

## General Terms & Conditions of Purchase of KOLLMORGEN Europe GmbH

### **I. General provisions**

1. These General Terms & Conditions of Purchase (T&Cs) shall govern all business relations between KOLLMORGEN Europe GmbH (hereinafter "Kollmorgen") and its business partners and suppliers (hereinafter "Sellers"). The T&Cs only apply if the seller is an entrepreneur (s. 14 BGB (German Civil Code)), a legal entity under public law or a special fund under public law.
2. The T&Cs shall apply to all services performed for Kollmorgen, in particular for contracts on the sale and/or delivery of movable objects (hereinafter also referred to as: **goods**) irrespective of whether the seller manufactures the goods itself or outsources them from sub-suppliers. The current version of the T&Cs shall also serve as a framework agreement for future contracts with the same seller, without Kollmorgen having to refer to them again in any individual case.
3. These T&Cs shall apply exclusively. Deviating, contrary or supplementary General Terms & Conditions of Business from the seller shall only become part of the contract subject to Kollmorgen's express written permission.
4. Declarations and notices by the seller which are of legal relevance must be put in writing in order to be valid.

### **II. Conclusion of the contract**

1. Unless otherwise agreed, Kollmorgen shall be bound by an offer, which it has declared as binding, for a period of one week. The date on which Kollmorgen receives the declaration of acceptance shall determine whether or not the seller's offer is accepted on time.
2. Once the self-defined binding period of one week has elapsed, the later acceptance of the offer shall be considered to be a new offer within the meaning of s. 150 BGB. Kollmorgen shall not be under any obligation to accept the seller's new offer.

### **III. Right to determine performance**

1. Kollmorgen shall reserve the right to change when and where the delivery of the goods is to take place, as well as the nature of the packaging, at its discretion, by means of written notification, giving notice of at least five working days prior to the agreed delivery date. The same shall apply to changes to product specifications for the goods provided they can be implemented within the scope of the seller's normal production process without any considerable additional outlay.
2. Kollmorgen shall agree to reimburse the seller for any verified and reasonable additional expenses caused by the change, subject to subsection III.3 below. Should these changes result in delays in delivery which are unavoidable under the seller's normal production and trading activities, allowing for reasonable efforts on the part of the seller, the delivery date originally agreed shall be put back accordingly.
3. The seller shall undertake to inform Kollmorgen of the likely additional costs and/or delays in delivery forthwith, albeit not later than three working days after receipt of the change notification from Kollmorgen.

### **IV. Lead time and delay in delivery**

1. The agreed deadlines and dates are fixed dates. In the event of non-compliance, the seller shall be liable in accordance with statutory regulations. Section III. shall remain unaffected.
2. The Seller shall undertake to advise Kollmorgen without delay of likely delays in delivery, irrespective of the reasons for them.
3. The seller shall be deemed to be in default with delivery without having received a reminder.

### **V. Performance, delivery, transfer of risk, default in acceptance**

1. Without the prior written permission of Kollmorgen, the seller may not have a third party carry out the work undertaken by it.
2. Unless otherwise agreed in writing, the goods shall be delivered to Kollmorgen's place of business. The place of performance shall be the respective delivery address (performance obligation).
3. The consignment shall come complete with a delivery note specifying the shipping date, the object being delivered, citing the item number and the quantity of goods, as well as Kollmorgen's order code (date and number). If the delivery note is missing or incomplete, Kollmorgen shall not be responsible for resulting delays in the processing and settling of the invoice.
4. The seller shall bear the risk of accidental loss and accidental deterioration of the goods up to the time of handover at the place of performance.
5. Notwithstanding the statutory regulations on default in acceptance (s. 296 BGB), the wording of the offer of the service shall also be required if a specific or definable timeframe is to be agreed for actions or cooperation by Kollmorgen.

### **VI. Prices and payment terms**

1. The price specified in the order shall be binding; section III. shall remain unaffected. All prices shall be quoted inclusive of the statutory rate of value-added tax if this is not shown separately.
2. Unless otherwise agreed in any individual case, the price shall include all services and additional services performed by the seller (for example, assembly or installation), as well as all ancillary costs (such as correct packaging, transport costs, including any transport and third-party liability insurance). The seller shall

be required to take back packaging materials at Kollmorgen's request, free of charge.

3. The agreed price shall be payable within thirty calendar days of complete delivery and performance (including any agreed acceptance inspection), as well as receipt of a correct invoice.
4. Kollmorgen shall not owe interest following the due date. The default interest shall be five percent above the base rate; s. 288 (2) to (4) BGB shall not apply. The seller must have issued a written reminder before Kollmorgen can be considered to be in arrears with payment.
5. Kollmorgen shall reserve the right to withhold due payments if it has outstanding claims against the seller for incomplete or defective performance.

### **VII. Reservation of title**

Should the seller retain title to the goods until such time as the agreed remuneration has been paid in full, this reservation of title shall only apply until the money owing in connection with the delivery of the goods has been settled.

