

# General Terms of Sale

Last Updated 18<sup>th</sup> March, 2021

## **ARTICLE 1 – SCOPE**

These General Terms of Sale (hereinafter “General Terms of Sale”) apply, unconditionally and unreservedly to all sales entered into by KOS INC , the (“Vendor”), to consumers and non-professional buyers, the (“Customers or Customer”), wishing to purchase the products offered for sale by the Vendor, the (“Products”) on the [www.KOS-AI.com](http://www.KOS-AI.com) website.

These include the terms of ordering, payment, delivery, and managing any returns of Products ordered by Customers.

The General Terms of Sale apply and exclude all other terms, in particular those which apply to sales in shops or through other distribution and marketing channels.

They may be perused at any time on the [www.KOS-AI.com](http://www.KOS-AI.com) website and take precedence, if necessary, over any other version or another contradictory document.

Since these General Terms and Conditions of Sale may be subject to further modification, the version applicable to the Customer’s purchase shall be those in force on the website on the date the order is placed.

Changes to these General Terms of Sale are enforceable on users of the [www.KOS-AI.com](http://www.KOS-AI.com) website from the date they are put online and do not apply to transactions entered into previously. For this reason, the Vendor asks the Customer to read the General Terms of Sale carefully before placing each order. Any order implies prior perusal and acceptance of the General Terms of Sale by means of a checkbox provided for this purpose.

Please note that you may contact the Vendor by email ( [Contact@KOS-AI.com](mailto:Contact@KOS-AI.com) )

For other legal information, views the following sections: **[Terms of I](#)**

## **ARTICLE 2 – THE PRODUCTS OFFERED FOR SALE**

The Products offered for sale on the [www.KOS-AI.com](http://www.KOS-AI.com) website are those that are shown on the website on the day the Customer visits the website.

The key characteristics of the Products and in particular the specifications, illustrations, and indications of dimensions or capacity of the Products, are presented on the [www.KOS-AI.com](http://www.KOS-AI.com) website.

The Customer is responsible for taking note of these before placing an order.

The choice and purchase of a Product is the Customer’s sole responsibility.

The photographs on the [www.KOS-AI.com](http://www.KOS-AI.com) website are presented for illustrative purposes.

The Customer is required to refer to the description of each product to learn about its properties,

key characteristics, and delivery lead times.

The contractual information presented in English, German, Italian, and English must be confirmed when the Customer confirms the order at the latest.

The Products presented on the [www.KOS-AI.com](http://www.KOS-AI.com) website are offered for sale in the following countries: England, Monaco, Belgium, Italy, United Kingdom, Germany, Netherlands, Sweden, the United States, and Canada.

Should an order be to a country other than the EU countries listed above, the Customer is the importer of the Product(s) concerned.

For all Products shipped to the United States and Canada, the price of the Product will be indicated on the invoice as well as any customs duties or other local taxes, import duties, or state taxes that may be payable. They will be payable by the Customer.

### **ARTICLE 3 – VALIDITY PERIOD OF THE PRODUCT OFFERS**

The Product offers and prices are valid for as long as they are mentioned on the [www.KOS-AI.com](http://www.KOS-AI.com) website. Product availability information is provided to the Customer on the day of the order. Should, exceptionally, the Products ordered and paid for, be no longer available, the Customer Service will contact the Customer as soon as possible to inform them of this and to make a full refund of the amounts paid by the Customer. The Vendor reserves the right to withdraw Products from sale at any time.

### **ARTICLE 4- THE VENDOR'S CONTACT INFORMATION**

The Vendor's contact information is as follows:

KOS Inc, EMBARCADERO PLACE. 2100 GENG ROAD PALO ALTO CALIFORNIA 94303,  
United States

[customercare@KOS-AI.com](mailto:customercare@KOS-AI.com)

Confirmation of the order by the Customer is deemed to be unconditional and unreserved acceptance of the General Terms of Sale.

The Customer acknowledges having the capacity required to contract and purchase the Products offered on the [www.KOS-AI.com](http://www.KOS-AI.com) website.

## ARTICLE 5 – ORDERS

### 5-1 Ordering process

1. Fill the virtual cart by clicking on the “Add to cart” button and indicating the selected Products and desired quantities.

For a pre-order, fill in the virtual cart by clicking on the “Reserve item” button.

