

TERMS AND CONDITIONS of TRADE (Sale and Delivery) of KERN-LIEBERS CR spol. s r.o.
pursuant to sec. 1751 of Act. No. 89/2012 Col., the Civil Code

I. The Scope

1. These Terms and Conditions of Trade (hereinafter referred to as the “**Terms and Conditions**”) were issued by KERN-LIEBERS CR spol. s r.o., Reg. No. 608 49 827, based at Okružní 607, 370 01 České Budějovice, a company registered in the Company Register conducted by the Regional Court in České Budějovice, section C, file 4064 (hereinafter referred to as “**KLCR**”).
2. These Terms and Conditions form an inseparable part of each contract entered into by KLCR, wherein KLCR act as a supplier of goods or services (i.e., particularly in the position of a seller or a contractor), and the other party (hereinafter referred to as the “**customer**”) acts as a customer of goods and services (i.e. particularly at the position of a buyer or an ordering party). For the purpose hereof, such a contract is referred to as a “**Contract**”. Different provisions in a Contract shall prevail the provisions of these Terms and Conditions.
3. These Terms and Conditions become a part of a Contract:
 - a. on the basis of signatures under the Terms and Conditions by KLCR and the customer;
 - b. on the basis of attaching the Terms and Conditions to an offer made by KLCR or on the basis of a reference to the Terms and Conditions.
4. If the Terms and Conditions are signed by KLCR and the customer, they will apply, under agreement between the parties, to all Contracts entered into at any time in the future, even if the Terms and Conditions are not attached to the particular offer made by KLCR, unless otherwise agreed on between the parties. No customer's terms and conditions of trade will apply. The customer declares that he had the opportunity to influence the content of these Terms and Conditions before their conclusion.
5. Unless the Terms and Conditions are signed by KLCR and the customer, the Terms and Conditions become a part of a Contract on the basis of attaching the Terms and Conditions to an offer made by KLCR or on the basis of a reference to the Terms and Conditions. No customer's terms and conditions of trade will apply. Even in situations when KLCR refers to a document that contains or refers to terms and conditions of trade of the customer or a third party, this does not establish a consent with such trades and conditions by KLCR.
6. For the purpose hereof, the term “**Goods**” means products, works or services defined and specified by contracting parties in the Contract or in an annex thereto.

II. An Offer and Entering into the Contracts

1. KLCR gives a proposal for entering into a Contract in the form of an offer, which the customer can accept by a deadline specified in the offer.
2. All and any offers made by KLCR can be modified, withdrawn or cancelled by KLCR by the deadline set for the acceptance.
3. An unconditional acceptance of the offer by the deadline set for the acceptance constitutes the entering into the Contract. Changes of the offer made by the customer form a counterproposal, which is only binding for KLCR in the case of an explicit acceptance; otherwise, the Contract is not entered into and KLCR is no longer bound by its offer.
4. Any communication between the parties, including an offer and its acceptance, as well as all contractual agreements related to the conclusion, modification or extinction of a Contract require written form, no oral communication is binding for KLCR. A legal act executed by means of remote data transfer (i.e., particularly through the e-mail, data box, on-line system etc.) and by means of electronic data interchange (EDI) is considered a written form.
5. On the basis of a concluded Contract the KLCR is obliged to supply the customer with Goods and the customer is obliged to pay KLCR the price agreed on in the Contract.

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6. Specification provided by KLCR with regard to the Goods, e.g. weight, measures, practical values, capacity, tolerance and technical data) and depiction of these specifications (e.g. drawings and pictures) are only approximate, unless their use for the purpose agreed on in the Contract requires exact specification. Specifications do not represent any guarantees of quality properties and they represent descriptions or characteristics of the Goods. Deviations between the specification of the Goods and the Goods really supplied, which follow from the legal requirements, or which represent technical improvement as well as replacement of parts by equal parts are allowed.
7. KLCR reserves the ownership or copyrights related to all the presented offers and cost estimates, as well as drawings, illustrations, calculations, brochures, catalogues, models, tools and further documents and additional sources it has made available to the customer. The customer is not allowed to make this material available to third persons, to publish them, to use them or to reproduce them internally or through third persons. On KLCR's request the customer is obliged to return such materials to the full extent and to destroy possible copies made, if it no longer needs them in regular business relations or unless negotiations lead to entering into a Contract.

