



General Conditions of Purchase

General conditions of purchase of Klingelberg GmbH (KLD), Hückeswagen, Germany (1209)

1. General - Scope of validity

- 1.1 These conditions of purchase apply exclusively for all orders on the part of KLD. Deviant or conditions of the Supplier contradictory to these conditions are not subject matters of contract, unless KLD has explicitly approved conditions of the Supplier which are to the contrary or which deviate from these conditions of purchase in writing. These conditions of purchase also apply if KLD unconditionally accepts the Supplier's delivery while aware of conditions of the Supplier which are to the contrary or which deviate from these conditions of purchase.
- 1.2 All agreements reached between KLD and the Supplier must be put into writing in the respective supply agreement.
- 1.3 These conditions of purchase also apply for all future dealings with the Supplier.
- 1.4 These conditions of purchase only apply for dealings with companies within the meaning of § 14 BGB (German Civil Code).

2. Order documentation - Nondisclosure

- 2.1 KLD reserves the ownership and intellectual property rights to all construction drawings, illustrations, drawings, calculations, parts lists, models, etc. Third parties may not be granted access to these without the express written permission of KLD. They may only be used for production on the basis of KLD's order and must be returned to KLD unprompted after execution. Their content and/or properties must be kept secret from third parties.

3. Prices - Payment conditions

- 3.1 The price shown in the order is binding for the Supplier. It includes delivery free domicile including packaging. The current regulation on packaging applies to the return of packaging.
- 3.2 The statutory value added tax is included in the price. KLD's EU VAT ID no. is: DE 184637081
- 3.3 KLD will only make payments in foreign currencies if this is explicitly provided for in the order.
- 3.4 Invoices must be submitted separately with the delivery and in duplicate; they may not be attached to the shipment. KLD will only process invoices if they include the order number stated in the order.
- 3.5 Unless otherwise agreed in writing, KLD shall make payment, counted from receipt of the delivery and invoice, for receipt in the time from
1st to 10th of a month on 20th of the month
11th to 20th of a month on 30th of the month
21st to 31st of a month on 10th of the following month,
in each case with the agreed discount or else with 2% discount. Method of payment at KLD's choice. The payment by note does not exclude cash discount deduction.
- 3.6 KLD reserves the rights to set-off and detain to the extent permitted by law.

4. Delivery time

- 4.1 The delivery time specified in the order is binding.
- 4.2 The Supplier is obligated to inform KLD immediately and in writing if circumstances occur or become noticeable to him which mean that the specified delivery time cannot be met.



- 4.3 In case of delayed delivery, KLD is entitled to assert legal claims. In particular, after the fruitless expiry of an appropriate extension period, KLD may demand damages for non-performance.

5. Delivery and shipping instructions

- 5.1 Unless otherwise agreed in writing, delivery shall take place free domicile.
- 5.2 The Supplier is obligated to quote the KLD order number on all shipping documents and delivery notes; if he fails to do so, KLD shall not be responsible for the resulting delays in processing.
- 5.3 A supplier delivering machines within the meaning of the EC machine directives (2006/42/EC, as amended from time to time) must include with the delivery an EC certificate of conformity or installer's/manufacture's declaration which fulfils the prerequisites for affixing the "CE" symbol.

6. Inspection for defects - Warranty

- 6.1 For the rights in case of defects as to quality and defects of title of the goods (including wrong delivery and short delivery, as well as incorrect assembly and inadequate assembly and operating instructions) and in case of other breaches of duty by the Supplier, the statutory provisions apply unless agreed otherwise in the following.
- 6.2 According to the statutory provisions, the Supplier is liable in particular for ensuring that the goods have the agreed properties upon transfer of the risk to KLD.

The product descriptions which, in particular through designation or reference in the order from KLD, are the subject matter of the respective agreement, or which were incorporated into the agreement in the same way as these conditions of purchase, are regarded as an agreement as to the properties in each case. For this, it makes no difference whether the product description originates from KLD, from the Supplier or from the Manufacturer.

- 6.3 If the properties have not been agreed on, a defect as to quality exists if the goods are not suitable for the use intended in the agreement. For the remainder, a defect as to quality also exists in addition to the statutory provisions if the goods do not possess the characteristics which KLD can expect in accordance with the product descriptions given by the Supplier or the Manufacturer; for this it is sufficient if the product description was surrendered to KLD after conclusion of the agreement (e.g. together with the goods).
- 6.4 Notwithstanding § 442 para. 1, sentence 2 BGB (German Civil Code), KLD is also entitled to claim for defects without restriction if the defect remained unknown to KLD upon conclusion of the agreement as a result of gross negligence.
- 6.5 For the commercial duty to inspect and to give notice of defects, the statutory provisions (§§ 377, 381 HGB (German Commercial Code)) apply with the following proviso:
KLD's duty to inspect is limited to defects which come to light during incoming goods inspection through external survey including the shipping documents, as well as during quality control by KLD using a sampling procedure (e.g. transport damage, wrong delivery and short delivery). If acceptance has been agreed, no duty to inspect exists. For the rest, it depends to what extent an inspection taking into account the circumstances of the individual case is feasible according to the proper course of business.