The Product shipment date will then be indicated.

1. Check the virtual cart and, if necessary, change its contents.
2. Click on the “Finalize your order” button.
3. Identify yourself on the Website
  - either by creating an account on the Website by clicking on “Register” and completing a form, some of whose fields are mandatory for your order to be taken into account ;
  - or by entering your email address in the “Unregistered user” insert which will allow you to make the purchase directly.
  - or if you already have a customer account, by logging in to the website by entering your email address and password and clicking on “Log in”.
5. Fill out the delivery information (full identity, email address, phone number, delivery contact details). Enter the billing address if it is different from the shipping address. The virtual cart summary page clearly indicates to the Customer the payment obligation resulting from the order confirmation process with the words “Order with payment obligation”.
  1. On completing the order process, the Customer is asked to choose their payment method by bank card or by PayPal account. For payment by bank card, the Customer must enter the details of the bank card used (holder name, card number, expiration, CVV) and is asked to check the box “By confirming your order, you agree to the General Terms of Sale”.
  2. They will then be asked to click on the “Finalize payment” icon. When clicking on this button, the Customer will be redirected to Paypal payments, a payment service provider, and will make payment according to the desired terms (Carte Bleue, Visa, MasterCard, and American Express only) - please refer to the Payment Terms article for more information.

Registration of an order on the [www.KOS-AI.com](http://www.KOS-AI.com) website is made when the Customer accepts the General Terms of Sale by checking the box provided for this purpose and confirms their order. This confirmation implies acceptance of all the General Terms of Sale as well as that of the **Terms of Use** of the [www.KOS-AI.com](http://www.KOS-AI.com) website.

The Vendor immediately sends you an order acknowledgment of receipt email, containing a summary of the information already contained in the order form (General Terms of Sale, information about the Product’s key characteristics, a breakdown of the price, the payment means, the existence of the right of withdrawal and the delivery lead times and costs).

After receipt of the confirmation email, the order can neither be modified nor cancelled, unless the right of withdrawal is exercised or in the event of force majeure.

Any order placed, confirmed by the Customer and confirmed by the Vendor, according to the above-described terms and conditions, on the [www.KOS-AI.com](http://www.KOS-AI.com) website is a contract concluded remotely between the Customer and the Vendor.

Unless otherwise indicated, the data recorded in the Vendor's computer system are proof of all the transactions with the Customer.

The Customer will be notified by email as soon as their order is deposited with the partner-carrier and they will be able to track the shipment of their order on the UPS website using the shipping number indicated in the email.

The Vendor does not wish to sell the Products on the [www.KOS-AI.com](http://www.KOS-AI.com) website to professionals, but only to consumers or non-professionals for their personal needs.

In accordance with the provisions of the US Consumer Code, the Vendor reserves the right to refuse or cancel an order for legitimate reasons (e.g. an order for an abnormal quantity, placed in bad faith, or an order from a Customer with whom a dispute relating to a previous order exists).

## **ARTICLE 6 – PRICES**

The Products are supplied at the prices in force appearing on the [www.KOS-AI.com](http://www.KOS-AI.com) website at the time the order is recorded by the Vendor. Prices are expressed in euros and include VAT for sales in European Union countries, in British pounds for sales in the United Kingdom, in US dollars for sales in the United States and in Canadian dollars for sales in Canada.

The prices take into account any reductions granted by the Vendor on the [www.KOS-AI.com](http://www.KOS-AI.com) website.

The Vendor reserves the right to offer promotional codes. These promotional codes may only be issued by the Vendor and will not be applicable to the price of Products already subject to other promotions (seasonal sales, batch sales, sales with free products or services, price reductions, etc.). The Vendor may not be held liable for any promotional codes disclosed on the forums other than those issued by it and to which it has not consented.

These prices are firm and not revisable during their validity period, as indicated on the [www.KOS-AI.com](http://www.KOS-AI.com) website, with the Vendor reserving the right, outside of this validity period, to change the prices at any time. They do not include the processing, shipping, transportation and delivery costs, which are charged in addition, according to the terms indicated on the [www.KOS-AI.com](http://www.KOS-AI.com) website and calculated prior to placing the order.

If the Customer requests a faster shipping method or one that is more expensive than standard shipping, the additional delivery costs, as they appear when the Customer confirms the order, shall be entirely at the Customer's expense.

