

General contractual terms and conditions of KMH GmbH Kommunikationsmanagement Motzkau and Haab (KMH GmbH)

(Software as a Service Services)

Preamble

The following provisions have been translated into the English language from its original German text. This translation is based on a free translation service provided for by Google (Ireland Limited). Efforts have been made to improve the translation for an alignment with the original text. Nonetheless KMH GmbH does not guarantee neither expressly nor implicitly the correctness or reliability of the following translated provisions. In case of discrepancies or inconsistencies of any kind, the German version shall take priority.

1. Scope of application

- 1.1 KMH GmbH offers web-based software on its websites. The following general contractual terms and conditions (GTC) apply to all user contracts concluded between KMH GmbH and business customers who are not consumers in terms of Section 13 of the German Civil Code or other applicable legal provisions.
- 1.2 The following GTC apply exclusively. Other contractual GTC do not become part of the contract, even if KMH GmbH does not expressly object to them.
- 1.3 The GTC of KMH GmbH apply exclusively in their current version unless the contractual partners agree otherwise in writing. This applies for all concluded similar contracts in future even if it has not been expressly stated by KMH GmbH in each case.

2. Conclusion of contract

- 2.1 Registration by the customer is a prerequisite for the conclusion of a user contract regarding web-based software from KMH GmbH.
- 2.2 By registering, the customer assures that he is an entrepreneur in terms of Section 14 of the German Civil Code and that he is registering on the Internet platform in this capacity. A breach of the aforementioned assurance entitles KMH GmbH, without prejudice to its other rights, to terminate the user contract with the customer for cause without notice.
- 2.3 The customer may only register through an authorized person or an authorized body of the company. KMH GmbH reserves the right to make the conclusion of a user contract dependent on the transmission of proof of the power of representation, without being subject to verification obligations with regard to the identity and power of representation of the person acting on behalf of the customer.
- 2.4 The registration process is carried out by the customer by filling out and transmitting the registration form on the corresponding internet platform of the software. The data required for registration must be provided for completely and truthfully by the customer. By submitting the registration, the customer expresses a non-binding interest in using the software and a corresponding user contract. There is no obligation on behalf of KMH GmbH to conclude a user contract with the customer.
- 2.5 The customer receives a separate e-mail by KMH GmbH as the offer to conclude a user contract with reference to the conditions of the user contract and reference to these GTC. At the same time, the customer receives login access (user name and password) for the first login (initial registration) on the corresponding website.
- 2.6 The contract is accepted by the customer by initial registration using the transmitted login data. The contract can only be accepted within 24 hours after receiving the login data. Afterwards, a login is no longer possible. The customer is free to request new login data

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by mailing KMH GmbH using the e-mail address office@kmh-gmbh.com. The customer is not entitled to receive new login data or the conclusion of a user contract. By sending new login data to the customer by e-mail, the customer receives a new offer to conclude the user contract with the conditions applicable at that time, which the customer can then accept again within 24 hours by initial registration. If the customer fails to register again within the 24-hour period, this offer also expires, with the result that the customer must initiate the process as described above again.

- 2.7 KMH GmbH does not store the contractual provisions for the customer.
- 2.8 By concluding the user contract, KMH GmbH grants the customer the right to use the software for 30 days exclusively for test purposes (test phase) beginning with the first complete initial registration by the customer.
- 2.9 The use of the web-based software is free of charge for the customer during the test phase.
- 2.10 The 30-day test phase begins with the initial registration by the customer and the associated conclusion of the user contract. The user contract can be terminated during the 30-day test phase with a notice period of 1 day via e-mail to: office@kmh-gmbh.com. If the customer does not terminate the user contract within the 30-day test phase, the free use ends for the customer and the contract is automatically converted into a contract with paid use of the software. The customer has already agreed to the then applicable conditions and these GTC in advance with the initial registration. The customer will be informed again by e-mail before the end of the test phase.
- 2.11 The initial registration of the customer must be done by an administrator. An administrator is an employee within the customer's company who is authorized to manage the customer's data set in the software. The access rights of the administrator in the software are unlimited. The customer ensures organizationally that only authorized employees are administrators.
- 2.12 The initial login generates access to the client account. After setting up the first administrator (initial administrator), the customer can access the web-based software and the mobile application (available in the Google Play Store and Apple App Store).
- 2.13 The initial administrator can set up additional users and additional administrators. After the 30-day test phase has expired, each user and administrator set up is subject to a fee in accordance with the applicable conditions.
- 2.14 Each user activated by an administrator receives access authorization corresponding to his or her role in the system assigned by the customer. The login data will be sent to the user's e-mail address. It is the customer's responsibility to ensure that only authorized employees have access to the software as activated users.
- 2.15 The customer determines the usage volume of the software by activating or deactivating users and administrators.
- 2.16 A user account may only be used by one of the customer's employees. The possibility of using one user for several employees is excluded. The customer undertakes to ensure this organizationally.
- 2.17 Administrators can also be deactivated by the customer himself. However, after the 30-day trial period has expired, at least one administrator must always be systemically activated. All other administrators, like all users, can be deactivated by the customer himself. The customer can then terminate the last remaining administrator within the

