



The Dreamology Company
—Make your dreams come true—

GENERAL TERMS AND CONDITIONS OF SALE

(January 2021 – KANEKA MODIFIERS DEUTSCHLAND GMBH)

1. General

These Terms and Conditions of Sale shall apply to the Agreement with Customer for the sale and delivery by Kaneka Modifiers Deutschland GmbH of specified Products and supersede any other terms or conditions stipulated or referred to by Customer. Customer placing an order and taking in the Products shall constitute acceptance of these Conditions of Sale. No variation of these Conditions of Sale shall be effective unless expressly stipulated, agreed or confirmed in writing by Kaneka. Provisions set out in a specific Agreement shall take precedence over those set out in these General Terms and Conditions. The invalidity or unenforceability for any reason of any part of these Terms and Conditions shall not prejudice or affect the validity or enforceability of the remainder. Customer shall not assign any Agreement for the sale of Products or Services, nor any rights hereunder, in whole or in part to any third party without the prior written consent of Kaneka.

2. Offers

Kaneka's offers are made subject to final confirmation. An Agreement is only formed when Kaneka sends an order confirmation in writing or when orders are executed by Kaneka.

3. Deliveries

3.1 Kaneka will use reasonable endeavors to achieve delivery on time and in full. Delivery of up to and including +/- 5% (five percent) of the quantity or weight specified under the Agreement ("Delivery Tolerance") will constitute fulfillment of the Agreement and Customer will be obliged to pay for the actual quantity or weight delivered. Kaneka will keep Customer informed of any material variation from agreed delivery times. Customer must provide proper and safe access and facilities to accept deliveries, and must reimburse any additional actual costs incurred by Kaneka if Kaneka suspends or refuses delivery where such access or facilities are not available or where unloading takes more than a reasonable time for a reason not attributable to Kaneka. Delivery to or use by Kaneka of any facilities does not constitute the approval by or acceptability to Kaneka.

3.2 Notice of claims arising out of damage in transit must be lodged by Customer directly with the carrier and in the CMR, and Kaneka shall be provided with a copy thereof.

Any claim for shortage, must be made to Kaneka in writing within three (3) business days of receipt of the Products.

4. Prices and Payment

Unless otherwise agreed:

- The relevant price for the Products will be Kaneka's price applicable on the date of loading;
- Payment shall be due, without deduction or discount no later than thirty (30) days after the date of the invoice. The date of invoice is the date of goods issue, meaning the date that the Products physically leave Kaneka. Kaneka, however, shall be entitled to request payment in advance of delivery, either in full or in part, or obtain security for the payment. The setting off or withholding of any payment by Customer in respect of any claim shall not be allowed.
- Any late payment shall bear interest at a rate of one percent (1%) per month accrued annually and without prior written notice or demand. In addition, if any overdue amount is not paid within one (1) week of Customer's receipt of a written demand for payment, Buyer shall be liable for liquidated damages equal to the costs of collecting the amount due from Customer including legal costs or ten percent (10%) of said overdue amount, whichever shall be higher.
- if there are reasonable doubts as to Customer's ability to pay, especially if Customer is in default of payment, Kaneka may revoke agreed credit periods, suspend deliveries and make further deliveries dependent on Customer providing acceptable security;
- quoted prices do not include any Value Added Tax (or its equivalent), or any other taxes or charges, if applicable. Customer must promptly provide Kaneka on first request with all evidence required under local, national or EU laws to justify any request for exemption from VAT or other applicable taxes. Customer will indemnify Kaneka against any tax, cost or penalty it may incur if the request for exemption is found not to be justified.

5. Transfer of Risk and Title

- The risk with regard to the Products to be delivered shall pass to Customer as per the Incoterm agreed in the Agreement. If no (specific) Incoterms are agreed to, the Incoterms 2010 will apply.
- All Products sold by Kaneka shall remain the property of Kaneka until it has received from Customer all payments it is entitled to on the basis of the Agreement, including any damages, costs, interest and duties. Until such time as the property of the Products has passed to Customer, Customer shall ensure that the Products (i) are kept and maintained in good condition, (ii) are stored separately or marked so that they may be readily identified as the property of Kaneka, (iii) are not subject of any charge, pledge or lien, and (iv) are insured for their full replacement value against all risks.
- If the Products already have been processed, Kaneka's retention of title shall extend to the new products. If the Products have been processed, combined or mixed with goods of others, Kaneka acquires joint title pro rata to that part of the new products representing the invoiced value of Kaneka's Products in relation to the total value of the other products which have been processed, combined or mixed.

