

Standard Terms and Conditions of Sale

I. Scope

1. These Standard Terms and Conditions are applicable to all present and future contracts for supply of goods and other services, including contracts for supply of physical goods, work and contracts for performance of work and services including, without limitation development and design rate. They are applicable even, if the customer may have communicated its own diverging standard terms. Customer conditions will not be recognized, even if KOKINETICS does not expressly object to them again after their receipt at KOKINETICS.

2. Verbal agreements are binding for KOKINETICS only, if and so far as KOKINETICS confirms them in writing.

3. Any modification of these Standard Terms and Conditions by KOKINETICS becomes subject of the contract between KOKINETICS and the customer, if the customer consents or does not object to KOKINETICS in writing within one month of announcement of such modification to the customer.

II. Quality Management Rules

All present and future contracts for sales and deliveries of goods shall also be covered by and subject to KOKINETICS's Quality Management Rules, which are equally binding for both the customer and KOKINETICS.

III. Offers and specifications

1. KOKINETICS's offers are non-binding. Verbal agreements and advertisements by our employees become binding only after our written confirmation.

2. The information, drawings, illustrations, technical data, weight, dimensions and specifications contained in brochures, catalogs, newsletters, advertisements, price lists or in the documents accompanying an offer are always without obligation and will not lead to an agreement about the quality of our products, unless expressly declared to be binding in KOKINETICS's written confirmation of a customer order.

3. Ownership and copyright in cost estimates, drawings and other documents is held by KOKINETICS; they may not be made accessible to third parties and have to be returned immediately upon request. Third parties include companies associated with the customer by personal relationship or under company law.

IV. Contract conclusion, scope and type of delivery, passage of risk, costs of delivery

1. Relevant for the scope of delivery is our written order confirmation. If it deviates from the customer's order, it shall nevertheless prevail, if the customer does not object immediately or if the customer accepts KOKINETICS's delivery or service unconditionally or performs unconditionally itself.

2. If customary trade terms are agreed concerning the type of delivery, they shall be interpreted according to the Incoterms of the International Chamber of Commerce, Paris, in the version in force on the day of contract conclusion.

3. All public charges (taxes, fees, duties, etc.) arising from or in connection with the conclusion or processing of the contract outside of the country of KOKINETICS's supply facility, i.e. are payable by the customer.

4. Unless KOKINETICS explicitly assumes the shipping of the goods and the associated risks by respective delivery clauses (risk of loss and/or title), the risk passes to the customer at the date of notification of readiness to ship. The same applies to partial deliveries or if KOKINETICS is obliged to perform on additional services (e.g. assembly).

Acceptance or receipt may not be refused because of defects that are not of a substantial nature or degree. In case of a delay in dispatch or acceptance through no fault of KOKINETICS's, the risk passes to the customer upon its readiness to take delivery. Unless otherwise agreed, the costs for packing, freight and installation are payable by the customer.

V. Prices

1. KOKINETICS's prices are understood ex works, net cash, plus VAT or other local taxes, unless otherwise agreed. The shipping container is not included in the prices stated by KOKINETICS, either. Packing material of any kind is not taken back.

2. Unless otherwise agreed, the prices and conditions of the documents in effect at the time of contract conclusion are applicable.

3. Should charges or other costs for outside services included in the agreed price change later than six weeks after contract conclusion, or new ones arise, KOKINETICS shall be entitled to an appropriate price increase.

4. KOKINETICS's prices have been calculated on the basis of the costs stated in the quote. In case of changes in the prices of materials, wages, statutory value-added tax or other cost factors, such as without limitation costs for energy supply, waste disposal or public charges, any change of tax legislation, changes in currency exchange rates, KOKINETICS reserves the right of a price adjustment. Volume decrease affects amortization of investments.

VI. Execution of deliveries, delivery periods and dates

1. KOKINETICS's delivery commitment is subject to KOKINETICS's obtaining supplies on time and otherwise correctly itself, unless the incorrect or late supply or non-supply is caused by KOKINETICS's own fault.

