



## General Terms and Conditions of Purchase

General Terms and Conditions of Purchase of KLINGELNBERG GmbH (KLD), Hückeswagen, Germany

### 1 General Information – Scope of Validity

- 1.1 These terms and conditions of purchase apply exclusively for all orders placed by KLD. Any terms of business of the supplier which deviate from or are contrary to these terms and conditions of purchase shall not apply to contracts unless KLD has expressly approved of the deviating or contrary conditions of the supplier in writing. These terms and conditions of purchase also apply if KLD unconditionally accepts deliveries of the supplier while aware of conditions of the supplier which deviate from or are contrary to these terms and conditions of purchase.
- 1.2 All agreements between KLD and the supplier must be made in writing in the respective supply contract.
- 1.3 These terms and conditions of purchase also apply to all future business transactions with the supplier.
- 1.4 These terms and conditions of purchase only apply towards companies as defined in section 14 of the BGB (German Civil Code).

### 2 Order Documents – Confidentiality

- 2.1 KLD retains all rights of ownership and copyright to all design documents, images, drawings, calculations, parts lists, models, etc. These may not be made available to third parties without the express written consent of KLD. They are to be used exclusively for manufacturing in compliance with the KLD order and must be returned unbidden to KLD when the order has been completed. Their content and properties may not be disclosed to third parties.
- 2.2 In the event that the supplier or a third-party recipient is in breach of the obligations resulting from this Non-Disclosure Agreement, the supplier will remit to KLD for each infringement of obligation, with exclusion of the plea of connection with any previous act of contravention, a contractual penalty in the amount of €200,000. The payment of the contractual penalty does not affect the assertion of a further claim.

### 3 Prices – Terms of Payment

- 3.1 The price stated in the order is binding for the supplier. It includes free domicile delivery including packaging. The currently applicable packaging regulations apply for returning packaging materials.
- 3.2 The legally valid rate of sales tax is included in the price. The KLD EU VAT ID no. is: DE 184637081
- 3.3 KLD will only pay in foreign currency if this is expressly stated in the order.
- 3.4 Invoices must be submitted separately in duplicate with the supplied goods but should not be enclosed in the consignment. KLD will only process invoices which include the order number stated in the order.
- 3.5 Unless otherwise agreed in writing, KLD will make payment, at its own discretion, within 14 days with a 3% discount or after 90 days – net, without deduction –calculated from receipt of the delivery and invoice. Means of payment will be selected by KLD. Payment by bill of exchange does not exclude deduction of discount.
- 3.6 KLD has statutory set-off and retention rights.



## 4 Delivery Time and Default of Delivery

- 4.1 The delivery time stated in the order is binding.
- 4.2 The supplier is obliged to inform KLD immediately in writing if circumstances occur or if it becomes aware of circumstances which mean that the agreed delivery time cannot be met.
- 4.3 In the event of default of delivery, KLD is entitled to statutory claims. KLD is in particular entitled to damages due to non-fulfillment after fruitless expiry of a suitable period of grace.
- 4.4 Unless otherwise agreed, KLD is entitled to charge a contractual penalty in the event of late deliveries amounting to 2% per started week, maximum 10%, relative to the value of the order. At its own discretion, KLD may also decrease the invoice amount accordingly.

We are entitled to demand the contractual penalty in addition to the performance and as a minimum amount of compensation owed by the supplier in accordance with the statutory provisions; the right to claim further damages remains unaffected.

## 5 Delivery and Shipping Regulations

- 5.1 If no other agreements have been made in writing, delivery will be free domicile.
- 5.2 The supplier is obliged to state the KLD order number on all shipping documents and delivery notes; if this is omitted, KLD is not responsible for any occurring processing delays.
- 5.3 When supplying machinery as defined in the EC Machinery Directive (current valid version of 2006/42/EC), the supplier must enclose an EC declaration of conformity or a Manufacturer's Declaration of Incorporation to ensure that conditions are met for attachment of the "CE" mark.

## 6 Examination of Defects – Warranty

If the supplier discovers defects on the supplied goods or comparable products, or if such defects are suspected, it must inform KLD in writing immediately. The subsequent procedure (subsequent processing, reworking, special release, returns, rejection or scrapping, decision on corrective measures, etc.) will be specified exclusively by KLD.

- 6.1 Statutory regulations apply for all rights in the event of defects of quality or title (including incorrect and short deliveries as well as incorrect assembly, faulty installation or operating instructions, or user manual) and for any other violation of the obligations of the supplier if no other agreement has been made.
- 6.2 Statutory regulations stipulate in particular that the supplier is obliged to ensure that the properties of the goods are as agreed when risk is passed to KLD.