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notice period according to Section 4 of these GTC. This ensures that the customer's data is retained and accessible in the client account until the end of the notice period.

3. Customer rights and obligations

- 3.1 The customer is only entitled to use the software to process his own data (including customer data) in his own company for his own purposes. KMH GmbH hereby grants him the powers required for this use as a non-exclusive, simple right of use for the duration of the user contract.
- 3.2 The customer is not entitled to pass on the software or parts thereof to a third party or to enable a third party to use or learn about it or to use the software for a third party.
- 3.3 Companies affiliated with the customer, independent employees (freelancers) and service providers commissioned by the customer to manage operations of the customer are not considered third parties in terms of Section 3.2. However, these are to be committed by the customer to these contractual provisions and the GTC of KMH GmbH. In the event of a breach by one of these, the customer is liable in accordance with the contractual provisions with KMH GmbH.

4. Contract start, duration and termination

- 4.1 The user contract begins with the initial registration by the customer.
- 4.2 The user contract (and thus also the last remaining administrator) can be terminated by the customer with a notice period of one month to the end of the month. During the test phase, the user contract can be terminated by the customer with one day's notice via e-mail to office@kmh-gmbh.com. The tenant account and the last remaining administrator will be deactivated at the end of the notice period. All other users can be deactivated in the software (see also section 2). If users or other administrators have not been deactivated by the customer before the end of the notice period, they will be automatically deactivated by KMH GmbH upon expiry of the notice period. The obligation to pay only ends with deactivation.
- 4.3 The user contract can be terminated by KMH GmbH with a notice period of 12 months to the end of the month.
- 4.4 The parties are free to terminate the contract for cause and thus without notice. Termination for cause must be announced in writing with a notice period of at least two weeks, stating the reason for termination. If termination without notice by KMH GmbH is based on breach of contract by the customer, KMH GmbH retains the contractual remuneration as the minimum damage to which KMH GmbH would have been entitled without the termination. The claim for damages does not exist if the customer is not responsible for the breach of duty.
- 4.5 The termination of the user contract by the customer must be sent via e-mail to the following e-mail address: office@kmh-gmbh.com.
- 4.6 The customer is responsible for backing up his data stocks (e.g. by downloading) in good time before the end of the contract. For data protection reasons, the customer will no longer be able to access this database after the end of the contract.

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5. Subject of the contract / Scope of services

- 5.1 The subject of these contractual conditions is the provision of web-based software by accessing the servers of KMH GmbH or third parties commissioned by KMH GmbH via Internet against payment of the agreed fee. It is the customer's responsibility to create the technical requirements for receiving the software at the transfer point (router exit of the respective data center) and using it.
- 5.2 Before concluding the contract, the customer has checked that the specification of the software corresponds to his wishes and needs. He is aware of the essential functional features and conditions of the software. The website of the software includes this information.
- 5.3 The list of services specified at the time the user contract was concluded is decisive for the scope, type and quality of the deliveries and services, which can be accessed on the respective website of the KMH GmbH software. Other information or requirements only become part of the contract if the contractual partners agree to this in writing or if KMH GmbH has confirmed them in writing. Subsequent changes to the scope of services require a written agreement or written confirmation by KMH GmbH.
- 5.4 Product descriptions, illustrations, test programs, etc. are descriptions of performance, but not guarantees. A guarantee requires a written declaration by the management of KMH GmbH.
- 5.5 KMH GmbH provides all deliveries and services according to the state of the art.
- 5.6 After individual agreement, customers receive the non-exclusive, simple right for the duration of the user contract to use them for internal purposes to the agreed extent. The scope results from the individual agreement and the underlying purpose of use.
- 5.7 The services provided on the basis of these GTC require the use of certain Internet browsers and a correspondingly fast internet connection. Unless otherwise permitted by KMH GmbH, the customer must use a current desktop browser version of Microsoft Edge, Apple Safari, Google Chrome or Firefox. The customer is responsible for maintaining an adequate internet connection and system resources. A current version of iOS and Android is required to use the smartphone app.

