

# Terms and Conditions of Sale and Supply

of KLINGER Gebetsroither GmbH & Co KG, technical wholesalers

**1. General provisions:** These Terms and Conditions of Sale and Supply are valid for all business transactions of KLINGER Gebetsroither (hereinafter also referred to as the "Seller") with its contractual partners (hereinafter also referred to as the "Customer" or the "Buyer"). These Terms and Conditions of Sale and Supply are thus a fundamental component of every contract. Amendments must be made in written form in order to be deemed valid. This also applies to the waiver of the written form requirement.

Insofar as KLINGER Gebetsroither enters into transactions with consumers, these Terms and Conditions only apply insofar as they are not contrary to mandatory provisions of the Austrian Consumer Protection Act [KSchG].

Contracts with KLINGER Gebetsroither generally only first come into effect upon written confirmation of the order from KLINGER Gebetsroither. This written confirmation is waived if KLINGER Gebetsroither has already supplied the goods within 30 days after receipt of the order. The Customer's order is thus binding for 30 days even before the written order confirmation. If custom-made products are ordered, the Customer does not have any right of rescission. Quotations are subject to change with respect to quantity and supply. The goods are subject to prior sale. If an import or export licence, a foreign exchange permit or a similar permit is required in order to fulfil the contract, the party who is responsible for obtaining these must make every effort to obtain the required licences or permits in good time. Claims for damages due to permits of this kind not being obtained in good time may not be asserted against KLINGER Gebetsroither under any circumstances.

Obvious errors when preparing the quotation, creating the written order confirmation or in connection with settlement and invoicing are not binding for KLINGER Gebetsroither. Any Terms and Conditions of Purchase of the business partners of KLINGER Gebetsroither shall only become legally valid if they are accepted in writing by KLINGER Gebetsroither.

The stamping and punching tool owned [by the Customer] is stored at the sole risk of the Customer and KLINGER Gebetsroither shall not be liable for damage of any kind to the stamping and punching tool that occurs during storage. Costs incurred for storage shall be borne by the Customer. We reserve the right to provide excess or short deliveries of up to 10%, as is customary within the industry.

**2. Prices:** If nothing to the contrary has been agreed on an individual basis, ex works is deemed to have been agreed as the fulfilment method. If nothing to the contrary is agreed, prices apply ex works from the Seller's premises excluding any packaging or loading. In the absence of other agreements, risk therefore passes to the Buyer on handover to the carrier.

Only the prices stated in the quotation and in the order confirmation are valid. They are net prices or prices without VAT.

Prices are subject to change and are quoted in euros or a different currency. Prices are based on costs at the time the prices are quoted. In the event that prices increase between purchase order and supply (e.g. due to a change in shipping costs or VAT), KLINGER Gebetsroither is entitled to invoice the Buyer for this increase on provision of appropriate evidence. Should a contract be concluded without prices being specified, the sales price valid on the day of supply shall be deemed the agreed price. The Customer shall bear the costs of transportation.

All additional expenses related to the contract shall also be borne by the Customer. For goods sold carriage paid, KLINGER Gebetsroither will pay the shipping costs but will not assume the transportation risk. On request, transportation insurance may be taken out, however, the costs for this shall be borne by the Buyer. Information concerning supply deadlines and supply dates are deemed approximate and non-binding; in particular, the Seller will not enter into default if the agreed supply date is not met. In the event of transactions in foreign currency, all exchange rate differences shall be to the benefit of/shall be borne by the Buyer should the exchange rates change after conclusion of the contract.

A delay in acceptance on the part of the Buyer entitles KLINGER Gebetsroither to claim damages due to non-fulfilment of the contract or to rescind the contract, even without setting a grace period.

**3. Packaging:** Only the Terms and Conditions stated in the quotation or in the order confirmation shall apply; the Buyer/the Customer undertakes to pay a contribution to the packaging costs. The Customer shall inform the Seller of any particular packaging requests within a reasonable period before the goods are dispatched. All costs thus incurred shall be borne by the Customer.

**4. Payment terms:** Insofar as nothing to the contrary has been agreed in writing, payment shall be made promptly upon receipt of the invoice. All payments shall be made in cash, without charges and other deductions. In the event of defaulting on payment, the Customer undertakes to pay KLINGER Gebetsroither 12% default interest from the 31st day after the invoice date or from a different, separately agreed day of validity, even without proof of the interest actually incurred by KLINGER Gebetsroither. Bills of exchange and cheques are not accepted as methods of payment.

KLINGER Gebetsroither is under no obligation whatsoever to accept any payments other than cash payments.

It is expressly agreed that the recipient of services from KLINGER Gebetsroither may not offset sums against counterclaims, unless these have already been adjudicated and found to exist by res judicata court judgment of an Austrian court. The Customer is not permitted to exercise a right of retention nor to plead that the contract has not been performed properly or has been defectively performed in relation to claims of KLINGER Gebetsroither. In the event of a deterioration of the financial situation of the Customer, a change to their legal form or legal position, suspension of payments, unsuccessful enforcement measures, non-compliance with the payment terms as well as the commencement of insolvency proceedings/reorganisation proceedings or the presence of any other circumstances that impair the credit rating of the Buyer, KLINGER Gebetsroither is entitled to either take back goods that have not been paid for, demand suitable security, convert the purchase contract into a consignment contract or rescind the contract at their discretion.

In this case, KLINGER Gebetsroither is entitled to demand 10% of the agreed purchase price as a contractual penalty which cannot be reduced by a judge during legal proceedings.

**5. Force majeure:** Events that are not attributable to the contractual parties in any way, such as wars, export restrictions, strikes, pandemics etc., shall be deemed force majeure and release the Seller from their performance obligations for the duration of the relevant event.

