General Terms and Conditions Klingenburg GmbH

Status July 2025

General provisions

(1) These General Terms and Conditions of Klingenburg GmbH, Brusseler Str. 77, 45968 Gladbeck, Germany (hereinafter also referred to as „Klingenburg“) apply to all contracts for the delivery of products, assembly services, commissioning, maintenance and the execution of repair work. The Terms and Conditions shall also apply to all future deliveries, services or offers to the customer, even if they are not separately agreed again.

(2) These General Terms and Conditions shall apply exclusively. Terms and conditions of the customer or third parties shall not apply, even if Klingenburg does not separately object to their validity in individual cases. Even if Klingenburg refers to a letter which contains or refers to the Terms and Conditions of the customer or a third party, this does not imply agreement with the validity of those terms and conditions. The terms and conditions of Klingenburg shall also apply if Klingenburg carries out the delivery to the customer without reservation in the knowledge of the customer's terms and conditions which are contrary to or deviate from these Terms and Conditions.

(3) Oral collateral agreements have not been made. All agreements as well as verbal arrangements are only concluded when Klingenburg has confirmed them in written or text form (e.g. letter, e-mail, fax).

I. Prices

(1) All offers are subject to change without notice, cost estimates are not binding. Unless otherwise agreed, prices are ex works, excluding packaging, freight and installation. Prices quoted by Klingenburg are net prices. They are subject to the respectively valid value added tax.

II. Delivery period

(1) Deadlines and dates for deliveries and services indicated by Klingenburg are always only approximate, unless a fixed deadline or a fixed date is expressly promised or agreed. If a binding delivery period has been agreed in individual cases, this period shall commence with the dispatch of the order confirmation, but not before the customer has provided any documents, permits, releases and technical specifications which may have to be obtained by the customer. Furthermore, it shall not begin before receipt of an agreed down payment.

(2) An agreed delivery period shall be deemed to have been met if, by the time it expires, readiness for dispatch has been notified or the delivery item has left the factory.

(3) Klingenburg shall not be liable for impossibility of delivery or for delays in delivery if these are caused by force majeure or other events not foreseeable at the time of conclusion of the contract (e.g. operational disturbances of any kind, difficulties in the procurement of material or energy, transport delays, strikes, lawful lockouts, lack of labour, energy or raw materials, difficulties in obtaining necessary official permits, official measures or the failure to deliver, incorrect delivery or the failure to deliver in time by suppliers), for which Klingenburg is not responsible. If such events make delivery or performance considerably more difficult or impossible for Klingenburg and the hindrance is not only of temporary duration, Klingenburg is entitled to withdraw from the contract. In case of hindrances of temporary duration, the delivery or service periods are extended or the delivery or service dates are postponed by the period of the hindrance plus a reasonable start-up period. Klingenburg is also not responsible for the aforementioned circumstances if they occur during an already existing delay. Klingenburg will inform the customer of the beginning and end of such hindrances as soon as it is evident that the observance of an agreed delivery period is endangered.

(4) Partial deliveries are permissible within the delivery periods indicated by Klingenburg, insofar as this is reasonable for the customer taking into account his interests.

(5) If Klingenburg is in delay with a delivery or service or if a delivery or service becomes impossible for Klingenburg for whatever reason, the liability of Klingenburg is limited to compensation for damages according to the regulations for limitation of liability in clause X. of these General Terms and Conditions.

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III. Scope of delivery

(1) The scope of delivery is determined by the written order confirmation from Klingenburg.

(2) Klingenburg reserves the right to make design or form changes that serve to improve technology or are necessary to implement changed legal regulations during the delivery period, provided that the delivery item is not significantly changed and the changes are reasonable for the customer.

IV. Cancellation costs

(1) If the customer withdraws without justification from an order placed, Klingenburg can demand 30% of the sales price for the costs incurred by the processing of the order and for loss of profit, notwithstanding the possibility of claiming higher actual damages. The same applies in the event that Klingenburg is entitled to withdraw from the contract due to circumstances for which the customer is responsible. The customer reserves the right to provide evidence of a lower damage.

