

GENERAL TERMS AND CONDITIONS
FOR CUSTOMERS OF KNOLLMÜHLE GMBH

(Version: March 2020)

§ 1

Scope of application

- (1) These General Terms and Conditions (the "GTC") apply to all deliveries, services and offers of Knollmühle GmbH, Gusentalstraße 51, A-4222 St. Georgen an der Gusen, FN 352743s (hereinafter "KNOLLMÜHLE", we or us). Contractual partners of KNOLLMÜHLE are hereinafter also referred to as "CUSTOMER" (or you). The GTC shall also apply if KNOLLMÜHLE acts in the name of and/or on behalf of third parties. The GTC are binding for all present and future business transactions with KNOLLMÜHLE. They shall also apply to contracts in respect of which the application has not been expressly stipulated.
- (2) Unless otherwise stipulated in the GTC or the individual agreement, the provisions set out in Part A of the Practices of the Vienna Stock Exchange for Agricultural Products shall apply as far as they deviate from the dispositive law for our benefit. As far as legal transactions concern goods which are listed in part B of the Practices, its provisions shall apply unless otherwise stipulated in the GTC or the individual agreement.
- (3) Stipulations deviating or supplementing from the GTC must be made expressly and must be in writing. They are only valid for the respective contract and not for the rest of the business relationship. General terms and conditions (including terms and conditions of purchase, conditions on contract forms) of the CUSTOMER shall not become part of the contract; they are hereby objected to and also acts of performance on our part shall not be deemed an approval of such general terms and conditions.

§ 2

Conclusion of contract, order changes

- (1) Offers from KNOLLMÜHLE are non-binding. By placing an order, the CUSTOMER declares a offer binding for 2 weeks from receipt of the order by KNOLLMÜHLE. Orders shall not be deemed to have been accepted until KNOLLMÜHLE has expressly confirmed the order in writing or, if no confirmation of order is issued, until the delivery or service has been executed, thereby creating a contract. The order confirmation shall determine the content of the contract. If the order confirmation deviates in material respects from the content of the order and the CUSTOMER does not immediately declare his objection, this shall be deemed to constitute his consent to the conclusion of the contract under these conditions.
- (2) The CUSTOMER waives the right to contest the contract due to error (*Irrtumsanfechtung*). § 934 ABGB (laesio enormis) shall not apply.

- (3) Cancellations or changes to the order by the CUSTOMER after conclusion of the contract are only effective with the express written consent of KNOLLMÜHLE. In the event of cancellation, without prejudice to further claims, a cancellation fee (regardless of fault and not subject to judicial discretion) of 10 % or, after raw material procurement by KNOLLMÜHLE, 70 % of the order value shall be due.

§ 3

Prices

- (1) In the absence of an express price agreement, a reasonable price is agreed. Discounts and rebates granted to the CUSTOMER (however termed) shall only be granted in case of smooth business transaction and shall in particular not apply in case of default of payment or legal disputes. Order changes or additional orders can be charged at reasonable prices.
- (2) KNOLLMÜHLE provides cost estimates to the best of its knowledge but cannot guarantee its accuracy. Should cost increases of more than 15 % occur after the order is placed, KNOLLMÜHLE shall notify the CUSTOMER thereof without delay. In the event of cost overruns to a lesser extent, separate notification is not necessary and such costs may be invoiced with no further ado. We reserve the right to charge for cost estimates if no contract is concluded subsequently.
- (3) Our prices are stated in Euro. If payment in another currency is agreed in respect of an individual agreement, KNOLLMÜHLE shall be entitled to adjust prices if and to the extent that the exchange rate of the Euro to the agreed currency has changed by more than 3 % between conclusion of the contract and invoicing.
- (4) Our prices are net prices. Value added tax and any other fees shall be paid by the CUSTOMER and shall be invoiced additionally by KNOLLMÜHLE. The prices refer to deliveries and services EXW and therefore in particular do not include (unless expressly agreed otherwise) the costs of transport, transport insurance, transport packaging (but regular customary packaging) and any duties.
- (5) KNOLLMÜHLE reserves the right, in the case of contracts with an agreed term of more than 3 months, to adjust prices accordingly if, after conclusion of the contract but before performance of the respective delivery or service, increases of more than 3 % in the raw material prices relevant for pricing (including price increases due to a change in the Euro exchange rate to the currency in the country of origin of the raw material) occur.