KLD's duty to give notice of defects for defects discovered later remains unaffected. In all cases, notification of a defect by KLD is regarded as being without delay and in time if it is received within five working days by the Supplier.

- 6.6 If the Supplier does not honor his obligation to supplementary performance, either by remedying the defect (subsequent improvement) or by supplying an item which is free from defects (replacement) at KLD's option, within an appropriate time limit set by KLD, KLD can remedy the defect himself and demand reimbursement of the costs required to do this or an appropriate advance payment from the Supplier. If supplementary performance by the Supplier has failed or is unreasonable for KLD (e.g. because of particular urgency, endangerment of the operating reliability or the imminent occurrence of disproportionate damages), no time limit need be set. The Supplier must be informed without delay, as far as possible in advance.
- 6.7 For the rest, KLD is entitled to reduction of the purchase price in case of a defect as to quality in accordance with the statutory provisions or to withdrawal from the agreement. Furthermore, KLD has an entitlement to



damages and reimbursement of expenses in accordance with the statutory provisions; this also applies explicitly in cases of consequential harm caused by a defect.

- 6.8 For parts of the delivery which are reconditioned or repaired within the limitation period applicable for KLD's right to claim damages for defects, the limitation period begins to run again at the point in time at which KLD's claims for supplementary performance have been met in full by the Supplier.
- 6.9 If costs are incurred by KLD as a result of the defective delivery, in particular travel and transport, labor and material costs or costs for reception inspection beyond the usual extent, the Supplier shall reimburse KLD for these costs.
- 6.10 If KLD takes back products which they have produced and/or sold themselves as a result of the defectiveness of the subject matter of the agreement delivered by the Supplier or if the purchase price paid to KLD was reduced or if claims were made on KLD in any other way for this reason, KLD reserves the right to withdraw from the agreement with the Supplier without needing to set a deadline.
- 6.11 KLD is entitled to demand compensation from the Contractor for costs which KLD had to bear in relation to his customer because the customer had a claim against KLD to compensation of the costs required for the purposes of supplementary performance, in particular travel, transport, labor and material costs.
- 6.12 The limitation period in cases of 6.10 and 6.11 commences at the earliest two months after the point in time when KLD has met the claims of the customer addressed to KLD, but at the latest five years after delivery by the Supplier.

7. Software, rights, defects of title

- 7.1 If the Supplier's delivery contains software, rights or other objects, the use of which is only permitted based on corresponding rights of use (licenses), the required rights of use will be transferred to KLD with the delivery without a surcharge. The Supplier is liable for the existence, the assignability and the enforceability of the rights of use.
- 7.2 Furthermore, the Supplier is liable for ensuring that industrial property rights (e.g. patents, utility models, design patents, trademarks), as well as copyrights and other rights of third parties are not infringed by his delivery. If claims are made against KLD by a third party by reason of an asserted breach, the Supplier is obligated to release KLD from these claims at the first request. A limitation period of ten years applies to the right to release. Within the scope of this duty to release, the Supplier shall reimburse all costs in accordance with §§ 683, 670 BGB (German Civil Code) which result from or in connection with a claim from a third party. KLD shall inform the Supplier about the content and amount of possible costs as far as this is possible and reasonable and shall give him the opportunity to make a statement.
- 7.3 Irrespective of the aforementioned obligation to release, the provisions of these conditions of purchase apply to the liability of the Supplier in the case of defects of title (in particular sections 6.5, 8 and 10) with the following proviso:
 - 7.3.1 A defect of title exists if third parties are able to assert claims against KLD with regard to the subject matter of the agreement, which KLD does not have to accept according to the arrangements with the Supplier. If a right is the subject matter of the agreement, the same also applies for its existence, assignability and enforceability.
 - 7.3.2 If a defect of title exists, the Supplier is obligated to provide the right to unrestricted further use (rectification of defects) or, at KLD's option, to modify the subject matter of the agreement in a way that is reasonable for KLD such that the defect of title no longer exists (replacement).
 - 7.3.3 The Supplier is also liable for the compensation of damage and reimbursement of expenses if he was not aware of the defect of title or is not responsible. KLD's statutory right to reduce the purchase price or to withdraw from the agreement remains unaffected.