6. Services / Service time

- 6.1 Information on times of delivery and performance are non-binding unless they have been designated as binding in writing by KMH GmbH.
- 6.2 Delivery and service periods are extended by the period in which the customer is in default of payment regarding the contract and by the period in which KMH GmbH is prevented from delivering or providing services due to circumstances for which it is not responsible, and for a reasonable start-up time after the end of the impediment. These circumstances also include force majeure and labor disputes. Deadlines are also considered to be extended by the period in which the customer does not provide a cooperation service contrary to the contract.
- 6.3 If the contractual partners subsequently agree on other or additional services that affect agreed deadlines, these deadlines are extended by a reasonable period of time.

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- 6.4 Reminders and deadlines set by the customer must be in writing to be effective. A grace period must be reasonable. A period of less than two weeks is only appropriate in the case of particular urgency.
- 6.5 The place of performance of services is the place where the service is to be provided. For the rest, the place of performance for all services from and in connection with this contract is the registered office of KMH GmbH.

7. Compensation / Payment / Price Adjustment / Offsetting

- 7.1 The prices stated on the respective website of the KMH GmbH software at the time the user contract was concluded apply. The prices there are monthly net prices in euros and do not include the statutory sales tax at the applicable statutory rate, if applicable. The agreed remuneration is due immediately after the end of the test phase.
- 7.2 There is a monthly billing for each user and administrator. The billing period begins with the activation of the respective user or administrator, but not before the end of the test phase (i.e. at the earliest from the 31st day after the initial administrator was set up by the customer).
- 7.3 Users and administrators are billed to the day. This means that the day of activation and the day of deactivation are billed in full by users and administrators. The customer's payment obligation ends the day after deactivation. The only exception is the last remaining administrator, who can only be terminated within the framework of the notice period in accordance with Section 4.2 and will be billed until the end of the notice period.
- 7.4 KMH GmbH sets up a billing process for the customer. KMH GmbH can also provide external billing software for this purpose. The customer is obliged to fulfill the payment via the billing software provided by KMH GmbH and the implemented billing process. KMH GmbH is obliged to provide the customer with access to the billing software in good time. The customer receives a monthly statement of the activated users and administrators through the billing software. Billing takes place in advance for the following service period. The users who are activated or deactivated during the performance period will be taken into account pro rata in the following billing. Pro rata billing takes place in accordance with clause 7.3. If the customer fails to set up the billing process properly, KMH GmbH is entitled to block access to the software until the customer has set up billing software. During the blocking, the customer's obligation to pay remains.
- 7.5 KMH GmbH can adjust the prices for the fee-based contractual services to a reasonable extent with a period of three months. KMH GmbH will notify the customer of this price adjustment and the effective date of the price adjustment in text form. The change will take effect from the date specified in the notification. The price adjustment does not apply to the periods for which the customer has already made payments. If the price increase is more than 15% of the previous price, the customer can object to this price increase within two weeks since notification. A price change resulting from a change in the scope of features or the number of employees to be managed is not considered a price adjustment in terms of this clause. If the customer objects to a change in terms of this section in due form and time, the contractual relationship will be terminated after the ordinary notice period has expired (see section 4.2).
- 7.6 If the customer delays the payment of a due remuneration by more than four weeks, KMH GmbH is entitled to terminate the contract without notice after a prior reminder with

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a deadline and the expiration of the deadline. This is also the case when the customer has observed the billing process and has also set up the billing software, but there are still delays in payments or returned direct debits. Access to the software will be blocked from the first day of the delay. KMH GmbH's claim to remuneration remains unaffected by the blocking. Access to the software will be activated again immediately after the arrears have been settled. In this case, the right to block access continues to exist as a milder means. If the customer has observed the billing process and has also set up the billing software and there are still delays in payments or returned direct debits, KMH GmbH can block access as soon as it becomes aware of this and proceed as described above.