The agreed properties of the goods are at least the properties of the product descriptions, which are in particular subject of the respective contract by means of designation or reference in the KLD order or which are included in the scope of the contract in the same manner as these terms and conditions of purchase. It is irrelevant whether the product description originates from KLD, the supplier, or the manufacturer.

- 6.3 If the properties are not agreed, there is a quality defect if the goods are unsuitable for the application stipulated in the contract. Beyond the statutory regulations, a quality defect also occurs if the goods do not have the properties which KLD can expect on the basis of the product descriptions provided by the supplier or



manufacturer; it is sufficient if KLD was given the product description after conclusion of contract (e.g., together with the goods).

- 6.4 Contrary to section 442 paragraph 1 clause 2 of the BGB (German Civil Code), KLD also has unlimited warranty rights if the defect remained unknown to KLD upon conclusion of contract due to gross negligence.
- 6.5 The statutory regulations apply for the obligation of examination and notice of non-conformity (sections 377 and 381 HGB – German Commercial Code) with the following proviso:

The examination obligation of KLD is limited to defects which are immediately visible during incoming goods inspection by KLD upon external examination of the goods including the delivery papers as well as during random KLD quality checks (e.g., transport damage, incorrect and short deliveries). If acceptance is agreed, there is no examination obligation. Beyond this it depends to which extent examination is feasible during the orderly course of business, taking the circumstances of the individual case into account.

The KLD obligation of notice of non-conformity for defects discovered at a later point in time remains unaffected. In all cases, a notice of defects by KLD is regarded as immediate and timely if it is received by the supplier within five working days.

- 6.6 If the supplier fails to fulfill its obligation to rectify the faults – either by elimination of the fault (reworking) or supply of a faultless product (replacement), to be stipulated by KLD – within a reasonable period of time stipulated by KLD, KLD is entitled to rectify the fault itself and demand reimbursement of the respective costs or a corresponding advance payment. If the rectification of the fault by the supplier has failed or is unreasonable for KLD (e.g., due to special urgency, if operational reliability is compromised, or in the event of the threat of disproportionate damage), it is not necessary to set a deadline. The supplier must be notified immediately, beforehand if possible.
- 6.7 In addition, pursuant to statutory regulations, KLD is entitled to a reduction in price or to withdraw from the contract in the event of a quality defect. Pursuant to statutory regulations, KLD also has the right to damages and reimbursement of expenses; this also applies expressly in the event of consequential damage caused by a defect.
- 6.8 The limitation period for the KLD warranty rights for restored or repaired parts of the delivery starts anew at the point in time when the supplier has fully fulfilled the claims of KLD for rectification of faults.
- 6.9 If KLD incurs costs due to the faulty supplies, especially transport, infrastructure, labor or material costs, or costs for an incoming goods inspection which exceed the normal scope, the supplier must reimburse these costs to KLD.
- 6.10 If KLD recalls goods it has produced and/or sold due to faults in the contractual goods supplied by the supplier, or if the purchase price paid to KLD has been reduced, or if claims of any other kind have been made towards KLD, KLD reserves the right to withdraw from the contract with the supplier, whereby the warranty rights of KLD do not require an additional deadline which is otherwise necessary.
- 6.11 KLD is entitled to demand reimbursement of costs from the supplier which KLD had to bear in its relationship with its customer if the customer submitted a claim towards KLD for reimbursement of costs required to rectify faults, in particular transport, infrastructure, labor and material costs.
- 6.12 The limitation in cases stated in sections 6.11 and 6.12 comes into force at the earliest two months after the date upon which KLD fulfilled the claims made by the customer against KLD, however at the latest five years after delivery by the supplier.



## 7 Software, Rights, Defect of Title, Right of Access

- 7.1 If the supplier has supplied software, rights, or other objects for which rights of use (licenses) are required, the necessary rights of use will be transferred to KLD without any extra charge. The supplier is liable for the continuance, transferability, and enforceability of the rights of use.
- 7.2 The supplier is also liable for ensuring that industrial property rights (e.g., patents, utility patents, design patents, brands) as well as copyrights and other third-party rights are not violated. If a claim is made towards KLD by a third party on the basis of an alleged violation of rights, the supplier is obliged to indemnify KLD against these claims upon first request. A limitation period of 10 years applies for the rights of indemnity. Within the scope of this obligation to indemnify against third-party claims, the supplier must reimburse all costs in accordance with sections 683 and 670 of the BGB (German Civil Code) which are incurred as a result of or in connection with a third-party claim. KLD will inform the supplier of the content and scope of possible costs – if possible and reasonable – and give it the opportunity to comment.
- 7.3 Irrespective of the previously described obligation to indemnify against third-party claims, the provisions of these terms and conditions of purchase apply for the liability of the supplier in the event of defect of title with the following provisos:
- 7.3.1 A defect of title occurs if third parties can make a claim against KLD in connection with the subject of contract which KLD does not have to accept pursuant to the agreements with the supplier. If a right is a subject of the contract, the same applies for its continuance, transferability, and enforceability.
- 7.3.2 If a defect of title occurs, the supplier is obliged to grant KLD the right to unrestricted further use (reworking) or – depending on the choice of KLD – to modify the subject of contract in a manner which is acceptable to KLD so that the defect of title is eliminated (replacement).
- 7.3.3 The supplier is also liable for reimbursement of damages and costs if it was unaware of the defect of title or is not otherwise responsible. The statutory right of KLD to reduce the purchase price or withdraw from the contract remains unaffected.
- 7.4 The supplier grants KLD, its customers, as well as the regulatory authority a right of access to all facilities associated with the order and the associated records. It also hereby agrees to the performance of quality audits to assess the effectiveness of its quality assurance system by the ordering party, its customers, as well as the regulatory authority. The time and scope of the works visit will be agreed with the supplier before the visit takes place.  
Insofar as the supplier makes use of sub-suppliers, it will oblige them to grant appropriate access rights to the ordering party.

