

Klüh Service Management GmbH Terms and Conditions of Purchase (status 04 | 2025)

1. Scope of application

These Terms and Conditions of Purchase apply to Klüh Service Management GmbH (hereinafter referred to as Klüh) and its affiliated companies, irrespective of the size of the shareholdings with all associated sites.

Our Terms and Conditions of Purchase shall apply exclusively. We do not recognize any terms and conditions of the supplier that conflict with or deviate from our Terms and Conditions of Purchase unless their validity has been expressly agreed to in writing.

Our Terms and Conditions of Purchase shall also apply if we accept the supplier's delivery without reservation in the knowledge that the supplier's terms and conditions conflict with or deviate from our Terms and Conditions of Purchase.

Our Terms and Conditions of Purchase shall also apply to all future transactions with the supplier.

All agreements with the supplier (e.g. orders, amendments, additions to the supply contract) must be concluded in writing. The written form requirement is also met if data is transmitted electronically or by remote data transmission.

Other conditions may apply in international companies.

2. Orders/ data exchange

If the necessary technical requirements are met, orders are generally placed by electronic data exchange.

Delivery bills must contain quantities and unit and total prices. The positioning of the individual items on the delivery bill must match the order.

We may approve a deviation between the delivery and the order. Approval must be given in writing. The acceptance of deliveries or delivery bills, the issuing of receipts or the making of payments shall not constitute approval.

3. Prices and validity

The supplier shall provide us with the agreed core product range at the agreed prices plus the applicable VAT. The prices include packaging and transport insurance. The prices at the time of delivery shall be decisive.

The price increase and its validity must be reported to Klüh's central procurement department with a reasonable lead time of at least eight weeks and can only become effective with the express written consent of central procurement.

The supplier shall notify the central procurement department of price reductions without delay and implement them after consultation.

The validity of fixed prices and the uniform deposit calculation extend to the supplier's entire delivery area.

4. Delivery

Deliveries are made according to DDP (Incoterms 2020) to the respective Klüh site.

Unless expressly agreed otherwise in writing, delivery shall only be deemed to have taken place when the goods have been properly packed and handed over to one of our employees or authorized representatives behind the first lockable door to the Klüh area of responsibility. The supplier must have the handover of the goods acknowledged by us.

Unloading the goods without handover is excluded and entitles us to refuse acceptance of the goods. Delivery by truck is only permitted if direct delivery is secured in accordance with local conditions. The supplier must inquire about this with the respective customer prior to delivery.

No minimum purchase quantity is specified by the sites, unless otherwise agreed in writing. Nor does such a minimum quantity arise from established practice or other circumstances, such as the achievement of a certain level of turnover or a certain sales volume.

For deliveries of goods requiring refrigeration, the maximum temperatures specified for the respective product group of a maximum of +2° C/+7° C and for frozen goods the maximum core temperature of -18° C apply.

The transportation risk for all deliveries shall be borne by the supplier.

If an ordered item is not in stock at the time of delivery, the site must be informed immediately. If necessary, the delivery shall be made at a later date. If the site does not accept this, the supplier must provide a replacement item of equivalent quality which is not more expensive than the item originally ordered. The supplier shall only be entitled to deliver a more expensive item with the consent of the site.

The supplier shall inform us of new and/or improved products immediately after their inclusion in its product range and shall inform Klüh central procurement department and the sites immediately of planned and ongoing special promotions, for example advertising campaigns or special offers.

5 Delivery dates, delay

The agreed delivery dates are binding. The ordered products shall be delivered to the place of receipt specified in the order, unless otherwise agreed in writing.

Unless otherwise stated in the order, deliveries are only accepted during our regular business hours.

Compliance with the delivery date or the delivery period depends on the receipt of the goods at the designated place of receipt.

If it is apparent to the supplier that an agreed deadline cannot be met for whatever reason, the supplier is obliged to inform us of this in writing without delay, stating the reasons and the expected duration of the delay. Verbal information about this in advance must be confirmed again in writing.

If the supplier has culpably failed to notify us in writing that timely delivery is likely to be impossible, the supplier shall be liable to us for the resulting damage. Further claims for damages shall remain unaffected.