(2) If the customer exercises his right of termination according to § 648 S. 1 BGB (German Civil Code), Klingenburg can demand 30% of the agreed remuneration as lump-sum compensation, notwithstanding the possibility of asserting a higher actual damage, if the execution has not yet been started. If the execution has already begun, 60% of the agreed remuneration is to be paid. The customer reserves the right in each case to prove that the damage was lower.

V. Packaging and shipping

(1) Unless expressly agreed otherwise, the freight terms shall be governed by Incoterms 2010. Packaging shall become the property of the customer and shall be charged by Klingenburg. Invoices will be issued for the actual packaging costs incurred, which will not be reimbursed.

(2) If Klingenburg has taken over the dispatch of the goods on the basis of an agreement, the choice of the mode of dispatch is made at the discretion of Klingenburg, taking into account the purpose of the contract and the interests of the customer, unless a specific mode of dispatch has been agreed. The dispatch is carried out on account and risk of the customer. All freight, postage, insurance and expenses as well as any taxes on documents are at the expense of the customer.

VI. Acceptance and risk assumption

(1) The customer is obliged to accept the delivery item. Unless dispatch or delivery by Klingenburg has been agreed, the delivery item shall be handed over in Gladbeck. The customer has the obligation to collect the delivery item within a period of 14 days after receipt of the notification of readiness. The risk shall pass to the customer upon receipt of the notification of readiness for collection.

(2) If the customer does not pick up the delivery item within a period of 14 days after receipt of the notice of readiness, Klingenburg is entitled to withdraw from the contract or to claim damages instead of performance after setting a reasonable period of grace. The setting of a period of grace is not necessary if the customer seriously and finally refuses acceptance. The assertion of further legal claims remains reserved.

(3) In case of agreed delivery by Klingenburg, the risk is transferred to the customer upon acceptance of the delivery item. If shipment by Klingenburg is agreed, the risk is transferred to the purchaser with the handing over of the delivery item to the transport company. If the customer declares that he will not accept the delivery item, the risk of accidental loss or accidental deterioration of the delivery item is transferred to the customer at the time of the declaration of refusal of acceptance.

(4) Goods ordered on call must be accepted without special agreement within a reasonable period of time, but no later than 12 months from the date of the order confirmation. If the acceptance is not carried out in due time, Klingenburg may, at its own discretion, store the goods ready for dispatch at the cost and risk of the customer or dispatch them without request. Furthermore, Klingenburg is entitled to invoice the goods as delivered, charging the existing costs.

VII. Obligation of secrecy / property rights

(1) Drawings, documents, computer software and design secrets may not be disclosed by the customer to third parties or used for any other purpose than the contractual purpose. Contraventions obligate the customer to pay damages and entitle Klingenburg to withdraw from the contract. It is the sole responsibility of the customer to ascertain whether services provided according to his specifications, e.g. custom-made products, infringe the property rights of third parties. The customer shall indemnify Klingenburg from all claims raised in connection with such property rights.

(2) In other cases Klingenburg shall be responsible for ensuring that the delivery item is free from industrial property rights or copyrights of third parties. Each party to the contract will immediately inform the other party to the contract in writing if claims are asserted against it because of the infringement of such rights.

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(3) In the case that the delivery item infringes an industrial property right or copyright of a third party and Klingenburg is liable for this according to paragraph 2, Klingenburg will, at its own choice and at its own expense, modify or exchange the delivery item in such a way that no more rights of third parties are infringed, but the delivery item continues to fulfil the contractually agreed functions, or provide the customer with the right of use by concluding a licence agreement with the third party. If Klingenburg does not succeed in doing so within a reasonable period of time, the customer is entitled to withdraw from the contract or to reduce the purchase price appropriately. Any claims for damages of the customer are subject to the limitations of the regulations for limitation of liability in item X. of these General Terms and Conditions.

(4) In case of infringements of rights by products of other manufacturers delivered by Klingenburg, Klingenburg will, at its own choice, either assert the claims against the manufacturers and sub-suppliers for the account of the purchaser or assign them to the purchaser. In these cases, claims against Klingenburg exist only if the legal enforcement of the above mentioned claims against the manufacturers and suppliers was unsuccessful or, for example, due to insolvency, is futile.