§ 4

Terms of payment

- (1) Invoice amounts are due to pay within 14 days of the invoice date without any deductions. In the case of partial deliveries, KNOLLMÜHLE is entitled to issue partial invoices. The CUSTOMER is not entitled to withhold payments for any legal reason (including § 1052 ABGB).
- (2) If the creditworthiness of the CUSTOMER turns out to be unfavourable at our discretion after conclusion of the contract or if the CUSTOMER is in arrears with a payment even with regard to one order, we are entitled (without prejudice to our other rights) with regard to all orders of the CUSTOMER to declare outstanding payments to be due immediately, to postpone our deliveries

or services until complete (advance) payment or securing of payment and to stop work on orders still open.

- (3) Offsetting against our claims with counterclaims of the CUSTOMER, of whatever kind, is excluded, unless the counterclaim has been recognised by declaratory judgement or acknowledged in writing by KNOLLMÜHLE.
- (4) Incoming payments shall first be used to cover any debt enforcement costs and interest incurred and then to cover the oldest liability. Deviating declarations by the CUSTOMER are invalid and irrelevant. Any agreed cash discount deductions therefore presuppose that, apart from the claim to be settled, there are no outstanding and due claims of KNOLLMÜHLE against the CUSTOMER.
- (5) In the event of the CUSTOMER's default in payment, KNOLLMÜHLE shall (without prejudice to other claims) charge the statutory default interest and compound interest. The CUSTOMER undertakes to reimburse all reminder costs (reminders are to be reimbursed with a lump sum of € 20) and other - also pre-litigation – debt enforcement costs (e.g. collection agency, lawyer).
- (6) If partial payments have been agreed upon, in the event of default with only one (complete) partial payment, agreed partial payments are null and void and the entire outstanding balance shall become due to pay immediately. In this event KNOLLMÜHLE is entitled to take into custody and retain the goods delivered under retention of title without termination of the purchase contract until all outstanding claims (including incidental costs) are fully covered.

§ 5

Place of performance, partial delivery, risk assumption

- (1) Deliveries and services of KNOLLMÜHLE shall be provided EXW ("Ex Works") in accordance with Incoterms 2010. This shall also apply if KNOLLMÜHLE undertakes the transport of the goods (whether for payment or for free). The place of performance for deliveries and services by KNOLLMÜHLE and for payments by the CUSTOMER shall be the registered office of KNOLLMÜHLE. Deliveries and services by KNOLLMÜHLE are always divisible.
- (2) The transition of risk, load and coincidence shall take place when KNOLLMÜHLE is ready for transport. The CUSTOMER shall bear the costs and risk of transport. We will only procure transport insurance upon request and by charging the insurance premium to the CUSTOMER. The CUSTOMER shall also be responsible for obtaining any necessary public law permits for the delivery or service (e.g. in connection with export to third countries).
- (3) If no delivery note is stated on an invoice, the invoice date shall be deemed the delivery date.
- (4) In case of palletized deliveries the CUSTOMER shall provide us with the same number of identical and undamaged empty pallets in exchange (step by step). If exchange pallets are not handed over KNOLLMÜHLE shall be entitled (without prejudice to further claims) to charge a flat-rate compensation of € 10 (wood) or € 40 (plastic) per pallet.