8. Supplier recourse

- 8.1 KLD is also entitled without restriction to its statutorily determined rights of recourse within a supplier chain (supplier recourse according to §§ 478, 479 BGB (German Civil Code)), as well as the claims for defects. In particular, KLD is entitled to demand precisely the type of supplementary performance (rectification of



defects or replacement) from the Supplier which KLD owes to the Customer in the individual case. KLD's statutory right to choose (§ 439 para. 1 BGB) is not restricted by this.

- 8.2 This also applies in the case that the delivery item has been converted by KLD or a third party. Furthermore, KLD is also entitled to these claims if the third party or the end customer is not a consumer, but is instead a contractor.
- 8.3 Before KLD recognizes or fulfils a claim for defects asserted by a customer of KLD (including reimbursement of expenses in accordance with §§ 478 para. 3, 439 para. 2 BGB), KLD will inform the Supplier and, giving a brief description of the facts of the case, will request a written statement. If the statement is not made within an appropriate period and if no amicable solution is precipitated, the claim for defects effectively allowed by KLD is regarded as owing to the respective customer; in this case, the Supplier is responsible for supplying counter evidence.
- 8.4 The claims of KLD for supplier recourse also apply in addition to the statutory regulation if delivery of the goods to a consumer has not taken place, for whatever reasons.

9. Product liability - Release - Insurance cover - QA

- 9.1 If the Supplier is responsible for product damage, he must release KLD from claims for damages from third parties at the first request insofar as the cause is within his sphere of influence and organization and he is himself liable in the legal relationship with third parties.
- 9.2 In cases of fig. 9.1, the Supplier is also obligated to recompense KLD in accordance with §§ 683, 670 BGB (German Civil Code) for all costs resulting from or in connection with a product recall by KLD. KLD will inform the Supplier about the content and extent of the product recall in good time, as far as is possible and reasonable.
- 9.3 The Supplier is obligated to maintain product liability insurance with a limit of indemnity of €2.5m for personal injury/property damage (lump-sum), without this resulting in the exclusion of further claims for damages on the part of KLD.
- 9.4 The Supplier is obligated to operate quality assurance within the framework of DIN/EN/ISO 9000 ff for his products.

10. Supply - Tools

- 10.1 KLD reserves the right to ownership of the parts supplied. Conversion or alteration by the Supplier take place for KLD. If the KLD reserved goods are converted using other objects not belonging to KLD, KLD acquires the joint ownership to the new item proportional to the value of the KLD item to that of the other converted objects at the time of the conversion.
- 10.2 If the parts supplied by KLD are inextricably combined with other objects not belonging to KLD, KLD acquires the joint ownership to the new item proportional to the value of the reserved goods to that of the other combined objects at the time of the combining. If combining takes place in such a way that the Supplier's item is to be regarded as the main item, it applies as agreed that KLD acquires proportional joint ownership. The Supplier holds the KLD sole ownership or joint ownership for KLD.
- 10.3 Supplied tools, etc. remain the property of KLD. The Supplier may only use the tools, etc. to manufacture the objects ordered by KLD. The Supplier must insure the tools etc. belonging to KLD at replacement value against fire, water, and theft at his own expense. He must report failures to KLD immediately and carry out possible required maintenance and inspection work at his own expense and in good time, for example.

11. Limitation

- 11.1 The reciprocal claims of the contractual parties become time-barred in accordance with the statutory provisions, unless provided otherwise in the following.



- 11.2 Notwithstanding § 438 para. 1, no. 3 BGB (German Civil Code), the general limitation period for claims for defects is three years from delivery. If acceptance has been agreed, the limitation period begins with the acceptance.
- 11.3 The limitation periods of sales law, including the aforementioned extension, apply for all contractual claims for defects to the extent permitted by law. If KLD is also entitled to non-contractual claims for damages by reason of a defect, the regular statutory limitation period applies (§§ 195, 199 BGB); but the specific limitation periods of sales law apply if their application leads to a longer limitation period.
- 11.4 The aforementioned paragraph 3, sentence 2 applies accordingly for all claims resulting from defective titles, either contractual or non-contractual, in accordance with figure 7. Furthermore, claims of this type do not become time-barred at all, as long as the third party can still assert the right against KLD, particularly in the absence of limitation. The statutory limitation period for the material claims for the restitution of property by third parties (§ 438 Abs. 1 no. 1 BGB) remains unaffected.

12. Place of fulfillment - Place of jurisdiction - Applicable law

- 12.1 Unless otherwise agreed in the order, KLD's place of business is the place of fulfillment.
- 12.2 If the Supplier is a registered trader, the jurisdiction is KLD's place of business. KLD can, however, also bring an action against the Supplier in his own general jurisdiction.
- 12.3 Unless otherwise stipulated in the order and in these conditions of purchase, the law of the Federal Republic of Germany applies.