(5) The parties are obliged to treat the work results of the other party as well as all other information, especially technical and economic information, intentions, experiences, knowledge, constructions and documents, which become known to them only due to the cooperation (.information requiring secrecy"), confidentially towards third parties - also beyond the duration of the respective contract -, not to make them accessible to third parties, to protect them from the access of third parties as well as not to make them the subject of an own application for industrial property rights, as far as no approval of the other party is available.

(6) As far as Klingenburg does not expressly agree, the reproduction of delivery items or workpieces is prohibited.

VIII. Right of withdrawal

(1) Klingenburg has the right to withdraw from the contract or to change the agreed terms of payment, if provable doubts about the creditworthiness of the customer arise or the creditworthiness of the customer deteriorates. Claims for damages of the customer are excluded. Klingenburg can, without prejudice to further claims, claim 10% of the sales price for the costs incurred by the processing of the order and for the loss of profit. The customer reserves the right to prove a lower damage.

(2) The customer may withdraw from the contract if the agreed delivery date is exceeded and a reasonable extension of time set thereafter has elapsed without result. The occurrence of Klingenburg's delay in delivery is determined by the statutory provisions. In any case, however, a reminder from the customer is required.

IX. IX. Notice of defects, warranty

(1) In accordance with § 377 HGB (German Commercial Code), the customer is obliged to inspect the delivery item immediately after receipt of the notification of readiness for dispatch, in the case of delivery or dispatch immediately after receipt and to inform Klingenburg immediately of any defects. If defects appear later, the notification must be made immediately after the discovery of the defect.

(2) Klingenburg assumes liability for defects in the delivery items in the following manner:

a) The warranty period is one year from delivery or, if acceptance is required, from acceptance.

b) In case of material defects of the delivered items Klingenburg is obliged and entitled to choose within a reasonable period of time between repair or replacement. In case of failure, i.e. impossibility, unreasonableness, refusal or unreasonable delay of the rectification or replacement delivery, the customer can withdraw from the contract or reduce the purchase price appropriately.

c) The warranty does not include such defects and damages which have arisen due to unsuitable or improper use, incorrect assembly or commissioning, incorrect or improper treatment by the customer or third parties, natural wear and tear, unsuitable operating materials, replacement parts used by the customer, defective construction work, unsuitable building ground or chemical, electrochemical or electrical influences, provided that Klingenburg is not responsible for the circumstances concerned. No warranty is given for damages resulting from the non-observance of the maintenance instructions.

d) No warranty is given for defects, damages and consequential damages if a modification or repair of the delivery item carried out without the prior consent of Klingenburg has become causal or contributory cause for their occurrence. The customer may not carry out reworking to eliminate defects without the prior consent of Klingenburg.

e) Klingenburg is entitled to refuse the removal of defects as long as the customer does not fulfil his contractual obligations.

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f) In case of defects of components of other manufacturers, which Klingenburg cannot eliminate for reasons of licence law or factual reasons, Klingenburg will, at its option, either assert its warranty claims against the manufacturers and suppliers for the account of the customer or assign them to the customer. Warranty claims against Klingenburg exist for such defects under the other conditions and in accordance with these General Terms of Conditions only if the legal enforcement of the above mentioned claims against the manufacturer and suppliers was unsuccessful or, for example due to insolvency, is futile. For the duration of the legal dispute, the statute of limitations of the relevant warranty claims of the customer against Klingenburg is suspended.

g) The warranty is void if the customer changes the delivery item without Klingenburg's consent or has it changed by third parties and the removal of defects is impossible or unreasonably complicated as a consequence thereof. In any case, the customer has to bear the additional costs of the removal of defects resulting from the modification.

h) A delivery of used objects agreed with the customer in individual cases shall be effected under exclusion of any warranty for material defects.

X. Limitation of liability

(1) Klingenburg's liability for damages, regardless of the legal basis, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of duties during contract negotiations and tort, is limited in accordance with the provisions of these regulations in Section X.

