

# **Terms and Conditions (AGB) for Internet Trading of the Company Karl Kaps Optik-Feinmechanik-Gerätebau GmbH & Co. KG (B2C)**

## **§ 1 Area of Validity**

(1) The present terms and conditions contain the only terms applicable between you and us, the company Karl Kaps Optik-Feinmechanik-Gerätebau GmbH & Co. KG, Europastrasse, 35614 Aßlar, Germany, represented by executive director Holger Kaps, unless they are modified by written agreement between the parties.

(2) Modifications of these terms and conditions will be reported to you in writing, by fax or by e-mail. If you do not object to modifications within four weeks of receipt of the report, we will consider the modifications to be recognised by you. The right of objection and the legal consequences of silence will be indicated to you again in case of modification of the terms and conditions.

## **§ 2 Registration as a User**

(1) Registration in our trading system is free of charge. No entitlement to access to our trading system exists. Only persons with unlimited legal competence to contract may participate. You must send us a copy of your identification card upon our request. In order to gain access, you must fill out the registration form available on our website electronically and send it to us. The necessary data provided for registration must be complete and truthful. During registration, you will choose a personal user name and a password. The user name may not infringe upon third party rights, rights to a name, trademark rights, or be contra bonos mores. You must keep the password secret and refrain from disclosing it to third parties.

(2) Besides your declaration of consent to these General Terms and Conditions, your registration does not entail any other obligations. You can delete your membership at any time under "My Account." Registration with us does not in itself constitute a purchase commitment towards the merchandise we offer.

(3) You are responsible for updating your personal information in the event that it changes. All changes can be undertaken online after registration under "My Account."

### **§ 3 Data Protection**

(1) We will collect, process, and store all personal data disclosed by you (title, name, address, date of birth, e-mail address, telephone number, fax number, bank details, credit card numbers) exclusively in accordance with the provisions of the German Data Protection Act.

(2) Your personal data, to the extent that it is necessary for the justification, development, or modification of the contractual relationship (inventory data), will be used exclusively to process the sales contracts concluded between us, e.g. for delivery of merchandise to the address given by you. Further use of your inventory data for purposes of advertisement, market research, or tailoring our offers requires your express consent. You have the option of granting this consent before placing your order. This declaration of consent is entirely voluntary and can be retrieved on our website and revoked at any time.

(3) Your personal data, which is needed to facilitate exploitation of and billing for our offers (user data), will also be used exclusively to process the sales contracts concluded between us, for the time being. Such user data particularly encompasses attributes of your identification as a user, information on the beginning, end, and extent of the user session, and information on the telecommunications media you call upon as a user. In addition, we will employ such user data for the purposes of advertisement, market research, or tailoring our telecommunications media for the creation of user profiles, using a pseudonym for your protection. You are entitled to and have the option of dissenting to this use of your user data under "My Account." Under no circumstances will the user profile be combined with the matching data.

(4) If you desire additional information or wish to retrieve or revoke your expressly given consent to the use of your inventory data or wish to dissent to the use of your user data, our telephone support is also at your disposal under the e-mail address [info@kaps-optik.de](mailto:info@kaps-optik.de) or by telephone under 06441/80704-0 or by mail under Karl Kaps Optik-Feinmechanik-Gerätebau GmbH & Co. KG, Europastrasse, 35614 Aßlar, Germany.

### **§ 4 Entering into Contract**

The presentation of our merchandise does not constitute a binding offer. An offer is only binding pursuant to § 145 BGB (German Civil Code) once you have ordered the merchandise. If this offer is accepted, we will send you an order confirmation by e-mail. The order is placed when you add the items to your shopping basket and click the "Continue" and "Order" buttons. You must check the information for errors before clicking "Order." You can view the contents of the shopping basket by clicking on the "Shopping Basket" button. By placing a check next to individual items in the "Remove" column and clicking the "Update" button, you can remove individual items from the shopping basket.

### **§ 5 Terms of Payment**

The purchase price becomes due for payment immediately after the order is placed.

## **§ 6 Terms of Delivery**

(1) We deliver the items pursuant to the agreements made with you. Shipping costs are listed in the product description and will be displayed separately on our bill. Delivery dates and delivery periods are only binding if they have been confirmed by us in writing.

(2) If we do not provide delivery of the merchandise or do not provide it as stipulated in the contract, you must set an extended deadline for us to provide the service. Otherwise, you are not entitled to withdraw from the contract.