- 7.7 The customer can only offset claims recognized by KMH GmbH or those that have been legally established. Except in means of § 354 a HGB, the customer can only assign claims from this contract to third parties with the prior written consent of KMH GmbH. The customer is only entitled to a right of retention or to pleading that the contract has not been fulfilled within this contractual relationship.

8. Defects of title

- 8.1 KMH GmbH guarantees that the contractual use of the software by the customer does not conflict with the rights of third parties. In the event of legal defects, KMH GmbH provides a guarantee by providing the customer with a legally correct option to use the software or equivalent software at the discretion of KMH GmbH.
- 8.2 The customer shall immediately inform KMH GmbH in writing if third parties assert property rights (e.g. copyrights or patent rights) to the software. KMH GmbH supports the customer in defending himself against attacks by third parties by providing advice and information.

9. Material defects

- 9.1 The software has the agreed quality at the time of the transfer of risk and is suitable for the contractually stipulated use, or for normal use in the absence of an agreement. It satisfies the criterion of practical suitability and has the usual quality for software of this type; however, it is not without error.
- 9.2 A functional impairment of the program resulting from hardware defects, environmental conditions, incorrect operation or similar is not a defect. An insignificant reduction in quality is not taken into account.
- 9.3 Claims according to § 536a BGB, in particular the no-fault guarantee liability and the right to self-help, are excluded.
- 9.4 The customer is obliged to inform KMH GmbH immediately of any defects and supports KMH GmbH in the error analysis and elimination of defects by specifically describing any problems that occur, informing KMH GmbH comprehensively and granting it the time and opportunity required to eliminate the defect. KMH GmbH can remedy the defect on site or in its business premises at its discretion.
- 9.5 In the case of material defects, KMH GmbH can initially provide supplementary performance. At KMH GmbH's discretion, supplementary performance is carried out by eliminating the defect, by providing software that does not have the defect, or by KMH GmbH

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showing ways of avoiding the effects of the defect. Due to a defect, at least three attempts at rectification must be accepted. An equivalent new program version or the equivalent previous program version without the error is to be accepted by the customer if this is reasonable for him.

- 9.6 If KMH GmbH finally refuses the subsequent performance or this finally fails or is not reasonable for the customer, the customer can either withdraw from the contract or reduce the remuneration appropriately and additionally demand damages or reimbursement of expenses. The claims become statute-barred according to Section 13.

10. Technical availability

- 10.1 KMH GmbH provides the customer with the software with an availability of at least 95% on an annual average.
- 10.2 The customer is obliged to inform KMH GmbH immediately in writing as soon as the software is not available.
- 10.3 KMH GmbH can interrupt the availability of the software for a period of time specified in advance and communicated to the customer in order to carry out maintenance work and corrective updates.
- 10.4 When calculating the availability according to Section 10.1, failures due to necessary maintenance work and error-correcting updates and force majeure (e.g. strikes, unrest, natural disasters, epidemics) are not taken into account. Blockings by KMH GmbH, which KMH GmbH may deem necessary for security reasons, are also not taken into account, provided that KMH GmbH had previously taken appropriate precautions for security or that KMH GmbH carries out because the customer is in default with his contractual obligations (e.g. payment of the agreed remuneration).