6. Limitation of Liability

6.1 Unless otherwise agreed in writing, neither party shall have any liability to the other for any indirect, special or consequential loss or damage, or for any loss of revenue, contract, pure economic loss, profit or goodwill, arising out of or in connection with the Agreement, whether in contract, tort (including negligence) or otherwise. In respect of all other loss or damage, if Kaneka is liable to pay damages, these damages shall not exceed the lower of the amount of the invoice for the Products that caused the damage, or, if the damage is covered by insurance, the amount actually paid by the insurance company to Kaneka.

6.2 The aforementioned exclusion or limitation of liability shall not apply in cases of damage to life, body or health, or mandatory liability under the Product Liability Acts or in other cases of mandatory liability.

6.3 Purchaser's right to claim for warranty, damages or expenses shall expire 1 year from the date of delivery. The above time limit shall not apply if Kaneka has acted intentionally or in cases of damage to life, body or health, mandatory liability under the Product Liability Acts or in other cases of mandatory liability.

7. Warranties

7.1 Kaneka warrants to Customer that the Products supplied will conform to agreed specifications. Any other conditions, warranties or terms, express or implied (whether by statute or otherwise), or warranties as to the quality or fitness for purpose of the Products is hereby excluded except in the event of gross negligence or intent on the part of Kaneka.

7.2 Kaneka refers to the published Material Safety Data Sheets regarding the Products and the Certificate of Analysis. Any other information about properties, durability and other data shall be deemed to be guarantees only if they are agreed and indicated by Kaneka as such in written form. Written and verbal information or advice about Products, equipment, plant, applications, processes and process instructions is based on research and experience in the field of applied engineering. Kaneka provides such information, which is accurate to the best of its knowledge, subject to its right to modify and further develop it and such information shall not be binding. The aforesaid shall not release Customer of its obligation to verify the suitability of Kaneka's Products for the use intended by Customer. Any information or advice from Kaneka is given and accepted at Customer's risk and shall not relieve Customer from undertaking his own investigations and tests.

7.3 Kaneka's warranty is limited to replacing defective or non-compliance Products or at the discretion of Kaneka, credit Customer, in full or in part, for the amount of the invoice for the Products concerned.

7.4 Kaneka must be notified of any defects without delay, but not later than five (5) days from the delivery of Products or, in the case of latent defects, within five (5) days from the date such defect(s) is discovered or should have been discovered through reasonable investigation. Notification must be in writing and must precisely describe the nature and extent of the defects.

7.5 If Customer claims alleged damage or defects of the Products, Customer shall not further use the Products and shall retain the Products for inspection by Kaneka. Customer is not entitled to return the Products to Kaneka without Kaneka's written consent. Any claims Customer may have shall be forfeited if (a) the Products delivered are stored or used improperly; (b) Customer fails to give written notice of the alleged defect within the terms as referred to above and fails to allow Kaneka to inspect the Products in the state they were upon delivery; (c) Customer does not comply with any of its obligations towards Kaneka as laid down in the Agreement.

8. Compliance with legal requirements

Unless specifically agreed otherwise, Customer is responsible for compliance with all laws and regulations regarding import, transport, storage and use of the goods.

9. Force Majeure

"Force Majeure", shall mean (without limitation): explosion, flood, tempest, fire or accident, war or threat of war, riots, terrorist acts, sabotage, insurrection, civil disturbance or requisition, strike, lock-outs, or other industrial actions or trade or labor disputes (except if involving solely employees of either Kaneka or Customer), restrictions, regulations, prohibitions or measures of any kind on the part of authority; import or export regulations or embargoes; plant breakdowns or plant disturbances, general shortage of raw material, energy, interruption of power supplies, fuel or transportation facilities or other disturbances beyond the reasonable control of the party concerned, which are not due to such party's negligence or willful misconduct, and which constitutes a major impediment to or renders it impossible or commercially impracticable for such party to perform its obligations under the Agreement (other than Customer's obligation to make payment for product received).