In the event of a delay in delivery, we are entitled to legal claims.

6. Invoicing, term of payment

Invoices for deliveries made must be issued to the customer immediately in accordance with the agreed upon invoice text, unless otherwise agreed. The invoice text must be recognizable on every page of the invoice.

Invoices are to be paid via specified bank accounts. The site must be able to easily assign delivery bills and invoices.

Unless otherwise agreed in writing, payment of the invoice shall be made within 30 days net, calculated from delivery and after reception of the proper invoices.

The parties shall be entitled to rights of set-off and retention as well as the defense of non-performance of the contract to the extent permitted by law. In particular, the parties are entitled to withhold due payments as long as claims from incomplete or defective services still exist. The supplier shall only have a right of set-off or retention on the basis of legally established or undisputed counterclaims.

The supplier may only assign claims against us to third parties with our written consent.

7. Packaging/ disposal/ circular economy

The goods must be safely packed to avoid damage in transit. Packaging materials are only to be used to the extent necessary to achieve this purpose. Only food-safe and environmentally friendly packaging materials may be used.

When delivering food, other substances used in food production, packaging materials for food and other materials that come into contact with food during the production or packaging process, the product and transport packaging as well as the means of transport used, must be in a hygienically proper condition and suitable for the storage of food.

In particular, the supplier guarantees that the product packaging is free of any kind of non-product components and that the migration limits specified in the Consumer Goods Ordinance (Bedarfsgegenständeverordnung) are not exceeded.

The supplier shall take back its packaging material in compliance with the waste and packaging regulations and shall bear the costs of proper disposal of the packaging material.

As part of its sustainability strategy, Klüh has committed itself to promoting the topic of the circular economy and expects corresponding contributions from its suppliers.

8. Warranty

In the event of defects, our warranty rights shall be governed by the law, unless otherwise stipulated. We may refuse to accept inadequate goods. At our request, the supplier shall deliver a satisfactory item to the affected Klüh site (replacement delivery) in the event of a warranty claim - irrespective of other warranty obligations. The delivery shall be made at the same price, even if the goods can only be procured at a higher price in the meantime. In the event of a price reduction in the meantime, the lower price shall apply.

In the case of perishable goods, the supplier shall ensure a replacement delivery for the same day following our complaint. Claims for damages for defects and consequential damages shall remain unaffected even in the event

of a replacement delivery. In the event of replacement delivery and rectification of defects, the warranty period for replaced/repaired parts shall begin anew.

If the supplier fails to provide subsequent performance within a reasonable period agreed or set by us, we may remedy the defect ourselves or procure a replacement and demand compensation from the supplier for the necessary expenses. If subsequent performance by the supplier fails or is unreasonable for us (e.g. in cases of particular urgency, risk to operational safety or imminent occurrence of disproportionate damage), no deadline needs to be set. We shall inform the supplier of this immediately, if possible in advance.

We are only obliged to inspect the goods and give notice of defects from the time of delivery and handover of a proper delivery bill. In any case, obvious defects shall be deemed to have been notified in good time if we notify the supplier of them within one week of proper acceptance of the goods. Refusal of acceptance due to a defect shall be deemed a notice of defects. Hidden defects shall in any case be deemed to have been notified in good time if the notification is made within eight weeks and, in the case of perishable goods, within one week of their discovery. In the case of written notification, the timeliness of the dispatch shall be decisive for compliance with the deadlines.

The supplier must collect rejected goods immediately at his own expense. Following a notice of defects, we shall only be obliged to store the goods in accordance with the statutory provisions insofar as this is reasonable for us. Storage shall be deemed unreasonable in particular if there is a risk of deterioration for stored goods in perfect condition. We shall only be liable for the deterioration or destruction of the goods complained about in the event of intent or gross negligence and even in this case only if other behavior would have been reasonable. In the case of perishable goods, liability is excluded at the latest after the expiry of three days and in the case of other goods after the expiry of eight days since the complaint was made.