The payment requested from the Customer is the total amount of the purchase, including these costs.

All Products have an identification label affixed to them with a single-use seal.

## **ARTICLE 7- PAYMENT TERMS**

For payment of the price of the Products and the costs associated with shipment and delivery, the Customer may follow the procedures indicated in the order form.

The price is payable in cash, in full on the day the order is shipped to the customer by the Vendor by secure payment, according to the following conditions:

- by bank card: Bank Card, Visa, MasterCard, American Express, other bank cards;
- by PayPal account

If payment is made by credit/debit card, financial information (e.g. the credit/debit card number or expiration date) will be transferred, using a cryptographic protocol to Paypal payments or other banks that provide services related to remote electronic payment, without any third parties having access to them under any circumstances. The Vendor will never become aware of financial information. It will liaise with Paypal payments for the procedures related to your purchase or to issue refunds in the event of any return of the Products in accordance with the right of withdrawal, or if it is necessary to prevent or report the occurrence of fraud on [www.KOS-AI.com](http://www.KOS-AI.com) to the competent authorities.

The Vendor uses a third-party secure payment system, Paypal payments. Processing of payments or any credits arising from the service will be governed by the terms and **privacy policy** of Paypal payments, the Vendor's partner, and the terms of the Customer's credit card issuer. The Vendor disclaims all liability in the event of an error due to the payment system.

## **ARTICLE 8- PRODUCT DELIVERY**

The Products ordered by the Customer will be delivered in Metropolitan England (and in the following countries: Monaco, Belgium, Italy, United Kingdom, Germany, Netherlands, Sweden, United States, and Canada) within 3 to 7 days from the order shipment date.

Unless one or more Products are unavailable, the Products ordered will be delivered together.

The Vendor shall make every effort to deliver the Products ordered by the Customer within the above-stated times. However, these periods are provided as an indication only. If the Products ordered have not been delivered within 5 days of the indicative delivery date, except in cases of force majeure such as a pandemic and lockdown, for any cause other than force majeure or due to the Customer's action, the sale may be canceled at the Customer's written request under the conditions laid down in the US consumer code. The amounts paid by the Customer will then be returned within fourteen days of the contract termination date, with no compensation or deduction retained.

If the delivered Product is defective, the Vendor undertakes to rectify the problem or refund the Customer, as described in Article 11 - “ – Legal Warranty”.

The Vendor bears the risks of transportation and is responsible for refunding the Customer in the event of damage caused during transportation.

## **ARTICLE 9 – TRANSFER OF OWNERSHIP – TRANSFER OF RISKS**

Regardless of the date of the transfer of ownership of the Products, the transfer of the risks of loss and deterioration relating thereto will only be made when the Customer physically takes possession of the Products. The Products, therefore, travel at the Vendor’s own risk.

## **ARTICLE 10– RIGHT OF WITHDRAWAL**

The aim of [www.KOS-AI.com](http://www.KOS-AI.com) is to guarantee the Customer's entire satisfaction. However, if for any reason the Customer is not satisfied with their order, they may, without penalty, subject to the terms set out in the General Terms of Sale, exercise their right of withdrawal within fourteen (14) days from the date on which they have received the Products purchased on [www.KOS-AI.com](http://www.KOS-AI.com). The Products that the Customer wishes to return must, within fourteen (14) days of the date on which they have exercised their right of withdrawal, be returned by the carrier of their choice or consign them to the UPS carrier according to the terms specified below. The Products may thus be returned by having the package sent by the carrier indicated by the supplier (UPS), provided that the **Return Form** that the Customer will find online in the My Account section or by contacting **Customer Care**. However, the chosen item may not be exchanged for a different one.

### *10.1 Terms for exercising the right of withdrawal:*

The terms for exercising the right of withdrawal are as follows:

- a) The Customer is invited to carefully fill in the return request in his customer area, in the framework where he registered, within 14 days following the date of receipt of his order. If the Customer has placed the order as a guest, or if he encounters difficulties, the return request can be made directly to our Customer Service;
- b) The Products must not have been worn, used, modified, washed or damaged and, in all cases, comply with the conditions stated in the section on the Conformity checks below;
- c) The refund label must still be attached to the Product with the single-use seal;
- d) The Products must be returned in their entirety, unused and in their original packaging;
- e) The returned Products must be consigned to the carrier within fourteen (14) days of the date on which your right of withdrawal is exercised.