2. Firm dates of delivery (delivery dates) have to be explicitly stipulated as such. A stipulated period of delivery (delivery period) commences only upon receipt of our order confirmation to the customer's, but not before submission of the information, technical data and documents the customer has to procure.

3. Changes to or expansions of the original scope of the contract agreed after

contract conclusion will extend or postpone the original delivery periods or dates appropriately.

4. Relevant for the observance of delivery dates is the date of dispatch from the plant. The delivery dates are considered as observed upon the report of readiness for shipment to the customer.

5. The delivery date is postponed appropriately in case of strike or lockout, in case of omitted or late supply to KOKINETICS, in cases of force majeure as well as upon the occurrence of unforeseen events outside of KOKINETICS's control. KOKINETICS will notify the customer of the occurrence and anticipated duration of such events. If the customer is behind with his financial or other obligations, the delivery date is postponed by the period of the delay or, in case of unsolved technical and/or commercial issues, by the period of time necessary to solve such issues. As long as KOKINETICS is not responsible for the events mentioned in this paragraph, the customer may not cancel or terminate any contract or order.

6. If KOKINETICS is in default of delivery and the customer incurs a damage from the delay, the customer is entitled to compensation for damages resulting from the delay in the amount of no more than ½ percent for every complete week of delay, but overall no more than 5 percent of the net value of that part of the total shipment which cannot be used in time or in conformity with the contract due to the delay. The right to cancel or terminate the contract or order under the legal conditions because of delay in delivery, for which KOKINETICS is responsible, after the unsuccessful expiration of an adequate extension period for performance set by the customer, remains unaffected.

7. Any further claims by customers against KOKINETICS, its directors, officers or legal representatives and/or its employees for repayment of expenses or for damages are excluded. This does not apply if KOKINETICS, its directors or officers, its legal representatives and/or its employees acted with intent or gross negligence and/or in case of a breach of essential contractual obligations. With a breach of essential contractual obligations, however, the extent of liability is limited to the compensation for the typical foreseeable damage, if KOKINETICS, its directors or officers, its legal representatives and/or its employees are charged only with ordinary negligence; for ordinary employees this limitation of the extent of liability applies to any negligence. If KOKINETICS is in default of delivery, the customer has to state within a reasonable period of time upon KOKINETICS's request at which revised time the delivery should be made. If the transport is delayed after readiness for shipment for reasons outside of KOKINETICS's responsibility, the customer will be charged for the costs arising from storage; in case of storage at the KOKINETICS plant the charge will be at least ½ percent of the net amount due for that delivery for each month, starting from the time of notification of readiness for shipment. The customer has the right to supply proof of lower storage costs. This shall not affect further claims by KOKINETICS.

8. In case the customer is a German, a National, the following shall apply: For the setoff in insolvency the customer and KOKINETICS agree as follows in accordance with Art. 94 of the German Bankruptcy Act: In case of the customer's insolvency, receivables due to KOKINETICS from the customer become due upon the commencement of the insolvency proceedings, even if they would otherwise not yet be due at that time. In case of court-ordered provisional insolvency proceedings, the receivables become due upon the court order. The same applies vice versa for receivables due to the customer in the event of KOKINETICS's insolvency.

VII. Intermediate suppliers

Should the customer wish to have one or more intermediate suppliers interposed between the customer and KOKINETICS, KOKINETICS's prior consent shall be required. KOKINETICS will not refuse its consent, however, if the customer, in addition to the intermediate suppliers designated by the customer, shall be liable jointly and severally with the intermediate supplier for all past, present and future accounts receivable and for compliance with the conditions in force between the customer and KOKINETICS like for its own payables. The customer enters into this commitment as soon as the customer has designated one or more intermediate suppliers and KOKINETICS has confirmed this.