9. Quality requirements and quality assurance

The supplier warrants that all deliveries/services are carried out or rendered professionally in accordance with the agreed specification and comply with the latest state of the art, the relevant legal provisions and the regulations and guidelines of authorities, employers' liability insurance associations and trade associations. Product-specific documents must be made available. The supplier warrants that all deliveries/services can be used without endangering the rights and legal interests of third parties in Germany or - insofar as the supplier has been informed of this - in the country of destination.

The supplier warrants compliance with its traffic safety and inspection obligations and undertakes to inform the purchaser immediately of any breaches of safety regulations.

When delivering food, the supplier assures us of compliance with all relevant food and feed law, hygiene and other legal regulations. In particular, the supplier has set up a traceability system in accordance with the requirements of EU Regulation 178/2002 and maintains a self-monitoring system (HACCP) in accordance with EU Regulation 853/2004 on food hygiene.

When supplying food, the supplier's quality standards must meet the following quality criteria:

- The legally required food hygiene is ensured.
- The required components of an HACCP concept as an element of the quality assurance and self-monitoring system are implemented on a mandatory basis.
- All food has to be supplied in compliance with the applicable laws and regulations on food and consumer goods. Within the entire value chain, it must be ensured that the applicable legal provisions and quality standards are complied with. Compliance with applicable EC regulations must be ensured.
- The legal requirements for the verification of all declarable substances and allergens (LIMV - Lebensmittelinformationsverordnung) are complied with; the corresponding overview of all affected products and their ingredients is always made available to Klüh without being requested.
- The supplier assures that they and their upstream suppliers implement the ILO guidelines in a binding manner. If the supplier has its own code of ethics, it must be made available to Klüh.
- With regard to product range discipline, deliveries are only made from the valid product range.
- Unique product description and uniform assignment of article numbers.
- Public liability insurance with cover sums corresponding to the purpose of the risk. The supplier is obliged to notify Klüh immediately and unsolicited of any reduction in the scope of cover or termination of the insurance.
- If required, the product specifications including product analysis must be provided for all items to be supplied.
- The food analysis must be signed off by an authorized and sworn-in food expert.
- If necessary, the approval certificate of the production company must be submitted in accordance with the EU standard. (To be found under point 13.)
- The supplier warrants that the labeling and packaging of the products comply with all laws and other legal requirements. In particular, the supplier shall provide the products with all written instructions, information and warnings relating to the products that are necessary for their safe use or for us to comply with any legal or other obligations that may apply to us.

In the event of a product recall, the supplier ensures that our quality assurance department receives a complete overview of the affected Klüh items as well as company-specific item sales statistics within 24 hours. In addition to the exact article designation, these statistics also contain information on the delivery date/ period, best before date, number of articles delivered and batch. The supplier will actively inform the Klüh sites about the progress of the recall.

The supplier makes the existing QM documents and certificates available to Klüh and to provides these again without being asked in the event of updating/ expansion.

An audit of the supplier is possible if required. The performance of the audit can be delegated by Klüh.

10. Reservation of title

Upon full payment of the purchase price, the delivered goods (the "goods subject to retention of title") become our property. However, we may use the goods subject to retention of title and resell them in the ordinary course of business as long as we are not in default of payment. However, we may not pledge the reserved goods or assign them by way of security.

We hereby assign to the supplier in full by way of security any claims for payment against our customers arising from the resale of the goods subject to retention of title as well as any claims in respect of the goods subject to retention of title which arise against our customers or third parties for any other legal reason (in particular claims in tort and claims for insurance benefits). The supplier accepts this assignment.

We may enforce claims assigned to the supplier for his account in our own name on behalf of the supplier. The supplier shall not assert the claims himself and shall not revoke the direct debit authorization as long as we duly meet our payment obligations. We may further process the reserved goods. The supplier guarantees that no third-party rights (e.g. retention of title or lien) exist and shall indemnify us against third-party claims in this respect.

11. Sustainability, business ethics, Supply Chain Due Diligence Act (LkSG)

The supplier observes internationally recognized environmental, labor and social standards such as the BSCI Code of Conduct (Business Social Compliance Initiative). The currently valid BSCI Code of Conduct is available at <https://www.amfori.org/en/solutions/social/amfori-bsci>.

