

SALES, DELIVERY AND ASSEMBLY CONDITIONS FOR KIDDE DEUTSCHLAND GMBH

- 1. GENERAL**
- 1.1. The sales, delivery and assembly conditions below for Kidde Deutschland GmbH (hereinafter referred to as the General Business Terms) apply exclusively to the business relationships between the customer and ourselves. Customer's business terms that do not comply with these are not permitted. They will only be recognised if they have been previously confirmed in writing by us. At the same time our business terms also apply to all future contracts agreed with the customer.
- 1.2. Contracts between the customer and ourselves and any changes and amendments to them must be in writing. This also applies to oral agreements and secondary agreements and to the renunciation of the written form requirement. It also applies to these General Business Terms. All agreements made between us and the customer in order to execute this contract shall be stipulated in writing in this contract.
- 1.3. Our General Business Terms only apply to contractors (§ 14 BGB (German Civil Code)), legal entities under public law and separate estates under public law but not to consumers.
- 2. ACCEPTING THE ORDER**
- 2.1. Our offers are subject to confirmation. A contract does not come into force until we have confirmed the order. Each order confirmation is subject to our own supplies. Our minimum purchase order value amounts to € 100.
- 2.2. The customer is bound by his order. He may cancel it if we have not confirmed it within four weeks of receiving the order.
- 2.3. The scope of our delivery obligations, particularly regarding composition details and performance of the equipment, can only be taken from our written offer and/or our written order confirmation. Guarantees may only be granted effectively if these have been clearly indicated as such in our order confirmation. Information in brochures and catalogues etc. is only approximate if there is nothing to the contrary in the offer and/or order confirmation.
- 2.4. The customer is solely responsible for checking that our products are suitable for his purposes (including further processing by him and the purposes of his buyers). Liability for the suitability of our products for the customer's purposes is only accepted if we have confirmed the suitability in writing or expressly guaranteed it.
- 3. PRICES AND PAYMENTS**
- 3.1. Prices will be calculated in Euros plus VAT at the statutory rate currently in force. Our prices are, of course, ex Ratingen. Packaging, freight, customs duties and inspection certificates and materials certificates are charged separately.
- 3.2. Our invoices are due for payment immediately after receipt. The customer will automatically fall behind with payments if he has not settled the invoice within 14 days of receipt. If one of our due accounts has not been paid even after a reminder and the expiry of a further 2 week deadline, all our accounts from the business connection with the customer will become due immediately. Deliveries will only then be made on pre-payment.
- 3.3. Furthermore we are entitled to withdraw from the contract if the customer continues not to meet his payment obligations within a time set by us.
- 3.4. Offset and retention rights may only be asserted when there are counter claims acknowledged by us or set by law.
- 4. DELIVERY**
- 4.1. Delivery periods and dates are always non-binding unless they have been expressly confirmed in writing. Delivery periods do not start until all details of an order have been clarified or if the necessary approvals or releases are missing.
- 4.2. Deliveries – even carriage free deliveries – are made at the customer's risk. Packaging materials for these are charged at cost price. We are entitled to make partial deliveries.
- 4.3. Delivery delays for which we are not responsible, particularly as a result of Acts of God or strikes, stoppages at our premises or at our other suppliers, will extend an agreed delivery period by the length of the hold up. If in such cases the agreed delivery time has already been exceeded by more than 10 weeks, we and the customer have the right to withdraw from the contract. Earlier, the right to withdraw only exists if we have informed the customer in writing that we cannot or can no longer perform the service. This restriction does not apply to purchases for delivery at a fixed time.
- 4.4. Should we delay delivery the customer may withdraw if he has given us a reasonable period of at least 2 weeks in writing and this has passed without success. Should the customer not state when he fixes the deadline whether he is still insisting on fulfillment or wants to make use of his withdrawal right and if we have not received such a declaration within a further period of 2 weeks, on our part we are entitled to withdraw from the contract if we have informed the customer of this in writing. The customer's right to claim damages remains unaffected by this and, in addition, complies with the requirements in sub-section 9.
- 5. MOUNTING AND MAINTENANCE SERVICES AND CHARGING THEREOF**
- 5.1. A work report will be compiled on the time taken for the mounting and maintenance work carried out and the additional material used that is always charged at a daily rate. This must be signed by the customer or his authorised representative as an acknowledgement.
- 5.2. We currently charge customers for our mounting and maintenance services as follows:

Service engineers: € 90,65/h	Specialist mechanics: € 87,30/h	
Specialist engineers: € 109,20/h	Service or mobile workshops: € 4,30/h	
	plus for each kilometre travelled: € 1,15	
Expenses	€ 11,85/h	
Overnight accommodation expenses	€ 21,40/h	

 Expenses include accommodation allowance, fares and minor expenses. Adjustments to wages agreed amongst the tariff partners entitle us to change the wage rates without further notice or agreement.
- 5.3. Supplements will be charged for working time that exceeds normal weekly working hours (Mo. - Fr. 7.30 h - 16.00 h) (overtime):

Working more than 8 hours (the first two hours)	25%
Overtime from the third hour	50%
Saturdays or night work from 8 p.m. – 6 a.m.	50%
Sunday work	70%
Working on statutory public holidays that fall on a weekday	100%
Working on statutory public holidays that fall on a Sunday	150%
Working under extreme conditions such as heat, cold, height and dirt	25%
- 5.4. For on call duties, i.e. duties that have been agreed at short notice, we charge the following amounts in addition to the requirement: € 412,00
Special conditions apply to mounting and maintenance services abroad
- 6. ACCEPTANCE**
- 6.1. There is a formal acceptance procedure. If, exceptionally, there is not a formal acceptance procedure the service is deemed accepted at the end of the work unless the customer rejects it immediately.
- 6.2. If only goods are sent the risk is transferred to the customer when they are despatched. For call purchases the customer must retrieve the goods no later than three months after being informed that they were ready for despatch.
- 6.3. Should the customer fall behind with the acceptance or the call procedure we are entitled to withdraw from the contract and to demand 25% of the agreed price as damages without having to provide proof. It is up to the customer to prove that no damage was caused or that it was significantly lower than the fixed rate damages. Our right to apply for the actual damages remains unaffected.
- 7. RESERVATION OF PROPRIETARY RIGHTS**
- 7.1. Ownership of goods supplied by us ("Goods supplied") is only transferred to the customer when the final payments for all accounts that have arisen and which are still outstanding have finally been made. With several accounts or a running account the reservation of proprietary rights applies as a security for the account balance even if individual goods deliveries have already been paid for. The reservation of proprietary rights also relates to the new goods created from connection, blending or finishing in proportion to the invoice value of the connected or blended goods.
- 7.2. The customer must insure the items delivered against fire, theft and water damage for the duration of the reservation of proprietary rights and must prove that he has this insurance on request.
- 7.3. The customer is entitled to dispose of the goods supplied as part of a regular business operation. Mortgaging or security agreements are not permitted. The customer shall immediately cede to us receivables arising from the resale or for another legal reason regarding the goods supplied including all account balances from a current account as security. This amount will be equivalent to the invoice value of the goods supplied. The customer is irrevocably authorised to collect the receivables ceded to us for our account in his own name. Payments collected from the sale of our goods or for any other legal reason will be received and held for us in trust. Should the customer not comply with his payment obligations towards us the customer is obliged at our request to inform his buyers immediately of the cession and to transfer to us the necessary information and documentation for collection.
- 7.4. With third party access to the goods supplied the customer will indicate that they are owned by someone else and will inform us of the access without delay.
- 7.5. Should the customer fall behind with payment we are entitled to withdraw from the contract, to take back the goods supplied and to enter the premises in which the goods supplied are stored if a reasonable time that we have set for payment has passed without success. This applies accordingly in cases under § 324 BGB (German Civil Code). The customer will immediately cede to us any existing third party surrender claims. Our right to claim damages remains unaffected by this.
- 7.6. Should the value of all goods supplied and other customer securities exceed the assured receivables by more than 20% the customer may, at our choice, demand release of the goods supplied or securities to that amount.