**6. Warranty and damages:** For the goods they supply/the services they perform KLINGER Gebetsroither warrants that the characteristics of the supplied products are such as to make them suitable for the intended use. The products of KLINGER Gebetsroither have those characteristics that the Customer may usually expect of this type of goods and are customary for products of this kind. Any consultation, in whatever form, does not release you from your obligation to inspect the goods. KLINGER Gebetsroither assumes no liability that the ordered product is suitable for a particular application if the suitability of the product has not been expressly assured in writing by KLINGER Gebetsroither in advance. KLINGER Gebetsroither has no control over the use and processing of the products, therefore this is the sole responsibility of the Customer.

A warranty of 12 months is hereby agreed, irrespective of whether the items are movable or immovable items. For seals, no warranty is given in the event third-party materials are used.

Notifications of defects shall be made in writing and without delay within 8 days of receipt of the goods, otherwise warranty claims shall lapse.

In the event of defects which are subject to a warranty from KLINGER Gebetsroither, KLINGER Gebetsroither shall either provide a replacement, rectify the defect or reduce the purchase price at their own discretion. In the event that KLINGER Gebetsroither complies with their warranty obligations by rectifying the defect or supplying a replacement, the Customer shall compensate KLINGER Gebetsroither for consumable parts as well as for the cost of transportation. All expenses for assembly and disassembly including travel costs for rectifying the damage are excluded. Multiple defect rectifications and replacements are permitted.

Ownership of all replaced parts reverts back to KLINGER Gebetsroither. The Customer shall allow us sufficient time to carry out all defect rectifications and supply replacements as required. The warranty period is not extended as a result of rectifying a defect.

The Buyer's right to rescind the contract is excluded. Asserting a warranty defence does not entitle the Buyer to retain all or part of the purchase price. Full payment is required from the Customer for KLINGER Gebetsroither to meet their warranty obligations.

Claims for damages or rescission of the contract that could arise as a result of defective goods being supplied are hereby excluded by mutual agreement provided the losses were not caused by the intentional act or omission of KLINGER Gebetsroither. In particular, any consequential losses that could arise with regard to other commodities or assets of the Buyer as a result of defective goods being supplied are excluded.

As per Section 9 of the Produkthaftungsgesetz [Austrian Product Liability Act], liability vis-a-vis entrepreneurs for losses caused by product defects is expressly excluded.

KLINGER Gebetsroither is not liable for the functionality of custom-made goods produced in line with customer requirements.

The Buyer always bears the burden of proving that the goods are defective. Section 924 ABGB [Austrian Civil Code] and Section 933b ABGB do not apply.

The warranty lapses if the Buyer or a third party makes changes to and/or repairs the goods themselves.

Insofar as this does not infringe mandatory law, the Seller is only liable for compensation claims that they caused due to gross negligence. In the event of gross negligence, liability is limited to the value of the contract, however, up to a maximum of the sum covered by the Seller's public liability insurance. The liability limitations do not apply to injury to life, body or health.

The Seller is not liable for indirect losses, loss of profit, loss of interest, lost savings, consequential losses, financial losses and losses arising from third-party claims, nor for losses caused by unintended or improper usage, natural wear and tear, incorrect or negligent treatment or storage.

**7. Acceptance of returned goods:** Goods that have been properly ordered and delivered are non-returnable. If return of the delivered goods is nevertheless agreed, storage, transportation and other costs arising from the return of the goods shall be borne by the Customer. A minimum of 15% of the net value of the goods will be charged for inspecting the item and the related expenses. Furthermore, the percentage rate of the costs to be charged will be calculated in accordance with the state of the item on arrival at the Seller.

**8. Retention of title:** KLINGER Gebetsroither shall retain the title to the supplied goods until they have been paid for in full. The Customer is not permitted to pledge or transfer the goods subject to retention of title by way of security. The Buyer shall inform KLINGER Gebetsroither of any seizures without delay, however, the resulting revenue and receivables from this shall be transferred to KLINGER Gebetsroither instead of the goods, and the income from this must be used to cover the obligations to KLINGER Gebetsroither.

The Buyer undertakes to cede the receivables they are due from their customers to KLINGER Gebetsroither in a legally valid way.

In particular, the third-party debtors are to be informed of this by the Buyer.

Sales as part of the Buyer's normal business operations are permitted.

For goods of this kind sold as part of the Buyer's normal business operations, the receivables are assigned to the third-party buyer. KLINGER Gebetsroither also retains the title to the supplied goods during processing & machining and after completion of the end product produced by the processing.

The Buyer is only permitted to process the goods received within the general course of business and, in this respect, carries out the processing on behalf of KLINGER Gebetsroither. During processing, KLINGER Gebetsroither retains the title to the parts and to the end product. KLINGER Gebetsroither acquires a co-ownership share in the finished product which is determined by the ratio of the value of the supplied goods (goods subject to retention of title) and the value of the finished product.

**9. Jurisdiction/choice of law:** The place of performance and jurisdiction for all disputes arising from this contractual relationship is the competent courts in Wels. This contract is solely subject to the laws of the Republic of Austria. The application of the United Nations Convention on Contracts for the International Sale of Goods and all international conflict of law rules is excluded.

**10. Other agreements:** Changes and/or additions to this contract must be made in written form. This also applies to the waiver of the written form requirement. Should one or more of the provisions of these Terms and Conditions of Sale and Supply be invalid in whole or in part, this shall not affect the validity of the other provisions. The invalid or unenforceable provision shall be replaced by a provision that comes as close as possible to the commercial purpose of the invalid provision.

The English version of these Terms and Conditions is a translation of the German original and merely provided for information purposes. The original German version is legally binding.

Valid from 05.09.2022

(All prior agreements are hereby no longer valid)