If the Customer has complied with all the requirements, the Vendor will refund the price of the Products purchased and returned, as well as the originally paid delivery costs, less the costs related to the direct return costs which remain at the Customer’s expense.

If the Customer chooses to use UPS, the Customer will not have to pay or advance the return costs to the UPS courier, which are directly borne by the Vendor. The return costs will only be paid by the Vendor for one consignment. Therefore, in the case of multiple consignments, the return costs of the other consignments will be borne by the Customer. Should the Customer chooses to use a carrier

different from that proposed by [www.KOS-AI.com](http://www.KOS-AI.com), the Customer will have to pay the return costs directly to the carrier they have chosen.

Returns may be shipped by the UPS carrier specified by Vendor.

Until December 31, 2020, for any return the customer must either create a return in "My Account" section if registered as a user, or must contact the customer care which will send them a return voucher, a pre-printed label to affix to the package.

As of January 1, 2021, the Customer will be able to use the pre-printed adhesive label which they will find inside their package. This process will allow the Vendor to pay the return costs to the carrier directly and to check at any time where the package is located. The Customer will contact UPS to arrange the return of the Products. If for the return of the Products, the Customer decides to use a different carrier from that indicated by [www.KOS-AI.com](http://www.KOS-AI.com), they will personally pay the return costs and they will bear responsibility for loss or damage of the Products during the carriage.

The Customer will be contacted again if their return cannot be accepted as it does not comply with the conditions stated in paragraphs a) and e) of Section 10.1 above. The Customer may choose to have the Products they have purchased sent back to them. In the absence of such a request, the Vendor may keep the Products, in addition to the amounts already paid for their purchase.

#### *10.2 Conformity checks:*

The Products must be returned in their original condition, unused, in perfect condition, with all protective packaging, labels, and adhesives affixed to them (if applicable), including all accessories and documents. The Vendor reserves the right to refuse any Product return that shows signs of wear, or that has been used or modified compared to its original condition in any way, or alternatively, reduce the refund amount or the value of the exchange, as the case may be. For example, the Vendor may choose to grant a partial refund in the following cases:

- the product(s) have been used, worn, damaged, or washed;
- the single-use sealed identification label is not attached to the product(s) or has not been returned. The Customer should note that the identification label is an integral part of each product; and/or
- the Customer has not returned a packaging item that is an integral part of a product (e.g. the dust bag or storage bag).

The Customer will be informed if the Vendor decides to reduce the amount of the refund for this reason. In this case, the Customer may (rather than obtain a partial refund from the Vendor) choose to have the Products returned to them at their expense. If the Customer refuses this delivery, the Vendor reserves the right to keep the Products and the amount specified as a partial refund due to the loss of value of the returned Products.

#### *10.3 Refund time limits and terms:*

After receipt and verification by the Vendor of compliance with the requirements, the Customer will receive an email confirming acceptance of the return of the Products. Regardless of the payment method used (credit/debit card), the refund is activated by the Vendor as soon as possible, no later than fourteen (14) days after the Products are delivered to the UPS carrier or, in the case of another carrier, on receipt by the Vendor of proof of shipment of the Products, provided that exercising this right meets all the conditions set out in the General Conditions of Sale.

The actual time needed to re-credit or refund amounts depends on the payment method used:

- credit/debit card purchase: the refund time depends on the bank that issued the credit/debit card. The Vendor recalls that the date of the new credit (which is deemed to be the refund) will be the same as the debit date, as a result of which the Customer will not suffer any bank interest penalty;
- purchase via PayPal: the refund on the customer's PayPal account will be visible immediately. The actual refund on the credit card of the Customer's PayPal account depends on the credit card company;

If it is a gift, a refund of the amount will be made to the person who made the payment.

#### *10.4 Product labels:*

All Products offered for sale by the Vendor have a label fastened by a single-use seal. The Customer is requested to try the item without removing the label or the corresponding seal since returned Products will not be accepted if they are missing.

### **ARTICLE 11 – STATUTORY WARRANTY**

The Vendor shall be liable for non-conformity of the good with the contract under the conditions of the Consumer Code and for hidden defects of the thing sold under the conditions following of the US Civil Code.