The following also applies:

- Children deserve special protection from all economic actors. Beyond the recommendations of the ILO and thus also the BSCI standard, a minimum age of 15 years applies throughout. Further exceptions for developing countries and/or light child labor are not accepted.
- The supplier shall also promote compliance with these standards among upstream suppliers and ensure that suitable records are kept to determine age and that child labor is effectively prevented. Klüh must also be informed of any evidence of child labor in the entire supply chain.
- If serious environmental pollution (i.e. with negative effects on the environment which are difficult to remedy and which easily extend beyond the company's sphere) is detected at the supplier's or its upstream suppliers' premises, in particular emissions into the air, emissions of noise into the environment, waste water disposal and soil contamination, the supplier must inform Klüh immediately.
- The supplier complies with its duty of care in accordance with the Supply Chain Due Diligence Act and can disclose this in documented form on request.
- The supplier has a policy statement, risk analysis, preventive and remedial measures and a complaint management system if it is already affected by the Supply Chain Due Diligence Act.
- The supplier also has operational emergency plans and complies with all legal regulations regarding fire protection. Klüh reserves the right to conduct audits of suppliers to ensure compliance with these important requirements.
- The supplier acts in accordance with the requirements of Regulation EU 2023/1115 on deforestation-free agriculture when placing on the market, making available and exporting the following goods: Cattle, cocoa, coffee, palm oil and some palm oil products, rubber, soy or wood (all relevant raw materials according to Annex I of the Regulation).

This serves to preserve biodiversity and reduce greenhouse gas emissions.

For this purpose, the supplier shall provide appropriate information, grant access to relevant documents and records and enable an inspection of the production facilities. Klüh may carry out the inspection during regular business hours or have it carried out by third parties bound to secrecy. Klüh shall ensure that the supplier's business operations are disturbed as little as possible by its activities on site. The supplier acknowledges that Klüh has no control, cooperation or audit responsibility as a result of the opportunity to inspect and check.

We have set out our values in a binding code of conduct, which can be found at www.klueh.de.

12. Privacy

Both parties maintain confidentiality regarding confidential negotiations, prices, delivery quantities and other agreements. This also includes all discussions prior to the conclusion of a supply agreement, irrespective of whether a business relationship is established with Klüh.

If required, the supplier may only inform the sites about the prices; all other duties to provide information regarding bonuses or other remuneration are the responsibility of Klüh central procurement department. In the event of inquiries from the sites, the supplier must refer them to Klüh's central procurement department. This duty of confidentiality also extends to all employees and other persons working for both parties.

The supplier maintains confidentiality with regard to all confidential processes of which it becomes aware in the course of its activities on Klüh's premises.

Klüh reserves the right to immediate extraordinary termination in the event of a breach of the aforementioned points.

The obligation to maintain confidentiality shall continue to apply without restriction even after termination of the business relationship.

13. Product liability and insurance

The liability of the parties shall generally be governed by legal provisions, unless otherwise agreed.

We shall only be liable for damages resulting from injury to life, body or health in the event of negligent or intentional breaches of duty. In the case of other damages, we shall only be liable for grossly negligent or willful breach of duty. Excluded from this is liability in accordance with the provisions of the German Product Liability Act (ProdHaftG). Liability in accordance with the general legal regulations shall also apply in the event of fraudulent intent or the assumption of a guarantee.

We shall only be liable for simple negligence if essential contractual obligations (cardinal obligations), i.e. obligations whose fulfillment is essential for the proper execution of the contract and on whose compliance the customer may regularly rely, are violated. Liability is limited to the foreseeable damage typical of the contract. This also applies accordingly to breaches of duty by executive bodies, representatives, employees or other vicarious agents.

Insofar as claims for damages are asserted against us by third parties, the supplier shall be obliged to indemnify us against claims for damages by third parties upon first request and to take all measures necessary for this purpose, since the cause lies within the supplier's sphere of control and organization and the supplier itself is liable in relation to third parties. This applies in particular if the supplier is culpably responsible for the infringement of third-party property rights and third parties assert claims against us due to an infringement of such property rights.