VIII. Payment and settlement

1. All periods for payment begin with the date of the invoice. Payments for the purpose of discharge of our receivables must be made in cash in accordance with the terms of payment we have issued or otherwise agreed with. Unless otherwise stipulated or provided differently on our invoice, payment shall be effected without deductions within 25 days after the date of issue of the invoice. In case of remittance to one of our bank accounts or payment by cheque, only the unconditional credit to our account will be considered as payment.

2. Should KOKINETICS accept bills of exchange, only the payment of the bill will be considered as payment. Discount and bank charges as well as interest accruing on them shall be payable by the customer.

3. KOKINETICS does not vouch for the timely and proper presentation, protest or collection of bills or checks.

4. If a customer completely or partially falls behind with a payment, KOKINETICS is entitled to charge interest in commercial dealings, starting from the respective date, at the applicable borrowing rate of the commercial banks, but ...

a) at least 8 percentage points p.a. above the applicable base interest rate of the European Central Bank, as well as a flat administrative cost charge of 5 percent p.a. of the

5. If a customer falls more than 3 weeks behind with a payment, or if it does not cash a cheque or pay a bill when due, or if doubts about its solvency arise for other reasons, any existing payment obligations of the customer towards KOKINETICS become due immediately, regardless of the term of bills possibly coming in. KOKINETICS is further entitled to demand the provision of securities for all other receivables, to effect outstanding deliveries only against prepayment or the provision of securities, to prohibit the processing, finishing and/or resale of goods wholly or jointly owned by us and to demand their surrender.

6. Setoffs by the customer shall be excluded, unless the counterclaim is subject to a non-appealable court ruling or has been recognized in writing by KOKINETICS.
7. Payments (including partial and progress payments) are always used for settling the oldest debt item and its accrued interest as well as the flat administrative cost charge.
8. KOKINETICS is entitled to transfer due or accruing money claims to third parties without consent of the customer. KOKINETICS expressly contradicts any prohibition of assignment of claims or requirement for approval in the terms and conditions of the customer.

IX. Retention of title, repurchase of delivery item, intellectual property rights

1. KOKINETICS retains title in delivered items until complete performance of all receivables that have accrued in connection with the supply contract. Otherwise the following applies:
 - a) Any processing or finishing of the delivery item that is under retention reservation of title, or its combination with outside objects by the customer or third parties shall be performed for KOKINETICS. In the case of newly created objects KOKINETICS is entitled to co-ownership in proportion to the value of the delivery item.
 - b) The customer has the right to resell the purchased object in its ordinary course of business.
 - c) As of now the customer already assigns all receivables from the resale of the delivery item to KOKINETICS as security for its claims, regardless of whether the delivery item was resold without or after processing. KOKINETICS promises to release the collateral it is entitled to the customer upon request, if the reasonably estimated value of the collateral at the time of the demand for release exceeds the value of the receivables to be secured, including the costs, not merely temporarily by more than 50 percent. The choice of receivables to be released is KOKINETICS'S.
 - d) The customer is entitled to collect its receivables. Disclosure of the assignment and collection by KOKINETICS remains reserved.
 - e) The customer is obligated to treat the delivery item with care; the customer is obligated in particular to insure the delivery item at its own cost against fire, water and theft damage in the amount of the delivery value. If maintenance or inspection work is required, the customer has to have these performed in time at its own cost.
 - f) If the customer acts in breach of contract, particularly in the event of a delay in payment, KOKINETICS is entitled to re-appropriate the items, while the customer is obligated to surrender. Because of the retention of title, however, KOKINETICS can only demand the surrender of the delivery item, if KOKINETICS has terminated the contract. In the event of re-appropriation of the delivery item KOKINETICS is entitled to apply, and customer to pay without proof, a depreciation in value of 25 percent for the first six months of the use of the delivery item, and of 5 percent for each additional six months to the debit of the customer. The customer's right to prove a lesser depreciation in value remains unaffected.
 - g) The customer may neither pledge the delivery item nor transfer its ownership to third parties for collateral.
2. In the event of attachments or other impairments of owner interests the customer has to notify KOKINETICS immediately.
3. KOKINETICS retains full ownership of all industrial and intellectual property rights and copyrights related to the delivered items, whether registered or not registered or filed for registration. KOKINETICS does not transfer these rights and does not grant a license or similar rights to the customer.