§ 6

Deadlines, dates, delay

- (1) Delivery or performance periods and dates specified by KNOLLMÜHLE shall be complied with as far as possible, but shall not be binding. If a delivery or performance period is agreed as binding in an individual agreement, it shall commence upon conclusion of the contract, but not before the CUSTOMER has fulfilled all its obligations to cooperate. Any agreed (binding) delivery or performance periods and dates shall be extended or postponed in the event of delays for which KNOLLMÜHLE is not responsible, in particular in the event of delays in the sphere of the CUSTOMER or due to unforeseeable circumstances or circumstances independent of the will of the parties (e.g. force majeure, shortage of raw materials, refusal to deliver by necessary suppliers, transport damage, delays in customs clearance, official intervention, goods barrier).
- (2) A withdrawal from the contract by the CUSTOMER due to delay in delivery or service is only possible after written grant of a reasonable grace period of at least two weeks. The withdrawal is to be declared by registered letter. Withdrawal declared in any other way shall only be effective if confirmed in writing (by post or e-mail) by KNOLLMÜHLE. The right to withdrawal shall apply only to that part of the delivery or service in respect of which there is a delay.
- (3) If the CUSTOMER fails to take over goods ready for transport at the place of delivery, KNOLLMÜHLE shall be entitled either to insist on performance of the contract or, after setting a two-week period of grace, to withdraw from the contract and to dispose of the goods elsewhere. In the event of realisation, the CUSTOMER shall be obliged to pay a no-fault contractual penalty of 15 % of the order value, which shall not be subject to judicial discretion. For the duration of the delay, KNOLLMÜHLE is entitled (without prejudice to its rights under § 373 UGB) to store the goods itself at the CUSTOMER's risk and to charge storage costs of € 20 (refrigerated storage) or € 15 (uncooled storage) per pallet and commenced calendar week, beginning 2 weeks after notification of readiness for transport.

§ 7

Retention of title

- (1) The goods remain our property until full payment has been received. If the goods are processed into a new item, KNOLLMÜHLE shall acquire ownership of the new item. In the event of mixing or blending of the goods with other items, KNOLLMÜHLE shall acquire the co-ownership share of the new (total) item. The CUSTOMER must notify us immediately in writing of any access by third parties to goods subject to retention of title.
- (2) Ownership may only be transferred by the CUSTOMER to third parties if the CUSTOMER's purchase price claim against the third party is assigned to KNOLLMÜHLE with legal effect concurrently with the transfer of ownership and KNOLLMÜHLE is informed of the name and address of the third party. Until the assignment of the purchase price claim is legally effective, only the CUSTOMER's expectant right to acquire ownership of the goods (retention of title) may be transferred to third parties. The CUSTOMER is obliged to pass on to KNOLLMÜHLE without delay the received purchase price of goods subject to retention of title and is obliged to hold the received purchase price separately in trust until forwarding.

§ 8
Warranty

- (1) KNOLLMÜHLE shall warrant for defects in the performance of deliveries and services only in accordance with the following provisions. The quality and condition of samples and specimens are not warranted characteristics.
- (2) If goods have been manufactured on the basis of CUSTOMER's specifications (contract manufacturing, contract processing, contract packaging), our warranty shall be limited to execution in accordance with the specifications. KNOLLMÜHLE shall not be obliged to check or warn with respect to the CUSTOMER's specifications. The CUSTOMER is solely responsible for the compliance of the final product with all legal requirements (especially food and labelling requirements). Deliveries of raw materials or other goods for contract manufacturing or processing must be expressly marked as such on the delivery note and on the packaging (e.g. goods for contract processing). In the case of goods provided by the CUSTOMER or procured by KNOLLMÜHLE in accordance with the CUSTOMER's instructions, the CUSTOMER shall bear sole responsibility for their suitability and quality (upon delivery). KNOLLMÜHLE shall not be obliged to check or warn in that respect. KNOLLMÜHLE shall not be liable for defects in the final product resulting from defects in the goods provided by the CUSTOMER or procured according to the CUSTOMER's specifications.
- (3) The defective delivery or service must be proven by the CUSTOMER. § 924 ABGB does not apply. In addition, the CUSTOMER shall prove that the goods have been stored, used and processed in a professional manner and in accordance with our product instructions, otherwise the CUSTOMER shall be irrefutably presumed to have caused any defects. The promise or performance of improvement measures does not constitute an acknowledgement of a warranty obligation.
- (4) The CUSTOMER shall notify KNOLLMÜHLE in writing and in detail of any defects which he has discovered or should have discovered in the normal course of business after delivery by inspection within 3 days of receipt of goods with regard to externally visible transport damage (e.g. bag breakage) and otherwise within 2 weeks of receipt of goods, failing which he shall no longer be entitled to assert claims under warranty, for compensation for damages due to the defect itself or due to an error (*Irrtum*) as to whether the item is free of defects. If such a defect only becomes apparent later, the CUSTOMER must give written and specified notice of such defect (otherwise any claims are forfeited) within 3 working days. Receipt by KNOLLMÜHLE shall be decisive for the timeliness of the notification of defects. Section 933b ABGB shall not apply. By negotiating notices of defects, KNOLLMÜHLE shall not waive the objection of inadequate notice of defects. In the event of an unjustified notice of defects, KNOLLMÜHLE may charge the CUSTOMER for the costs of extensive inspections.
- (5) Subject to mandatory statutory provisions, KNOLLMÜHLE is entitled to satisfy warranty claims at its own discretion by improvement, replacement, price reduction or termination. If the CUSTOMER refuses the improvement or replacement or does not allow adequate time and opportunity for such, the CUSTOMER's right to warranty forfeits in this respect. Defects in individual, independent parts of a delivery do not entitle the CUSTOMER to terminate the entire contract (or to cancel it for any other legal reason whatsoever).