III. Prices, Payment and Modifications of Prices

1. KLCR preferentially enters into Contracts with purchase prices in EUR or in CZK.
2. The price of Goods is set in the Contract as the binding and definite contract price. Additional or special services or further related charges (e.g. packaging, transport to a place of delivery, cost of unloading of the Goods, insurance, VAT, customs duties, administration fees etc.) can be charged separately by KLCR.
3. If the price is set by KLCR's price list and the delivery is planned to a date more than four months after entering into the Contract, the pricelists prices valid at the moment of the issue of the invoice apply.
4. The due date, possible agreements on advance payments or on instalments will be usually agreed on between the parties. Unless this is the case, the obligation to pay the price of the Goods arises at the moment of the delivery of the Goods to the customer.
5. The customer will pay the price of the Goods on the basis of an invoice, which KLCR is entitled to issue before the commencement of the transport of the Goods, or after the title to the payment of the price arises.
6. Invoices are due within 14 days, unless otherwise agreed on in written.
7. In case of any delay with the payment of an invoice, KLCR will be entitled to a contractual penalty of 0.1 % of the due amount without VAT per each day of delay. The contractual penalty agreed on does not exclude KLCR's title to compensation of any damages.
8. In case of any delay with the payment of an invoice longer than 14 days, KLCR is entitled to withdraw from the Contract and to suspend the supply of further ordered Goods unless KLCR was considered to be in delay.
9. KLCR is entitled at any time to ask the customer for paying an adequate advance payment, while if the advance payment is not accepted, KLCR is not obliged to supply the Goods.
10. In the case of a significant change of wage costs, costs of material or energies with impact on orders with the duration longer than 12 months and orders for indefinite period KLCR will be entitled to require an adequate modification of the price, reflecting such factors. Unless agreement on the price modification is reached, KLCR will be entitled to exercise its right for the change of the Contract in judicial way and it is also entitled to withdraw from the Contract in relation to Goods not yet supplied.
11. If the customer requests a supply of a spare part after the termination of the Contract and KLCR agrees with the supply of such a spare part, the price of the spare part will be determined individually at the moment of the request from the customer. Series prices or earlier prices do not apply to spare parts.

IV. Delivery, Delivery Time and Delay

1. The delivery and the acceptance of Goods are confirmed in the delivery note. The delivery note usually contains specification of the Goods, the code of the Goods, the type and number of returnable and non-returnable packaging, the number of units of measure (weight) of the individual kinds of Goods, the delivery date. If the Goods are delivered through a contractual forwarder, the delivery note will be attached to the delivered Goods.
2. Earlier delivery of Goods is possible, as well as partial deliveries of Goods.

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3. Within the tolerance of plus/minus 10 % of the total ordered Goods excessive or lower supplies of Goods related to the manufacturing and the industrial standards are allowed. The total price will be modified accordingly.
4. The delivery deadlines and dates are approximate in all cases, unless a definite date or deadline has been promised or agreed on. If transport is contracted, the delivery deadlines relate to the date of handover to the forwarder, carrier or another third party responsible for the transport.
5. The deadline for the delivery of Goods will be postponed by the time the customer is delayed with the fulfilment of its duties to KLCR.
6. KLCR is responsible for delayed delivery in compliance with applicable regulations, considering the limitations herein defined. KLCR is not responsible for damage caused by non-delivery or delayed delivery of Goods if such damage is caused by negligence.
7. KLCR is not responsible for non-delivery or delayed delivery of Goods caused by Force Majeure or other unpredictable events beyond KLCR's control (including e.g., interruption of operation of any kind, problems with acquisition of material or energy, delayed transport, strikes, statutory disruptions, lack of workforce, energy or raw materials, problems with obtaining necessary permits, regulation measures, or missing, improper or delayed supplies from subcontractors). If such events significantly aggravate or thwart a supply or performance from KLCR and such an obstacle is not only temporary, KLCR will be entitled to withdraw from the affected Contract. In the instance of temporary obstacles, the delivery times are extended by the time the obstacle exists.