## 8 Supplier's Recourse

- 8.1 In addition to warranty rights, KLD has unrestricted statutory recourse rights within a supplier chain (supplier recourse in accordance with sections 478 and 479 of the BGB – German Civil Code). In particular KLD is entitled to demand the exact method of rectification of faults (reworking or replacement) from the supplier which KLD owes the consumer in individual cases. This does not limit the statutory right of choice of KLD (section 439 paragraph 1 of the BGB – German Civil Code).
- 8.2 This also applies in the event that the supplied goods have been processed further by KLD or a third party. In addition, KLD also has these rights if the third party or the end customer is not a consumer, but an entrepreneur.
- 8.3 Before KLD recognizes or fulfills a claim for defects made by a consumer (including the reimbursement of costs according to sections 478 paragraph 3 and 439 paragraph 2 of the BGB – German Civil Code), KLD will notify the supplier and request a written statement, describing the respective circumstances. If the statement



is not made within a suitable period of time and if no amicable solution is found, the warranty claim actually granted by KLD is considered to be owed to the respective consumer; the supplier must provide evidence to the contrary in this case.

- 8.4 The supplier recourse rights of KLD also apply in addition to statutory regulations if no goods have been supplied to the consumer, irrespective of the reason.

## 9 Product liability – Exemption – Insurance Protection – QA

- 9.1 If the supplier is responsible for a product fault, it must indemnify KLD against damage claims of third parties upon first request to the extent that the cause is within its scope of influence and organization and it is liable itself in the external relationship.
- 9.2 In cases described in section 9.1., the supplier is also obliged to reimburse all costs to KLD in accordance with sections 683 and 670 of the BGB (German Civil Code) which are incurred in connection with a KLD product recall. KLD will inform the supplier of the content and scope of the product recall in good time if possible and reasonable.
- 9.3 The supplier is obliged to maintain product liability insurance with a coverage of 2.5 million euros for each instance of personal injury or property damage as a lump sum without the exclusion of any further claims for damages of KLD.
- 9.4 The supplier is obliged to maintain a quality assurance system for its products in compliance with DIN/EN/ISO 9000 ff.  
The respective supplier must be certified to DIN EN 9100 to engage in cooperation with KLD in the Aerospace division and must provide evidence of NADCAP certification for respective processes (such as heat treatment).  
All employees of the supplier must be qualified for their respective tasks. The employees must be sufficiently trained with regard to quality assurance and statistical methods. The supplier must be able to provide corresponding training documentation and reports. Only correspondingly trained employees may be deployed for special processes.
- 9.5 The supplier must forward all requirements of the procurement documents (such as specifications, drawings, process requirements, test instructions) including customer specifications in a suitable manner to its sub-suppliers.
- 9.6 KLD must be informed of all changes to manufacturing methods, processes, materials, or bought-in parts for the products, changes in sub-suppliers, relocation of manufacturing facilities, changes to processes, or equipment for product testing or other quality assurance measures in good time before the planned implementation to clarify subsequent procedures; these all require the written approval of KLD.

Notification will be provided to KLD using the “Supplier Change Request” (SCR) form. The form is available for download from the company’s website (<http://www.klingelberg.info/>).



## 10 Conflict Minerals / Statement

The extraction of certain raw materials in the Democratic Republic of Congo (DRC) and the neighboring countries contributes in some measure to significant violations of human rights and the financing of violent conflicts in this region. The Congress of the United States of America passed the "Dodd-Frank Wall Street Reform and Consumer Protection Act" (Dodd-Frank Act) in 2010. Section 1502 of the Dodd-Frank Act and the implementation rules of the U.S. Securities and Exchange Commission (SEC) require from companies subject to SEC supervision a report indicating whether the products that are produced by them or whose production they have commissioned contain "conflict materials" that are "necessary for the functionality or production" of these products. The Dodd-Frank Act and the SEC define "conflict minerals" as tantalum, tin, tungsten (and the ores from which they are obtained), and gold, regardless of where they are obtained, processed, or sold.

