought goods to be resold, failed to deliver the same to KGS or failed to do so in time, or if the relevant agreement has for any reason been cancelled.

3. KGS will also be entitled to invoke force majeure, if the circumstance that renders the (further) performance impossible commences after KGS has fulfilled some of its obligations.

4. For as long as the impeding circumstances continue, the Parties may suspend compliance with their obligations under the Agreement. If this period lasts longer than three months, either Party shall be entitled to withdraw from the Agreement by confirming this in writing, without being obliged to pay damages to the other Party.

5. Insofar as KGS, on commencement of the force majeure, has performed or will be able to perform part of its duties under the Agreement, KGS will be entitled to invoice Buyer separately for the performance these obligations. The Buyer shall settle such invoice as if the price due had arisen from a separate agreement.

XVIII. Indemnification

1. The Buyer will indemnify KGS against any third-party claims regarding intellectual property rights to any materials or information provided by the Buyer used for the performance of the Agreement.

2. The Buyer guarantees that any information carriers, electronic files, software, etc. provided by it to KGS are free from viruses and harmful defects.

XIX. Intellectual property and copyrights

1. Without prejudice to any other provisions of these general terms and conditions, KGS expressly retains all the rights and powers that belong to it pursuant to intellectual property law. This should be interpreted in the broadest sense, to include but not be limited to patents, trademarks, trade names, word marks, devices, copyrights, drawings, models, designs, know-how and the KGS logo or slogans. Under no conditions are any Intellectual Property rights transferred to Buyer.

2. The Buyer may not make any alterations to the goods or otherwise bring them into the market as if Buyer were the manufacturer, unless otherwise agreed in writing.

3. Unless agreed otherwise, KGS shall retain the ownership of any designs, sketches, drawings, films, software and any other items or (electronic) files made by it in the context of the Agreement, irrespective of whether these were made available to the Buyer or any third party.

4. Any documents provided by KGS such as designs, sketches, drawings, films, software, (electronic) files, etc. are exclusively intended to be used by the Buyer and, unless following from a natural consequence of their nature, may not without prior permission by KGS be reproduced, published or disclosed to any third party.

5. KGS reserves the right to use any additional knowledge obtained on account of the performance of the work for other purposes, insofar as no confidential information is disclosed to any third party when doing so.

XX. Confidentiality

1. Both Parties shall observe secrecy with regard to any confidential information obtained from each other in the context of the Agreement or from other sources. Information shall be deemed confidential if indicated as such by a Party or if resulting from its nature.

2. If, under a statutory provision or judicial decision, KGS is obliged to provide confidential information to any third party designated by law or the competent court, and if KGS with regard to such information cannot rely on any statutory right of non-disclosure granted by law or recognized or permitted by the competent court, KGS shall not be obliged to pay damages or compensation and the other party shall not be entitled to dissolve the Agreement on the ground of any loss caused on that account.

XXI. Non-engagement of personnel

1. During the term of the Agreement and within a period of one year after termination thereof, the Buyer shall not take into its employment, or otherwise engage for the performance of work, employees of KGS or companies whose services were engaged by KGS for the performance of the Agreement and which are or were involved in the performance of the Agreement, directly or indirectly, unless agreed upon by KGS.

XXII. Disputes

1. Disputes shall be exclusively submitted to the Court in the district where KGS has its registered office, unless the subdistrict court has jurisdiction. KGS may nevertheless submit a dispute to the Court that has jurisdiction according to the law.

2. The Parties shall not resort to legal proceedings before the Court until they have made every effort to settle a dispute in mutual consultation.

XXIII. Applicable law

1. All agreements between KGS and the Buyer shall be governed by the substantive law of The Netherlands. The application of the Vienna Sales Convention is hereby explicitly excluded.

XXIV. Amendment, interpretation and location of the terms and conditions

1. With regard to the interpretation of the contents and purport of these general terms and conditions, the Dutch version thereof shall be decisive.