V. Long-term Contracts and Cancellation of Supplies

1. Unless otherwise agreed on, KLCR is entitled to withdraw from a Contract entered into for an indefinite period as well as a Contract entered into for a definite period of at least 3 years or more, with a three-month notice period starting on the first day of the month following after the delivery of the notice.
2. Unless a binding quantity is agreed on for an order, the anticipated, unbinding quantity (target amount) of the customer for a certain time period is always the basis for the estimation of KLCR's costs. If the customer buys less than the target quantity KLCR is entitled to increase the unit price adequately.
3. In the instance of ordering by means of release orders, the binding quantity has to be communicated to KLCR by means of release orders before the delivery date in the advance agreed on in the Contract. Unless otherwise agreed on with the customer in individual cases and unless KLCR is informed by the customer on a change of requirements, the requirements contained in the Scheduling agreement in connection with the current Scheduling agreement release become binding and final for both the parties, if less than 4 weeks remain to the delivery of the Goods according to the Scheduling agreement in connection with the current Scheduling agreement release

VI. Place of Delivery, Transport, Packaging, Transfer of Risk, Acceptance

1. Unless otherwise agreed on in the Contract (particularly by reference to a delivery condition according to INCOTERMS), the registered address of KLCR is the place of delivery.
2. Unless the packaging method is agreed on, KLCR will pack it according to custom, however always in the manners necessary for preserving and protecting the Goods; KLCR will adjust the Goods in the same way for transport.
3. Unless otherwise agreed on, KLCR decides on the mode of transport.
4. The risk of damage to the Goods passes to the customer at the handover to a forwarder, carrier or another third party responsible for the transport. This also applies to partial deliveries or in a situation when KLCR undertakes to provide further services (e.g., transport or installation). In the case of delay as a consequence of circumstances, for which the customer is responsible, the risk of damage to the Goods passes to the customer at the moment when the Goods are ready for transport. The storage costs after the pass of the risk of damage to the Goods are borne by the customer.
5. KLCR will only insure the Goods against theft, breakage, damage at transport, fire, water or other insurable risks at the explicit request of the customer and at its expense.
6. The supplied Goods are considered accepted at the moment of the acceptance of the Goods, and where KLCR undertakes to carry out the installation, at the moment of the completion of the installation.

VII. Warranty, Defects

1. KLCR will hand the Goods over to the customer in the quantity, quality and variant agreed on. If the quality and variant are not agreed on, KLCR will provide the quality and variant suitable for the purpose of the Contract, otherwise for the usual purpose.
2. The properties of the Goods will usually be agreed on in technical documentation and drawings. If the Goods are manufactured by KLCR on the basis of drawings or orders provided by the customer, the customer is responsible for such drawings and orders. In such an instance KLCR is not obliged to verify or check the correctness and completeness of such drawings and orders or to notify the customer of incorrectness of the drawings and orders.
3. KLCR gives a quality warranty for the Goods for one year from the moment of acceptance, unless otherwise agreed on.
4. The supplied Goods have to be carefully checked by the customer or a third person appointed by the customer immediately after the acceptance. Supplied Goods are considered faultless unless KLCR receives a written notice of obvious defects or other drawbacks found within an immediate thorough inspection, within five days from the acceptance of the Goods.
5. If quality testing or sample input inspection has been agreed on, KLCR's responsibility for any defect that the customer could find within a thorough acceptance test or sample input inspection, is impossible. The above sentence however does not exclude the obligation to inspect the Goods by the customer according to the previous paragraph.
6. In the instance of occurrence of any defect within the scope of KLCR's responsibility the customer is entitled to the removal of the defect, and it is in KLCR's discretion whether it removes the defect by means of repair or supplying a new faultless thing. Unless a defect within the scope of KLCR's responsibility is removed within an adequate period of time the customer is entitled to withdraw from the Contract or require an adequate discount from the price.
7. The warranty becomes extinct if the customer modifies the Goods or has them modified by a third person without consent from KLCR.
8. KLCR is not responsible for defects caused as a consequence of unprofessional handling or as a consequence of using the Goods in contradiction with the documents provided by KLCR.
9. KLCR is not responsible for defects caused by the use of improper materials, devices or improper design of the Goods.