(2) Klingenburg is not liable in case of simple negligence of its organs, legal representatives, employees or other vicarious agents, as far as it is not a violation of essential contractual obligations. Essential to the contract are the obligation for timely delivery and installation of the delivery item, its freedom from defects of title as well as such defects of quality which impair its functionality or usability more than only insignificantly, as well as consulting, protection and care obligations which are to enable the customer to use the delivery item according to the contract or are intended to protect life and limb of the customers personnel or to protect his property from considerable damage.

(3) As far as Klingenburg is liable for damages according to paragraph 2, this liability is limited to the coverage of the liability insurance, namely to 3,500,000 €.

(4) The liability of Klingenburg is also limited to damages which Klingenburg has foreseen at the time of conclusion of the contract as a possible consequence of a breach of contract or which it should have foreseen when applying the usual care. Indirect damages and consequential damages resulting from defects of the delivery item are only eligible for compensation if such damages are typically to be expected when the delivery item is used as intended.

(5) In the case of liability for simple negligence, Klingenburg's obligation to pay compensation for material damage and resulting further financial losses is limited to the amount of the contractual remuneration per case of damage, even if it is a violation of essential contractual obligations.

(6) The above exclusions and limitations of liability apply to the same extent in favour of the organs, legal representatives, employees and other vicarious agents of Klingenburg.

(7) As far as Klingenburg gives technical information or acts in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by Klingenburg, this is done free of charge and under exclusion of any liability.

(8) The limitations of the above regulations do not apply to the liability of Klingenburg for intentional behaviour, for guaranteed characteristics, for injury to life, body or health or according to the product liability law.

XI. No-Russia clause

(1) The customer may not directly or indirectly sell, export or re-export to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with a contractual relationship between the parties that fall within the scope of Article 12g of Regulation (EU) No. 833/2014.

(2) The customer shall take all reasonable steps to ensure that the purpose of paragraph (1). is not frustrated by third parties in the wider supply chain, including potential resellers.

(3) The customer shall establish and maintain an appropriate monitoring mechanism to detect conduct by third parties in the wider supply chain, including potential resellers, that would defeat the purpose of paragraph (1).

(4) Any breach of paragraphs (1), (2) or (3) shall constitute a material breach of a material element of these General Terms and Conditions and Klingenburg shall be entitled to seek appropriate remedies, including but not limited to:

- the termination of any contractual relationship between the parties; and

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- the payment of an appropriate contractual penalty, the amount of which shall be determined by the seller in each individual case at its reasonable discretion and may be reviewed by the competent court in the event of a dispute. The contractual penalty shall not be due if the Client is not responsible for the infringement. The assertion of a claim for damages in excess of the contractual penalty due to a breach of paragraphs (1), (2) or (3) shall remain unaffected. However, the contractual penalty shall be offset against any such claim for damages.

(5) The customer must inform Klingenburg immediately of any problems in connection with paragraphs (1), (2) or (3), including any relevant acts of third parties that could frustrate the purpose of paragraph (1). The customer is obliged to provide Klingenburg with information on compliance with the obligations under paragraphs (1), (2) and (3) within two weeks of request.

XII. Reservation of title

(1) The reservation of title agreed upon in the following serves as security for all existing current and future claims of Klingenburg against the customer from the supply relationship existing between the contracting parties, including balance claims from a current account relationship limited to this supply relationship.

(2) The goods delivered by Klingenburg to the customer remain the property of Klingenburg until complete payment of all secured claims. The goods as well as the goods taking their place according to the following provisions and covered by the reservation of title are hereinafter called „reserved goods".

(3) The customer stores the reserved goods free of charge for Klingenburg.

(4) The customer is entitled to process and sell the reserved goods in the ordinary course of business until the case of realisation (paragraph 9). Pledging and transfer of ownership by way of security are not permitted.