11. Maintenance of the software / Error classes / Response times

- 11.1 KMH GmbH will carry out the necessary maintenance of the software as part of its maintenance work and provide troubleshooting assistance via support. KMH GmbH provides the services according to the current state of the art and in such a way that they are based on the interests of all software users.
- 11.2 The contracting parties agree on the following error classes and response times (limited by Section 11.4):
- a) Error class 1: Operation-impeding errors: The error prevents the customer's business operations; there is no workaround possible.
Response time: KMH GmbH begins troubleshooting as quickly as possible, but no later than four hours after the error message is reported and continues to do so vehemently until the error is eliminated.
- b) Error class 2: Operation-hindering errors: The error considerably hinders the customer's business operations; however, the use of the software is possible with workarounds or with temporarily acceptable restrictions or difficulties.
Response time: In the event of an error message before 10:00 a.m. on a support day (according to sections 11.1 through 11.3), KMH GmbH will begin to eliminate the error on the same day, in the event of a later error message not later than at

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the beginning of the next support day. KMH GmbH can initially show a workaround and eliminate the error later if this is reasonable for the customer.

c) Error class 3: Other errors.

Response time: KMH GmbH begins troubleshooting within a week or KMH GmbH eliminates the error with the next release if this is reasonable for the customer.

11.3 The periods according to section 11.2 begin with the error message by the customer in accordance with the support process of KMH GmbH (see section 11).

11.4 To start the response times according to Section 11.2, the customer's error message must be received by KMH GmbH on a support day within the support hours (Section 11.3). If an error message is received outside of the support times, the response time begins on the next support day with the start of the support time (e.g. receipt of an error class 1 error message on Sunday at 2:00 p.m. - end of the response time on Monday at 12:00 p.m).

11.5 Troubleshooting will only be performed within support hours, interrupted by the termination of support hours, and will continue the next day at the start of the next support hour. In the case of error class 1 errors, troubleshooting will continue beyond the support hours.

11.6 The division into the various error classes is made by agreement between the parties. If the parties cannot agree, KMH GmbH shall determine the category at its reasonable discretion, considering the effects that the disruption in question has on the customer's business operations.

12. Support

12.1 KMH GmbH sets up support for customers to eliminate technical faults and errors that occur when using the software. For this purpose, KMH GmbH can also provide an integrated external software solution. The customer is obliged to place support requests by using the software provided by KMH GmbH exclusively and in compliance with the support process of KMH GmbH.

12.2 KMH GmbH will inform about this in advance and make the software available free of charge.

12.3 The customer can place support requests in the support process at any time. However, the support of KMH GmbH only processes customer inquiries within the support hours: Mondays to Thursday from 8:00 a.m. to 5:00 p.m. and Fridays from 8:00 a.m. to 4:00 p.m. Exceptions hereto are the national German holidays, additional public holidays of the federal state of North Rhine-Westphalia and December 24th and 31st of each year.

12.4 Further support services, such as other response times and deadlines, on-call service, or assignments by KMH GmbH require a separate contract.

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13. Statute of limitations

13.1 The limitation period is

- a) in the case of material defects, one year from the delivery or acceptance of a work service, but for defects that have been properly reported, no less than three months from the submission of the effective declaration of withdrawal or price reduction;
- b) one year for other claims arising from material defects;
- c) two years for claims arising from defects of title if the defect of title does not lie in a right of a third party on the basis of which the third party can demand the return of the items specified in Section 3 (5) or demand that their use be ceased;
- d) two years in the case of claims for damages or reimbursement of futile expenses that are not based on defects in quality or title; the period begins at the point in time at which the customer became aware of the circumstances giving rise to the claim or should have become aware of them without gross negligence.

13.2 The statute of limitations begins at the latest with the expiry of the maximum periods specified in § 199 BGB. Paragraph 1 does not apply to damages and reimbursement of expenses due to intent, gross negligence, guarantee, fraudulent intent and in the cases specified in § 11 Paragraph 3.

14. Liability

14.1 KMH GmbH pays damages or compensation for wasted expenses, regardless of the legal reason, only to the following extent:

- a) Liability for intent and fraudulent intent is unlimited.
- b) In the event of gross negligence, KMH GmbH is liable in the amount of the typical damage that was foreseeable at the time the contract was concluded.
- c) In the case of slight negligence, KMH GmbH is only liable if a cardinal obligation (obligation, the fulfillment of which is essential for the proper execution of the contract, the compliance of which the contractual partner regularly relies and may rely on and the violation of which jeopardizes the achievement of the purpose of the contract) has been violated by KMH GmbH. In this case, KMH GmbH is liable in the amount of the typical damage that was foreseeable at the time the contract was concluded.