## **§ 7 Defect Claims and Liabilities**

(1) If the delivered merchandise is defective, legal provisions authorise you to demand supplementary performance, withdraw from the contract, or abate the purchase price. The limitation period for warranty claims for the delivered merchandise is two years after receipt of the merchandise. If a defect exists, we are entitled to attempt supplementary performance three times in the form of our choice: removal of defects or a new delivery.

(2) If removal of defects or replacement delivery takes place, we are obligated to assume all necessary expenses for the purpose of supplementary performance, especially transportation, shipping, labour, and material costs, insofar as these do not increase because the purchased object is brought to a different location than the place of fulfilment.

(3) If the supplementary performance fails, you are at liberty to demand withdrawal or abatement.

(4) In accordance with legal provisions, we are liable insofar as you assert claims for damages based on intent or gross negligence, including the intent or gross negligence of our representatives or servants. If we are not accused of deliberate infringement of contract, the liability for damages is limited to predictable, typically occurring damages.

(5) In accordance with legal provisions, we are also liable if we culpably infringe upon an important contractual obligation; in this case as well, however, the liability for damages is limited to predictable, typically occurring damages. An important contractual obligation exists if the breach of duty applies to an obligation upon whose fulfilment you had relied and should be able to rely.

(6) Liability due to culpable harm to life, body, or health remains unaffected; this also applies to mandatory liability pursuant to the Product Liability Act.

(7) Further liability for compensation than that provided in this § 7 is excluded, regardless of the legal form of the claim asserted. This especially applies to claims for damages from

defaults at conclusion of the contract, due to other breaches of duty, or due to tortious claims to compensation for damage to property.

(8) If our liability for damages is excluded or limited, this also applies in regard to the personal liability for damages of our employees, workers, personnel, representatives, and servants.

(9) Data communication over the Internet cannot be guaranteed to be free of errors and/or always available with the current state of technology. In this respect, we are not liable for the constant and uninterrupted availability of our online trading system.

## **§ 8 Retention of Title**

We retain the title to the delivery items until receipt of all payments due from the contract. If you act contrary to contract, especially for default of payment, we are entitled to reclaim the delivery item. This reclamation on our part entails a withdrawal from the contract. After reclamation of the delivery item, we are authorised to exploit it; the returns of exploitation are to be credited against your payables, minus appropriate exploitation costs.

## **§ 9 Power of Revocation**

You have a power of revocation. To view the requirements and legal consequences of revocation, please see the revocation instructions in the attachment.

## **§ 10 Final Clauses**

(1) Modifications or additions to these Terms and Conditions must be in written form. This also applies to the abrogation of the requirement of written form.

(2) The laws of the Federal Republic of Germany apply; the UN Convention of the International Sale of Goods (CISG) is excluded. Mandatory provisions of the state in which you have your habitual residence remain unaffected.

(3) If you do not have a general jurisdictional venue within the country or move your residence abroad after the conclusion of contract or your residence is unknown when a suit is brought, our headquarters determine the jurisdictional venue for all disputes.

(4) If individual terms of this contract are invalid or conflict with legal provisions, the rest of the contract remains unaffected. The contracting parties will jointly replace the invalid term with a legally valid term which comes closest to the commercial purpose of the invalid term. The previous clause applies correspondingly to loopholes.

## **Attachment**

### **Consumer Information and Revocation Instructions**

If you order goods while visiting our website, we would like to alert you to the following:

- (1) German is the only language available for conclusion of a contract.
- (2) Please read the important characteristics of our merchandise and the periods of validity of limited offers in the individual product descriptions within the scope of our Internet offer.
- (3) The presentation of our merchandise does not constitute a binding offer. An offer is only binding pursuant to § 145 BGB once you have ordered the merchandise. If this offer is accepted, we will send you an order confirmation by e-mail. This completes the sales contract between you and us.
- (4) During submission of your order, you can check for possible errors in the final confirmation before the check-out and correct them at any time before submission by using the delete and modify functions.
- (5) If the merchandise you have ordered is not available, we reserve the right not to perform this service.
- (6) The prices we state should be considered final prices, including taxes and shipping within the Federal Republic of Germany.
- (7) The purchase price becomes due for payment immediately after the order is placed. Payment for the merchandise takes place via a transfer to the account given in the bill.
- (8) You have a power of revocation:

### ***REVOCATION INSTRUCTIONS***

#### **POWER OF REVOCATION**

**YOU MAY REVOKE YOUR CONTRACTUAL STATEMENT WITHIN TWO WEEKS IN WRITTEN FORM (E.G. LETTER, FAX, E-MAIL) WITHOUT PROVIDING REASONS OR - IF THE MATTER IS CEDED TO YOU BEFORE EXPIRY OF THE PERIOD - REVOKE IT BY SENDING BACK THE ITEM. THE PERIOD BEGINS AFTER RECEIPT OF THIS DOCUMENT IN TEXTUAL FORM, BUT NOT BEFORE RECEIPT OF THE MERCHANDISE BY THE RECIPIENT (FOR REPEATED ORDER OF SIMILAR GOODS NOT BEFORE RECEIPT OF THE FIRST PARTIAL DELIVERY), AND NOT BEFORE FULFILMENT OF**