X. Shipping, assumption of risk, packaging, partial shipment, continuous delivery

1. Unless otherwise stipulated, the goods are placed ready for shipment unpacked and unprotected against rusting. Packaging, protective and/or transportation devices are provided by KOKINETICS, following its experience, at the customer's expense.
2. Goods reported ready for shipment to the customer as per contract have to be called off immediately; otherwise KOKINETICS shall be entitled, to store them at its own discretion and invoice all related costs to the customer immediately.
3. Unless otherwise agreed, the method and means of shipment at the cost and risk of the customer, as well as the forwarder and carrier, are determined by KOKINETICS. Upon the delivery of the goods to a forwarder or carrier, but no later than upon the departure from the supplying plant, the risk, including the risk of capture and seizure of the goods, in all transactions, including without limitation freight-paid or free at domicile delivery, passes to the customer. KOKINETICS will provide insurances only upon the instruction and at the expense of the customer. The obligation and cost of unloading shall be borne by the customer.
4. If the transport by the designated means of transportation or to the designated location within the designated time becomes impossible through no fault of ours, KOKINETICS is entitled to make delivery by another method or to another location; the resulting additional costs shall be payable by the customer. To the extent practicable, the customer will be given an opportunity beforehand to comment.
5. KOKINETICS is entitled to partial deliveries of a reasonable extent. Increased or short deliveries of the agreed quantity customary in this branch of business are admissible.
6. For contracts with continuous delivery, KOKINETICS shall receive calls and classification for approximately equal sub-quantities; otherwise KOKINETICS shall be entitled to make the determination at its reasonable discretion. If the customer intends to exceed the contractually agreed quantity, be it in the agreed or by individual calls, then KOKINETICS'S prior agreement is required entitled but not obligated to deliver the surplus. KOKINETICS may bill the customer for the surplus at the prices in effect at the time of the call or of the delivery.

XI. Claims for defects

1. If the obligation to perform is or can be excluded for the reasons stated in the law (Art. 275 German Civil Code), the customer may claim damages and/or cancel the contract, provided, KOKINETICS is not legally responsible for the cause that lead to the exclusion of the obligation to perform. However, the customer's claim for damages shall be limited, which are to 10 percent of the value of that portion of the shipment which cannot be used in time or not in conformity with the contract