14.2 The objection of contributory negligence remains open to KMH GmbH. In particular, the customer has the obligation to back up data and to protect it against malware in accordance with the current state of the art.

14.3 In the event of injury to life, body and health and in the case of claims under the Product Liability Act, the statutory regulations apply without restrictions.

14.4 KMH GmbH is only liable for damages from a warranty guarantee if this has been expressly accepted in the guarantee. In the case of slight and gross negligence, this liability is subject to the restrictions set out in Section 14.1.

14.5 If it is necessary to restore data or components, KMH GmbH is only liable for the effort required for the restoration with proper data backup and failure precautions by the customer. In the event of slight negligence on the part of KMH GmbH, this liability only applies if the customer has carried out data backup and failure prevention appropriate to

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the type of data and components before the incident. This does not apply if this has been agreed as a service by KMH GmbH.

- 14.6 Clauses 14.1 to 14.5 apply accordingly to claims for reimbursement of expenses and other liability claims by the customer against KMH GmbH.

15. Copyright / Rights of Use

- 15.1 The software is legally protected. Copyrights, patent rights, trademark rights and all other property rights to the software and other items that KMH GmbH provides or makes accessible to the customer in the context of contract initiation and execution are the exclusive property of KMH GmbH in the relationship between the contractual partners. Insofar as third parties are entitled to the rights, KMH GmbH has the corresponding exploitation rights.
- 15.2 The customer is only entitled to use the program to process his own data in his own company for his own purposes.

16. Confidentiality / Data Protection

- 16.1 The contracting parties are obliged to treat all objects (e.g. software, documents, information) that they receive or become aware of from the other contracting party before or during the execution of the contract, which are legally protected or contain business or trade secrets or are marked confidential, as confidential, even after the end of the contract, unless they are publicly known without violating the duty of confidentiality. The contractual partners keep and secure these items in such a way that access by third parties is excluded.
- 16.2 The customer only makes the contractual items accessible to employees and other third parties who need access to carry out their official duties. He instructs these persons regarding the confidentiality of the objects.
- 16.3 KMH GmbH processes the customer's data required for business transactions in compliance with data protection regulations. The customer will conclude the necessary data protection agreements with KMH GmbH for the handling of personal data.
- 16.4 KMH GmbH provides the required mandatory information according to §§ 12 GDPR on the software website for retrieval.
- 16.5 KMH GmbH reserves the right to generate anonymous statistics itself or through an external service provider using the data made available to it by its customers on the software platform and to use them for its own purposes. Data is only transmitted to an external service provider for this purpose in a pseudonymized or anonymous manner in accordance with the provisions of the GDPR.
- 16.6 KMH GmbH points out that it will involve external service providers in order to fulfill its contractual services. This does not require the consent of the customer.
- 16.7 The customer is responsible for all content and data that he provides for in the software and application of KMH GmbH. This also applies to compliance with the associated data protection deletion periods, etc. If KMH GmbH makes systemic default settings in the software or application for this purpose, it is the customer's responsibility to check these, change them if necessary and adapt them to the applicable legal requirements.
- 16.8 KMH GmbH may publicly name the customer as a reference customer.

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17. Subject to change

KMH GmbH reserves the right to change its applicable GTC at any time, provided that the changes appear necessary, and the customer is not disadvantaged contrary to good faith. The customer has the right to object to the changed GTC within four weeks after being notified electronically. After receipt of an objection, the contract will initially be continued under the previous GTC. However, KMH GmbH has the right to extraordinary termination with a notice period of two weeks after receipt of the objection.

18. Final Provisions

- 18.1 Changes and additions to individual contracts between the parties and these GTC must be made in writing to be effective. The written form requirement can only be waived in writing. Transmission in text form, particularly by fax or e-mail, is sufficient to ensure compliance with the written form.
- 18.2 The law of the Federal Republic of Germany applies to all contracts between the parties, excluding the conflict of laws and the UN sales law (UN Convention on Contracts for the International Sale of Goods).
- 18.3 The place of performance and exclusive place of jurisdiction for all disputes arising from and in connection with this contract between KMH GmbH and the customer is the registered office of KMH GmbH for contracts with merchants.