**OUR DUTY TO INFORM PURSUANT TO § 312 C PARA. 2 BGB IN CONNECTION WITH §1 PARA. 1, 2 AND 4 BGB-INFOV, AND OUR DUTIES PURSUANT TO § 312 E PARA. 1 S. 1 BGB IN CONNECTION WITH § 3 BGB-INFOV. TIMELY DISPATCH OF THE REVOCATION OR THE ITEM SUFFICES FOR ADHERENCE TO THE REVOCATION PERIOD. THE REVOCATION SHOULD BE DIRECTED TO:**

**KARL KAPS OPTIK-FEINMECHANIK GERÄTEBAU GMBH & CO. KG,  
EUROPASTRASSE, D-35614 ASSLAR,  
FAX: ++49 (0) 6441/85985; E-MAIL: INFO@KAPS-OPTIK.DE.**

#### **CONSEQUENCES OF REVOCATION**

**IF A VALID REVOCATION TAKES PLACE, THE ALREADY RECEIVED BENEFITS MUST BE RETURNED AND, IF NECESSARY, OTHER USES (E.G. INTEREST) SURRENDERED. IF YOU ARE FULLY OR PARTIALLY INCAPABLE OF RETURNING THE RECEIVED BENEFITS TO US, OR CAN ONLY RETURN THEM IN A DETERIORATED STATE, YOU MUST PROVIDE US WITH COMPENSATION IN THIS RESPECT. THIS DOES NOT APPLY TO THE CESSION OF ITEMS, IF THE DETERIORATION IN THE QUALITY OF THE ITEM CAN BE TRACED BACK EXCLUSIVELY TO ITS TESTING - WHICH MAY HAVE OCCURED AT YOUR RETAIL OUTLET. YOU CAN AVOID THE OBLIGATION TO PROVIDE COMPENSATION FOR A DETERIORATION IN QUALITY DUE TO USE OF THE ITEM IN ACCORDANCE WITH THE TERMS BY REFRAINING FROM USING THE ITEM AS YOUR PROPERTY AND REFRAINING FROM ACTIVITIES THAT NEGATIVELY AFFECT ITS VALUE. YOU DO NOT HAVE TO PROVIDE COMPENSATION FOR A DETERIORATION IN QUALITY DUE TO USE OF THE ITEM IN ACCORDANCE WITH THE TERMS. ITEMS THAT CAN BE SHIPPED IN A PACKAGE SHOULD BE SENT BACK AT OUR RISK. YOU MUST ASSUME THE COSTS OF RETURN IF THE DELIVERED MERCHANDISE MATCHES THE ORDER AND IF THE PRICE OF THE ITEM TO BE RETURNED DOES NOT EXCEED 40 EUROS, OR IF, FOR A HIGHER-PRICED ITEM, YOU HAVE NOT YET DISCHARGED THE RETURN SERVICE OR AN AGREED PARTIAL PAYMENT AT THE TIME OF REVOCATION. OTHERWISE, RETURN SHIPPING IS FREE OF CHARGE. ITEMS THAT CANNOT BE SHIPPED IN A PACKAGE WILL BE PICKED UP FROM YOUR LOCATION. OBLIGATIONS TO REIMBURSE PAYMENTS MUST BE FULFILLED WITHIN 30 DAYS. FOR YOU, THE PERIOD BEGINS WITH THE DISPATCH OF YOUR REVOCATION STATEMENT OR THE ITEM; FOR US, IT BEGINS WITH THE RECEIPT THEREOF.**

**END OF REVOCATION INSTRUCTIONS**

(9) We will store the data required to process the contract between you and us. You can access it at any time. In this respect, we direct you to the provision on data protection in our AGB.

(10) We are not subject to any special and previously unmentioned codes of conduct.

(11) In all other respects, we direct you to our General Terms and Conditions.

Karl Kaps Optik-Feinmechanik-Gerätebau GmbH & Co. KG (HRA 2199, district court of Wetzlar), Europastrasse, 35614 Aßlar, Germany, represented by Karl Kaps GmbH (HRB 168, district court of Wetzlar), represented by executive director Holger Kaps, sales tax identification number DE 113 742 793.