- because of the exclusion of the obligation to perform. Any further damages because of the exclusion of the obligation to perform are determined solely by and limited to section XII of these terms. In case of a partial performance the customer may only cancel the contract, if the partial performance reasonably and demonstrably is of no interest to him; if the customer is not entitled to cancel under that provision, he can demand a reasonable reduction of the counter-performance or refuse payment for that portion of the performance for which the obligation to perform is excluded. A cancellation or termination is further excluded, if the customer is solely or predominantly responsible for the circumstance leading to the exclusion of the obligation to perform, or if the customer is behind in acceptance of supplies or any other deliveries and KOKINETICS is not responsible for the circumstances leading to the exclusion of the obligation to perform. In these cases the customer remains obligated to provide counter-performance.
2. If strike or lockout, cases of force majeure or the occurrence of other unforeseen events outside of KOKINETICS'S control have significant impacts on the delivery, supply or content of the shipment or have a significant impact on KOKINETICS'S operations, and if these events are not of a temporary nature, the contract will be adjusted appropriately in compliance with the principle of good faith. If this is economically unreasonable, KOKINETICS may terminate the contract or, in case of a permanent or long term supply relationship, terminate the contract.
 3. Defects of quality cannot be claimed for minor impairment of usability, or natural wear or damages arising after the passage of title or risk due to incorrect or negligent handling, excessive stress, unsuitable production equipment, defective construction or assembly work by the customer or processing firm in the delivery chain or the end user, unsuitable foundation soil, chemical, electrochemical or electric influences or due to special external influences for which KOKINETICS is not responsible. If the customer or a third party inappropriately performs upstream in the supply chain operations, alterations or repairs, no defect or other claims shall exist for these actions or ensuing consequences. The same applies, if the customer or a third party has attached or installed purchased parts.
 4. Claims for defects shall be excluded, also, if the customer has failed to inspect the delivery item carefully immediately after delivery by KOKINETICS, as far as is expedient in the proper course of business, and has not notified KOKINETICS immediately in writing of discovered defects. If defects cannot be reasonably discovered in spite of inspection (hidden defects), they have to be reported in writing immediately after their discovery. Failure to report timely in writing will result in the exclusion of claims for such defects.
 5. In case of defects of quality KOKINETICS shall, at its option, rework the defective parts free of charge, redeliver or reperform (reperformance). KOKINETICS can refuse reperformance, if it would entail an unreasonable expense. The customer may cancel the contract or, in case of contracts for continuous supply, terminate, if the defect is more than immaterial, or reduce the compensation after the customer has unsuccessfully set an adequate time limit for reperformance that gave KOKINETICS sufficient opportunity for reperformance. For outside products used by KOKINETICS in the production of the delivery item without substantial processing, KOKINETICS may limit its liability to assigning the warranty claims it is entitled to against the subcontractor. If KOKINETICS exercises this right, KOKINETICS will accept secondary liability for those claims which the customer was not able to enforce with the subcontractor in the legal proceedings to be instituted in advance. KOKINETICS will support the customer in these proceedings and join as an intervening party, if necessary.
 6. More extensive claims for damages or repayment of expenses advanced by the orderer against KOKINETICS, its directors or officers, its legal representatives and/or its employees shall be excluded. This does not apply if KOKINETICS, its directors or officers, its legal representatives and/or its acted with intent or gross negligence and/or in case of a breach of essential contractual obligations. With a breach of essential contractual obligations, however, the extent of liability is limited to the compensation for the typical foreseeable damage, if KOKINETICS, its organs, its legal representatives and/or its employees are charged only with ordinary negligence; for ordinary employees this limitation of the extent of liability applies to any negligence.
- #### **XII. Liability for miscellaneous breaches of duty, indemnification**
1. Unless otherwise stated in these Standard Terms and Conditions or in applicable mandatory legal provisions, claims for damages or repayment of expenses advanced by the customer against KOKINETICS, its directors or officers, its legal representatives and/or its employees regardless of the legal cause, particularly without limitation because of breach of an obligation and/or because of an unlawful act, shall be excluded. This does not apply if KOKINETICS, its organs, its legal representatives and/or its employees acted with intent or gross negligence and/or in case of a breach of essential contractual obligations. In case of a breach of essential contractual obligations, however, the extent of liability is limited to the compensation for the typical foreseeable damage, if KOKINETICS, its directors or officers, its legal representatives and/or its employees acted only with ordinary negligence; for ordinary employees this limitation of the extent of liability applies to any negligence. The liability is also not limited, if KOKINETICS is bound to modularly liability by law, e.g. under the product liability act, and/or in case of body injury or death.
 2. Regardless of the above provision, however, KOKINETICS shall be liable to the customer to the extent in which KOKINETICS'S existing third party liability insurance effects compensation.
 3. Any claims for damages fall under the statutory limitation of action rules.
 4. Claims for deficiencies in title due to the infringement of third party industrial or intellectual property rights or copyrights (industrial property rights) shall exist only, if these rights exist in the Federal Republic of Germany. A liability by KOKINETICS shall furthermore exist only, if the customer uses the item in conformity with the contract and third parties therefore raise rightful claims against the customer. In the event of liability due to such deficiencies in title KOKINETICS will obtain the right of continued use for the customer or modify the delivery item in such a manner acceptable to the customer that an infringement of industrial property rights no longer exists. The customer may cancel or terminate the contract, if the deficiency in title impairs the use of the item more than immaterially, or reduce the compensation, if the customer has unsuccessfully set an adequate time limit for reperformance that gave KOKINETICS sufficient opportunity for reperformance.