An event of Force Majeure, shall release the affected party from such obligations for as long as and to the extent to which the event of Force Majeure impedes or prevents the performance of the Agreement in whole or in part. Neither party shall be liable for any loss or damage suffered or incurred by the other party arising from the first party's delay in performing or failure to perform such obligations to the extent that and for so long as such delay or failure results from an event of Force Majeure. Force majeure prolongs contractual deadlines and defers contractual dates by the duration of the Force Majeure plus an appropriate start-up period. Kaneka shall not be required to supplement its available supply of Product. Available stock product of Kaneka shall be allocated on a pro-rata basis (considering all delivery obligations of Kaneka). A party being subject to an event of Force Majeure shall promptly notify the other party of the event and its expected duration.

KANEKA BELGIUM NV

Registered seat	Brussels office	Bank Account	IBAN	BTW / VAT BE 0407 633 194
Nijverheidsstraat 16	Alma Court, Lenneke Marelaan 4	Sumitomo Mitsui	BE46 1892 0056 0036	www.kaneka.be
B-2260 Westerlo-Oevel	B-1932 Zaventem	Banking Corporation	BIC	
Tel. +32 (0) 14 25 78 00	Tel. +32 (0) 2 663 01 70	Brussels Branch	SMBCBEBB	

10. Termination

Kaneka is entitled, if an invoice is not paid in whole or in part upon due date or if Customer does not properly or not in time comply with any other obligations under the Agreement or enters into liquidation or receivership, ipso jure and without notice, to postpone the performance of all orders or to terminate all agreements concluded with Customer with immediate effect, without any judicial orders being necessary and to claim immediate payment of all debts, including those not yet due, notwithstanding any agreement entered into beforehand and without prejudice to any other right or compensation of which Kaneka could benefit under the Agreement or the law.

Upon such termination Kaneka shall be entitled to enter into Customer's premises in order to remove any of the Products on which Kaneka retains title. The Customer shall assist Kaneka hereby.

11. Intellectual Property

By purchasing Products, Customer shall not obtain any rights to any intellectual property in or relating to the Products, including (without limitation) any trade marks, copyright or patents, where such intellectual property is capable of registration, whether or not the same is registered.

12. Anti-bribery and corruption

The parties shall (and shall ensure that any Affiliates or persons engaged by or associated with either party in relation to the Agreement – including but not limited to employees, contractors, subsidiaries, consultants, advisors, distributors and agents – shall) comply with all applicable laws, statutes, regulations, decrees and/or official government orders and codes relating to anti-bribery and anti-corruption.

The parties specifically undertake that no payments or transfers of anything of value which have the purpose or effect of public or commercial bribery, money laundering, extortion or other unlawful or improper means of obtaining or retaining business or business advantage shall be made, offered, given, authorized or promised to: any person or entity (including, for the avoidance of doubt, any government official; any political party or official thereof; any candidate for political office; or any other person, individual or entity at the suggestion, request or direction of or for the benefit of any of the above- described persons and entities) by any of its owners, directors, officers, employees and other associated persons.

Each party;

- (a) will not do, or omit to do, any act that will cause or lead the other party to be in breach of any of the above, and
- (b) will notify the other party promptly of any request or demand for any undue financial or other advantage of any kind received from any person in connection with the performance of this Agreement, and
- (c) if requested, will assist the other party and any of its Affiliates in complying with its obligations under the law and understands that any breach of this clause will amount to a material breach of this Agreement, and
- (d) will indemnify the other party against any losses, liabilities, damages, costs (including legal fees) and expenses incurred by, or awarded against, such other party as a result of any breach by a party of this clause.

13. Applicable law and jurisdiction

13.1 All issues, questions and disputes concerning the validity, interpretation, enforcement, performance and termination of the legal relationship between Kaneka and Customer are governed by and construed in accordance with German law, and no effect shall be given to any other choice-of-law or conflict-of-laws rules or provisions (German, foreign or international, including the UN Convention on the Sale of Goods (if applicable)), that would cause the laws of any other jurisdiction to be applicable.

13.2 If any dispute, controversy or claim between Kaneka and Customer arises out of, or in connection with, their legal relationship, they shall first of all use all reasonable endeavors to resolve the matter amicably. If such endeavors do not lead to a settlement, all disputes concerning the validity, interpretation, enforcement, performance and termination of the legal relationship shall be submitted to the exclusive jurisdiction of the courts of Köln, except if Kaneka elects to bring proceedings in the country where Customer is incorporated.