VIII. Intellectual Property

1. KLCR declares that no intellectual property protected in the Czech Republic related to the Goods belongs to a third person. The previous sentence does not apply to Goods manufactured by KLCR according to drawings, model or other equal descriptions or specification provided by the customer. In such a case the customer is responsible for any damage that might arise to KLCR from any possible claim for a breach of intellectual property rights.
2. The customer is obliged to inform KLCR in written without undue delay on any claims for a breach of intellectual property rights that might be raised against it in relation to supplied Goods.
3. If an object of the sale only breaches the intellectual property right of a third person in the country of manufacture, KLCR will modify or replace the Goods at its own discretion and at its own expense so that no intellectual property right of a third person is breached, and will make sure that the object of the sale keeps fulfilling the functions contractually agreed on, or it will provide the customer with the right to use through entering into a licence agreement. If KLCR is not able to manage it within an adequate period of time, the customer is entitled to withdraw from the Contract or require a discount from the purchase price.

IX. Liability for Damage

1. KLCR is liable for damage or compensation of costs in compliance with the applicable regulations, taking into account limitations given in these Terms and Conditions.

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- 2. KLCR is not liable for damage caused by negligence.
- 3. The scope of KLCR's liability for damage is limited to damages that KLCR anticipated at the entering into the Contract as a possible consequence of a breach of the Contract.
- 4. Limitations given in these Terms and Conditions do not apply to the liability of KLCR for wilful or seriously negligent action and for detriment caused to a human in their natural rights.
- 5. The liability of KLCR for damage to property is limited to an amount of EUR 10 million per case of damage, even in cases of infringement of essential contractual obligations.

X. Reserve of the Ownership Right

- 1. Goods supplied by KLCR remain in KLCR's ownership until the whole purchase price is paid.
- 2. The customer is obliged to notify persons that exercise the title to the Goods that the Goods are owned by KLCR, without delay. The customer is obliged to inform KLCR about such a situation as well.

XI. Final Provisions

- 1. The customer is not allowed to let, transfer or assign any rights from the Contract to a third party without prior written consent from KLCR.
- 2. Each party is entitled to withdraw from the Contract if an insolvency procedure has been opened against the other party.
- 3. A unilateral offset of debts carried out by the customer is impossible, as well as the application or retention rights to property owned by KLCR by the customer.
- 4. A Contract as well as these Terms and Conditions and any relations therefrom resulting are governed by the Czech law.
- 5. Any disputes between KLCR and the customer arisen from a Contract or from these Terms and Conditions will be dealt with by courts. The Parties have agreed on the international competence of Czech courts and on the local jurisdiction of a first-tier court, which is the materially appropriate court in České Budějovice.
- 6. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded
- 7. The customer accepts the risk of the changes in circumstances within the meaning of sec. 1764 par. 2 of Act No. 89/2012 Col., the Civil Code.
- 8. An omission or non-exercising of rights resulting from the Contract or the law or any other regulation by KLCR is not considered a waiver of said rights, and an omission or non-exercising does not lead to extinction of such rights or the impossibility to exercise them.
- 9. If any provision of these Terms and Conditions becomes invalid, ineffective or unenforceable, the validity, effectiveness and enforceability of the remaining provisions will remain unaffected. In such a situation a valid, effective and enforceable provision will replace the invalid, ineffective or unenforceable provision.

In, date In, date

KERN-LIEBERS CR spol. s r.o.,
represented by Ing. Jaroslav Kopp, CEO

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represented by
(The Customer)