- 8. CUSTOMER'S CLAIMS REGARDING DEFECTS AND PRESCRIPTION**
- 8.1. We assume liability to the following extent for the proper execution of work and the freedom from defects of materials used by us. The composition of the goods is taken solely from the content of our order confirmation.
- 8.2. The customer's defects rights assume that he has complied properly with the inspection and complaint obligations as set out in § 377 HGB (German Commercial Code).
- 8.3. We can assume no liability for defects if the other party has carried out work on the unit which was the subject of our work.
- 8.4. If our work was defective, i.e. for example, it was not executed properly or the materials were of poor quality, we are first of all entitled and obliged to rectify the defect at our expense.
- 8.5. The customer only has the right to withdraw from the contract or have a price reduction and to demand damages if the rectification of defects has failed. This is the case particularly if we either refuse the repair or we do not express our views on his substantiated complaint within a reasonable time of at least three weeks or if we do not carry out the repair successfully.
- 8.6. The customer is only entitled to a right of withdrawal or a claim for damages instead of performance as a result of our infringing non performance related obligations as per § 241 para. 2 BGB (German Civil Code) over and above the legal requirements if he has warned us beforehand in writing and we have, however, failed to stop the breach of duty.
- 8.7. The customer's right to claim damages because of defects complies in every case exclusively with the requirements in sub-section 9.
- 8.8. We are also entitled to withdraw from the contract if correcting the defects is impossible on a practical level or economically unreasonable or ridiculous.
- 8.9. Any customer claims against us because of defects cease to apply 12 months after acceptance unless they are based on a deliberate or grossly negligent breach of duty by us. § 444 BGB (German Civil Code) remains unaffected.
- 9. DAMAGES AND LIABILITY**
- 9.1. Should the customer claim damages against us we are only liable for intention or gross negligence, including the intention and gross negligence of our agents of vicarious liability. This does not apply to the culpable infringement of obligations that are essential to the performance of the contractual purpose; in this respect the liability, however, is restricted to the damages typical for comparable transactions of this type that were foreseeable when the contract was taken out or no later than when the breach of duty was committed. The above rule also applies to claims for reimbursement of expenses.
- 9.2. In every case liability is restricted to the amount and based on the amount of our company personal liability insurance. Liability claims that are not covered by the company personal liability insurance cannot be asserted against us.
- 9.3. We are not liable for damages resulting from the breakdown of the equipment.
- 9.4. Damage claims, if they are not connected with a defect or intention or gross negligence by us or our representatives or agents of vicarious liability, cease to be valid within a year of the end of the year in which the claim arose and the customer acquired information about the circumstances substantiating the claim or would have had to acquire it without gross negligence.
- 9.5. § 444 BGB (German Civil Code), damage claims resulting from injury to life, body and health and claims under the Product Liability Act remain unaffected by the above regulations.
- 10. FINAL CLAUSES**
- 10.1. The place of fulfillment for both parties is Wadersloh. The place of jurisdiction even for cheque and exchange rate actions except for summary proceedings is Münster for both parties. We are entitled to appeal to another legally competent court.
- 10.2. The legal relationship between the customer and ourselves or in connection with the business connection is subject to the law of the Federal Republic of Germany excluding the UN convention on the international sale of goods.
- 10.3. Should one of the above clauses be or become wholly or partially unworkable the validity of the others is not affected by this. The unworkable clause will be replaced by way of a supplementary contractual interpretation by one that comes closest to the desired commercial purpose. If necessary the relevant legal regulation will apply.
- 10.4. In case of doubt or conflict the German language version of these conditions prevails.