- (6) The warranty period is 1 year from the date of performance (EXW). If the period until the expiry of the minimum durability date is shorter, the warranty period shall be reduced to this period.

§ 9

Damages

- (1) KNOLLMÜHLE shall be liable to pay damages in all cases only in the event of intent or gross negligence. In cases of slight negligence, KNOLLMÜHLE shall be liable only for personal injury. Furthermore, KNOLLMÜHLE accepts no liability for the suitability of its goods for a special purpose intended by the CUSTOMER.
- (2) Claims for damages against KNOLLMÜHLE shall be limited in amount to the net order value. Compensation for damages in excess thereof shall be excluded. In any event, KNOLLMÜHLE shall not be liable for indirect damage, loss of profit, loss of interest, missed savings, consequential and financial losses and damage arising from third-party claims.
- (3) Claims for damages against KNOLLMÜHLE must be proven by the CUSTOMER. § 1298 ABGB shall not apply.
- (4) If a contractual penalty is agreed at the expense of KNOLLMÜHLE, such penalty shall be subject to judicial discretion and shall exclude the assertion of further claims.
- (5) Claims for damages against KNOLLMÜHLE shall become statute-barred 6 months after the CUSTOMER becomes aware or should have become aware of the damage and the injuring party, but at the latest 3 years after the occurrence of the (primary) damage.

§ 10

Confidentiality

The CUSTOMER irrevocably undertakes to maintain silence in respect of all business and trade secrets made accessible or made available to him by KNOLLMÜHLE or otherwise made known to him in connection with or as a result of a business relationship or contact with KNOLLMÜHLE, and not to make them available to third parties in any manner whatsoever without the consent of KNOLLMÜHLE. Furthermore, the CUSTOMER undertakes to use information only on a "need to know" basis and only within the scope of the contract concluded. The obligation to maintain secrecy shall irrevocably remain in force for an unlimited period of time, irrespective of any termination of the business relationship.

§ 11

Choice of law, place of jurisdiction

- (1) The contract shall be governed exclusively by Austrian law, excluding its referral and conflict of law rules and the UN Convention on Contracts for the International Sale of Goods.

- (2) For the decision of all disputes arising from a contract - including those concerning its existence or non-existence - the exclusive place of jurisdiction of the competent court in Linz (Austria) is agreed. KNOLLMÜHLE reserves the right to assert its claims against the CUSTOMER at other places of jurisdiction as well.

§ 12

Final provisions

- (1) If a provision of a contract concluded with the CUSTOMER or of these GTC is or becomes legally ineffective, contestable or unenforceable in whole or in part, this shall not affect the legal effectiveness of all other provisions of the contract or of these GTC. In this case, the contract or the GTC shall be interpreted and, if necessary, supplemented by the parties in such a way that the originally intended economic purpose is achieved in a legally permissible manner. If this is not possible, the economic purpose of the invalid provision shall be achieved as closely as possible. This also applies to processes and circumstances not expressly mentioned in the contract and in the GTC.
- (2) KNOLLMÜHLE must be notified immediately and without request of any change in the CUSTOMER's delivery address, unless all contractual relationships have been completely fulfilled by both parties. Otherwise, declarations to the CUSTOMER shall be deemed to have been received even if they are sent to the last known address.
- (3) KNOLLMÜHLE reserves the right to amend the GTC. If the CUSTOMER does not object within 3 weeks of the transmission of amended GTC, his silence shall be deemed to be consent and the amended GTC shall enter into force.

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