5. Should circumstances arise that may lead to a recall or withdrawal of the products supplied to the customer by KOKINETICS or to a similar action in a manner that may affect the interests of KOKINETICS, the party which is the first to have grounds or knowledge of such circumstances will immediately inform the other party. Actions of product recall or withdrawal from the market or product modification in the market shall be coordinated with the respectively other party, if they could affect its interests. In such cases the parties will cooperate in the best possible way. KOKINETICS has developed a system for tracing product series and series parts (traceability system). Therefore KOKINETICS's liability and obligation, if applicable, for repayment of expenses and other such moneys is limited, within the context of recall, withdrawals and other such actions, to those parts proving to be in fact subject to a mandatory recall or withdrawal and defective by responsibility of KOKINETICS. Should the customer or, if applicable, its successor in a supply or processing chain have a less precisely functioning traceability system, thus requiring recall, withdrawal or similar actions to a greater extent, this greater extent cannot be charged to KOKINETICS. In such a case KOKINETICS's liability, obligation for repayment of expenses or similar shall be limited only to a proportionate part of KOKINETICS's contribution.

6. Unless otherwise stated in these Standard Terms and Conditions or other agreements with the customer, KOKINETICS shall not be liable for changes the customer makes to the delivery scope of KOKINETICS without KOKINETICS's prior written consent, where delivery of standard components as per specification or sample is concerned. Nor shall KOKINETICS be liable for damage causes resulting from the installation or incorporation of KOKINETICS delivery scopes into any particular surroundings by the customer, unless KOKINETICS has previously consented to the customer's procedure in writing in knowledge of all circumstances. If third parties assert claims against KOKINETICS, but the above-mentioned prior written consent on the part KOKINETICS does not exist and a responsibility of KOKINETICS for the damage cause is not ascertainable, the customer shall indemnify KOKINETICS from these third party claims. The same applies to all enterprises of the KOKINETICS group.

XIII. Use of production material and confidential information of the customer

1. KOKINETICS has the right to destroy machinery, tools and spare parts generally 3 years after End of Production (EOP), i.e. after information to KOKINETICS, that the respective program is not continued. Discontinuance of series production of the supplied model by the automobile manufacturer (Original Equipment Manufacturer, OEM).

2. Models, dies, templates, samples, tools and other production materials, as well as confidential information provided to the supplier by the orderer or fully paid by the orderer, may only be used for deliveries to third parties with the prior written consent of the orderer.

XIV. Cancellation by KOKINETICS

KOKINETICS may cancel the contract in whole or in part, if...

a) the initiation of insolvency proceedings against the customer's estate is applied for or its initiation is rejected; or KOKINETICS receives a written credit information establishing the customer's lack of credit worthiness; or the customer closes or threatens to close its business operations;

b) the delivery date is postponed as per Art. VI para. 5 of these Terms and KOKINETICS is no longer interested in the delivery because of the delay. For permanent supply relationships, under German law the right of extraordinary termination replaces the right of cancellation.

c) For all supplies and subject to German law KOKINETICS has the right the supplier contract at any time with or without cause giving the customer 30 days notice.

XV. Place of performance, place of jurisdiction and applicable law

1. Unless otherwise agreed, the place of performance for our delivery in case of KOKINETICS's delivery ex works shall be the supplying plant. The place of jurisdiction shall be in case of delivery from:
In any case we may also be entitled to establish jurisdiction at the customer at its place of jurisdiction.

KOKINETICS GmbH Gerichtsstand in Frankfurt / Main

2. All legal relationships between the customer and KOKINETICS shall be governed by the local law, respective to the KOKINETICS supply facility.