#### **When acting on the basis of the statutory conformity warranty, the Customer:**

1. has a (30 day) period from delivery of the good to act;
2. may choose between repair or replacement of the good, unless such a choice leads to a clearly disproportionate cost in relation to other solution, taking into account the value of the good or the importance of the defect. The Vendor will then be required, unless it is impossible, to implement the solution not chosen by the Customer;
3. is exempted from reporting proof of the existence of the non-conformity of the good for 30 days months following delivery of the good.

The statutory conformity warranty applies irrespective of the commercial warranty which may be granted.

The Customer may decide to invoke the warranty against hidden defects of the thing sold within the meaning of the US Civil Code and



in this case, they can choose between cancellation of the sale or a reduction of the selling price.

In the event of a conformity defect of a delivered Product, the Customer may return the Product with the conformity defect to the Vendor, in its original condition, which must have the original labels and the original packaging and the delivery note, specifying in advance to the Vendor the reasons for the return by contacting the Customer Service.

Failing this, the Vendor will neither repair nor refund the defective Product returned.

Should the return of the defective Product be well-founded, the Vendor will repair or refund the defective Product and the delivery costs, excluding any other compensation.

With the exception of the above cases, no Product exchange or repair is permitted.

## **ARTICLE 12 - INTELLECTUAL PROPERTY**

The KOS trademark and all the trademarks, signs and logos appearing on the Products, their accessories or their packaging, whether registered or not ("KOS Marks") are and remain the Vendor's exclusive property.

The content of the [www.KOS-AI.com](http://www.KOS-AI.com) website, in particular, the textual, visual, graphic elements contained therein, in particular graphics, images, characters and any other element of the website ("Content"), belongs to the Vendor and its partners and is protected by English and international intellectual property laws.

The KOS Mark, the [www.KOS-AI.com](http://www.KOS-AI.com) website and its Content may not be modified, reproduced, represented, incorporated in a derivative work or otherwise, on any medium. Any reproduction in whole or in part of this content is strictly prohibited and may constitute an offense of infringement.

No provision of the General Terms of Sale grants the Customer rights to the website, except those needed for navigation by the Customer on the website, and for placing an order.

## **ARTICLE 13 – PERSONAL DATA**

When the Customer navigates on the [www.KOS-AI.com](http://www.KOS-AI.com) website, creates an account and/or places an order, the Vendor acts in its capacity as the data controller of the personal data communicated by the Customer. For more information on how KOS collects and processes the Customer's personal data as well as the rights the Customer has, they may peruse the **Privacy Policy**.

#### **ARTICLE 14 - FORCE MAJEURE**

The Parties may not be considered liable if the non-performance or delay in the performance of any of their obligations, as described in the General Terms of Sale, results from a force majeure event.

#### **ARTICLE 15- APPLICABLE LAW - LANGUAGE**

The General Terms of Sale and the operations arising therefrom will be governed by US Law.

They are written in English. If they are translated into one or more other languages, only the English text would be considered authentic in the event of a dispute.

#### **ARTICLE 16 – DISPUTES**

All disputes to which the purchase and sale transactions concluded pursuant to the General Terms of Sale could give rise, in relation to their validity, interpretation, performance, termination, consequences and their impacts which have not been able to be resolved between the Vendor and the Customer will be subject to the jurisdiction of the English courts, which have non-exclusive jurisdiction. A Customer residing in another Member State of the European Union may also bring legal proceedings in the courts of the Member State in which they reside.

The Customer is informed that in all circumstances, they may engage in contractual mediation or through existing sectoral mediation bodies or using any alternative dispute settlement mechanism (e.g. conciliation) in the event of a dispute.

#### **ARTICLE 17- THE CUSTOMER'S ACCEPTANCE**

By placing an order on the [www.KOS-AI.com](http://www.KOS-AI.com) website a natural person (or legal entity) is deemed to adhere to and accept in full the General Terms of Sale and the obligation to pay for the products ordered. The Customer expressly recognizes the foregoing and waives, in particular, to right to rely on any contradictory document, which would, in any event, be unenforceable on the Vendor.

#### **ARTICLE 18 – ARCHIVING OF TRANSACTIONS**

Invoices are archived on a reliable and durable medium to ensure they are faithful and durable copies.

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