(5) If the reserved goods are processed by the customer, it is agreed that the processing is carried out in the name and for the account of Klingenburg as manufacturer and Klingenburg acquires direct ownership or - if the processing is carried out from materials of several owners or the value of the processed item is higher than the value of the reserved goods - co-ownership (fractional ownership) of the newly created item in the ratio of the value of the reserved goods to the value of the newly created item. In case no such acquisition of ownership should occur at Klingenburg, the customer transfers already now his future ownership or - in the above mentioned relation - co-ownership of the newly created object to Klingenburg as security. If the reserved goods are combined or inseparably mixed with other objects to form a uniform object and if one of the other objects is to be regarded as the main object, Klingenburg, insofar as the main object belongs to him, transfers the co-ownership of the uniform object to the ordering party proportionally in the ratio mentioned in sentence 1.

(6) In case of resale of the reserved goods, the customer assigns already now by way of security the resulting claim against the purchaser - in case of co-ownership of Klingenburg of the reserved goods proportionally according to the co-ownership share - to Klingenburg. The same applies to other claims which take the place of the reserved goods or otherwise arise with regard to the reserved goods, such as insurance claims or claims from unauthorized action in case of loss or destruction. Klingenburg revocably authorizes the customer to collect the claims assigned to Klingenburg in his own name. Klingenburg may only revoke this direct debit authorization in case of utilization.

(7) If third parties seize the reserved goods, especially by seizure, the customer will inform them immediately of the ownership of Klingenburg and inform Klingenburgabout this in order to enable Klingenburg to enforce its ownership rights. If the third party is not able to reimburse Klingenburg for the judicial or extrajudicial costs arising in this connection, the customer of Klingenburg is liable for these costs.

(8) Klingenburg will release the reserved goods as well as the objects or claims taking their place as far as their value exceeds the amount of the secured claims by more than 50%. The choice of the objects to be released thereafter lies with Klingenburg.

(9) If Klingenburg withdraws from the contract in case of behaviour contrary to the contract on the part of the customer - especially default of payment - Klingenburg is entitled to demand the return of the reserved goods.

XIII. Terms of payment

(1) Unless otherwise agreed in individual cases, all invoices are due immediately and without deduction from the invoice date. If, contrary to this, payment terms and/or cash discounts have been agreed upon, cash discounts are not permitted if there are overdue receivables.

(2) Cheques and bills of exchange shall only be considered as payment after they have been honoured. The acceptance of bills of exchange always requires a prior written agreement with Klingenburg. If bills of exchange are accepted, the bank discount and collection charges shall be charged.

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(3) Klingenburg shall charge default interest at 9 percentage points p. a. above the respective base interest rate. Klingenburg reserves the right to assert a higher interest loss.
(4) The set-off with counterclaims of the customer or the retention of payments because of such claims is only permissible as far as the counterclaims are undisputed or legally binding or result from the same order under which the respective delivery was made.
(5) Klingenburg is entitled to execute or render outstanding deliveries or services only against advance payment or provision of security if, after conclusion of the contract, circumstances become known to Klingenburg which are likely to substantially reduce the creditworthiness of the customer and which endanger the payment of the customers outstanding claims by the customer from the respective contractual relationship (including from other individual orders to which the same framework contract applies).

XIV. Place of performance and jurisdiction

(1) If the customer is a merchant, a legal entity under public law or a special fund under public law or if he has no general place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction for all possible disputes arising from the business relationship between Klingenburg and the customer is either Klingenburg Gladbeck or the registered office of the customer, at the discretion of Klingenburg Gladbeck. In these cases, however, Gladbeck shall be the exclusive place of jurisdiction for legal actions against Klingenburg. Mandatory legal provisions regarding exclusive places of jurisdiction remain unaffected by this regulation.
(2) The relations between Klingenburg and the customer are exclusively subject to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11.4.1980 (CISG) shall not apply.

XV. Miscellaneous

(1) Transfer of rights and obligations of the customer from the contract concluded with Klingenburg require the written consent of Klingenburg to be effective.
(2) As far as the contract or these General Terms and Conditions contain loopholes, those legally effective regulations are considered to be agreed upon to fill these loopholes, which the contracting parties would have agreed upon according to the economic objectives of the contract and the purpose of these General Terms and Conditions, if they had known about the loophole.
(3) In case of doubt or there would be any interpretive differences between the German and the English version of these General Terms and Conditions of Klingenburg, the original German text prevails and is legally binding.

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