### **VIII. Defects in delivery**

1. Kollmorgen's commercial duty to conduct inspections and give notice of defects shall be subject to statutory regulations (ss. 377, 381 HGB (German Commercial Code)), with the following proviso: The duty to conduct inspections shall be limited to defects which come to light during the incoming goods inspection by way of an external assessment, including a check of the delivery notes, as well as in quality spot checks (such as damage in transit, incorrect and short deliveries).
2. If the seller fails to discharge its duty to provide a cure - be it by repairing the defect (remedy) or by supplying an object which is free from defects (replacement), at Kollmorgen's discretion - within a reasonable time limit set by Kollmorgen, Kollmorgen shall reserve the right to rectify the defect itself and to demand reimbursement of the costs involved or of an appropriate advance.
3. If the cure provided by the seller fails or is unacceptable to Kollmorgen (for example, owing to particular urgency, risk to operational reliability or to the threat that disproportionate damage or loss may occur), Kollmorgen shall not be required to set a time limit for rectification; the seller shall be notified forthwith.

### **IX. Recourse to the supplier**

1. Kollmorgen shall have unlimited right to assert claims for recourse within a supply chain (recourse to the supplier pursuant to ss. 478, 479 BGB), in addition to warranty claims. Kollmorgen shall be entitled, in particular, to ask the seller to provide the type of cure (remedy or replacement) which Kollmorgen owes its customer in any individual case. This shall not limit the statutory right to choose (s. 439(1) BGB).
2. The entitlements to seek recourse to the supplier shall also apply if the goods have been processed further before being sold to a consumer by Kollmorgen or by one of Kollmorgen's customers, such as integration into another product.

### **X. Manufacturer's liability**

1. The seller shall assume liability for all claims asserted by third parties due to injury to people and damage to property and shall hold Kollmorgen harmless from any such claims unless the seller does not bear responsibility for the damage or loss.
2. The seller shall bear all costs incurred by Kollmorgen in connection with a goods recall which is required pursuant to the ProdHG (Product Liability Act).
3. The seller shall be required to take out and maintain product liability insurance with a flat-rate cover of at least five million euros per injury/damage claim. On request, the seller shall send Kollmorgen a copy of the product liability insurance policy.

### **XI. Industrial property rights**

1. The seller shall provide an assurance that no third-party industrial property rights are infringed in connection with performance under the contract.
2. The seller shall indemnify Kollmorgen against any claims asserted by third parties in connection with an infringement of industrial property rights, including any costs incurred by Kollmorgen in connection with mounting a defense against a third-party claim (in particular, prosecution costs).
3. Kollmorgen shall notify the seller forthwith if it becomes aware of any claims by third parties.
4. The seller shall do its utmost to support Kollmorgen in defending against claims by third parties.
5. The above shall apply irrespective of whether there is blame attaching to the seller.

### **XII. Confidentiality**

1. The seller shall treat as confidential the terms and conditions of the contract, as well as information and documentation received in connection with the execution of the contract (apart from information in the public domain), including after the end of the contract and shall only use same for the execution of the contract.

2. The seller shall undertake to return the confidential information and documentation to Kollmorgen without delay when asked to do so, as soon as it no longer requires this for the execution of the contract.
3. Without Kollmorgen's prior written permission, the seller may not make reference to its business relationship with Kollmorgen in advertising materials, brochures, etc., nor may it exhibit delivery items manufactured for Kollmorgen.
4. The seller shall commit its suppliers to observe confidentiality in accordance with section XII.

#### XIII. Assignment

The seller shall not be entitled to assign its claims under the contractual relationship to third parties. This shall not apply where money claims are concerned.

#### XIV. Limitation of actions

1. The contracting parties' claims against each other shall elapse in accordance with statutory regulations unless otherwise agreed below.
2. Notwithstanding s. 438(1) No. 3, s. 634a(1) No. 1 BGB, claims for defects shall generally become statute-barred after three years.  
The period of limitation for claims arising from recourse to suppliers in accordance with clause IX shall be at least two months after the end of the period of limitation for corresponding third-party claims asserted against Kollmorgen.
3. Extra-contractual claims for compensation shall be subject to the statutory standard period of limitation defined in ss. 195, 199 BGB except in cases where a longer period arises from application of the extended period of limitation in accordance with subsection XIV.2.

#### XV. Final provisions

1. Subject to section 2 above, these T&Cs and all legal relations between Kollmorgen and the seller shall be governed solely by the law of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sales of Goods (CISG).
2. The exclusive place of jurisdiction, both nationally and internationally, for all disputes arising out of the contractual relationship shall be Kollmorgen's commercial domicile. However, Kollmorgen shall reserve the right to take legal action at the seller's commercial domicile.
3. Where these T&Cs conflict with the terms agreed between the parties in individual contracts, the latter shall take precedence.
4. Should individual provisions become invalid, the validity of the other provisions shall remain unaffected. The invalid provision shall be replaced by a provision whose content is most in keeping with the commercial interests of both parties.
5. Ancillary verbal agreements shall not be made. Addenda and amendments to the contract shall be put in writing. This shall also apply to waiving the requirement to use the written form.
6. The seller may only exercise a right to offset where its claim is legally established or undisputed. The same shall apply to the right to withhold which may also only be exercised effectively if the counterclaim by the seller is based on the same supply contract.