KLINGELBERG GmbH (including all associated companies) is not subject to SEC supervision and therefore has no legal obligation to fulfill the requirements pertaining to conflict minerals as stipulated in section 1502 of the Dodd-Frank Act. At the same time, we recognize that the SEC provisions of section 1502 require our direct and indirect customers to perform due diligence within their global supply chains. We will assist them appropriately in fulfilling their reporting obligations.

Statement: KLINGELBERG GmbH endeavors not to purchase material containing "conflict materials" that directly or indirectly finance or benefit armed groups in the DRC or the neighboring states. We implement appropriate processes to understand where in our products "conflict minerals" are contained, as well as to determine the source and origin in our supply chain. These activities are based on the established frameworks of the Organisation for Economic Co-operation and Development (OECD) and other industry initiatives. Due to the variety of the products we offer and the high complexity of the corresponding supply chains, this is a challenging and ongoing process. We will contact our direct suppliers to increase transparency with respect to the products supplied by them. We will continue to work closely with customers, suppliers, and other stakeholders concerning constructive efforts and practical solutions.

## 11 Traceability, Archiving

- 11.1 The supplier undertakes to maintain documented records of the materials used and to archive these for at least 10 years from the date of delivery of the respective deliverable. This includes the traceability of the material batches used for the respective lots delivered to the ordering party. To ensure the traceability of the production and release, the supplier undertakes to archive supply documents, quality records, and product samples unless otherwise agreed for a period of at least 10 years from the date of delivery of the respective deliverable and to make these available to the ordering party on request.

For suppliers to the Aerospace division, archiving periods will apply mutatis mutandis for as long as KLD maintains service contracts with customers, at minimum however an archiving duration of 30 years will apply from the date of delivery of the respective deliverable.





## 12 Provided Parts – Tools

- 12.1 KLD retains the ownership of all provided parts. The supplier processes or reworks these on behalf of KLD. If KLD processes goods which are subject to retention of title with other goods which are not the property of KLD, KLD acquires co-ownership rights to the new product in relation to the value of the KLD item to the other processed goods at the time of processing.
- 12.2 If parts provided by KLD are combined irreversibly with other parts which do not belong to KLD, KLD acquires the co-ownership rights to the new product in relation to the value of the goods which are subject to retention rights to the other combined goods at the point of time at which they were combined. If they are combined in a manner in which the goods of the supplier are to be regarded as the main part, it is agreed that KLD will acquire proportional co-ownership rights. The supplier shall keep the KLD sole or co-ownership rights for KLD.
- 12.3 Provided tools, etc., remain the property of KLD. The supplier may only use the tools, etc., for the production of products ordered by KLD. The supplier must insure the tools, etc., belonging to KLD for the replacement value against fire and water damage as well as theft. It must inform KLD immediately of malfunctions and carry out any maintenance and inspection work at its own expense.

## 13 Limitation

- 13.1 The mutual claims of the parties to the contract are subject to the statutory limitation regulations if no agreement to the contrary is made.
- 13.2 Contrary to section 438 paragraph 1 no. 3 of the BGB (German Civil Code), the general period of limitation for claims arising from defects is three years from delivery. If acceptance is agreed, the period of limitation commences upon acceptance.
- 13.3 The periods of limitation of the law of sale including the previously mentioned extension apply for all contractual claims arising from defects to the legal extent. If KLD is also entitled to non-contractual claims for damages arising from a defect, the regular statutory period of limitation applies (sections 195 and 199 of the BGB – German Civil Code); the special periods of limitation of the law of sale also apply if their application results in a longer period of limitation in individual cases.
- 13.4 The previous paragraph 3 clause 2 applies for all contractual and non-contractual claims arising from defects of title in accordance with section 7. Such claims are not limited if the third party can still make the claim against KLD – especially due to lack of a limitation period. The statutory limitation period for in rem surrender of third-party claims (section 438 paragraph 1 number 1 of the BGB – German Civil Code) remains unaffected.

## 14 Place of Fulfillment – Court of Jurisdiction – Applicable Law

- 14.1 Unless specified otherwise in the order, the place of fulfillment is the registered headquarters of KLD.
- 14.2 If the supplier is a registered merchant, the court of jurisdiction is the registered headquarters of KLD. However, KLD is also entitled to sue the supplier at its general court of jurisdiction.
- 14.3 Unless specified otherwise in the order, the laws of the Federal Republic of Germany shall apply to the exclusion of the rules of international civil law.