The parties shall notify each other immediately in writing if claims are asserted against one of them due to the infringement of property rights. With regard to a possible joint and several product or manufacturer's liability towards third parties, the supplier shall be liable internally for all design, manufacturing and instruction errors.

Within the scope of manufacturer's liability, the obligation to monitor the product lies solely with the supplier; however, we will inform the supplier accordingly if we become aware of a product defect.

In this respect, the supplier shall also be obliged to reimburse any expenses pursuant to §§ 683, 670 BGB or pursuant to §§ 830, 840, 426 BGB arising from or in connection with a recall campaign carried out by us. The supplier shall be informed of the content and scope of the recall measures to be carried out – if this is possible and reasonable for us - and shall be given the opportunity to comment. The limitation period for these claims is 36 months, beginning with the transfer of risk. We shall undertake the necessary notification of the relevant competent authority in accordance with the provisions of the Product Safety Act (ProdSG) in consultation with the supplier.

In this respect, we are not entitled to make any agreements with the third party - without the supplier's consent - in particular to conclude settlements.

The supplier maintains product liability insurance with an appropriate sum insured - at least EUR 2.5 million per personal injury/ property damage as a lump sum - which insures all risks arising from product liability, including the risk of recall. Upon request, the supplier shall provide corresponding proof of insurance. Any further claims for damages shall remain unaffected.

14. Force majeure

In cases of force majeure, the contracting party affected by this is released from the obligation to deliver or accept for the duration and to the extent of the impact. Klüh is not obliged to accept or pay the supplier for the subsequent delivery of ordered goods that cannot initially be delivered due to force majeure. Supply difficulties and performance disruptions on the part of the seller's subcontractors are only deemed to be force majeure if the subcontractor is prevented by force majeure from providing the service for which it is responsible due to force majeure.

The affected contractual partner shall notify the other party immediately, at the latest within 24 hours of becoming aware of the occurrence and termination of the force majeure and shall use its best efforts to remedy the force majeure and limit its effects as far as possible.

In the event of force majeure, the contracting parties shall agree on how to proceed. The right of each contracting party to terminate the contract for good cause in the event of prolonged force majeure shall remain unaffected.

Force majeure is an external, involuntary and unavoidable event that cannot be avoided even with the utmost care.

15. Data protection

The supplier shall take all necessary and/or appropriate measures to ensure compliance with all data protection regulations, in particular the General Data Protection Regulation (DSGVO). The supplier shall inform us immediately as soon as it becomes aware that we are violating data protection regulations within the scope of the service relationship.

Klüh must be informed promptly and proactively about IT security incidents with an impact on Klüh.

16. Information security

The Supplier undertakes to establish, maintain and continuously improve an appropriate information security management system (ISMS) in accordance with the international standard ISO/IEC 27001. This includes, in particular, measures to ensure the confidentiality, integrity and availability of the data processed within the scope of the business relationship.

The Supplier shall ensure that at least the following security measures are implemented in accordance with the requirements of ISO/IEC 27001:

- Carrying out regular risk analyses with regard to threats and vulnerabilities in relation to information and IT systems.
- Implementation of technical and organizational measures to protect against unauthorized access, data loss, manipulation and other security risks.
- Regular review and update of security guidelines and security patches.

In the event of a security incident that affects or could affect Klüh's business processes or data, Klüh must be informed immediately in writing, at the latest within 24 hours of becoming aware of it. This notification must contain at least the following:

- Description of the incident and its causes,
- the type of information concerned,
- effects of the incident,
- immediate measures taken and planned measures to permanently rectify the incident.

The supplier implements a structured authorization management system in which access to information and systems is based on the principle of the least possible authorization ("need-to-know principle"). A regular review of authorizations must be ensured in order to prevent unauthorized access.

The supplier proves that the requirements of ISO/IEC 27001 are met upon request by Klüh. Klüh reserves the right to carry out audits to verify compliance with these security requirements or to have them carried out by an independent third party.

All data collected, used or stored within the scope of the business relationship must be treated confidentially and may only be used for the agreed purposes. The supplier is obliged to take appropriate measures to prevent data loss or misuse.

If the supplier uses subcontractors or external service providers, it must ensure that they also comply with the requirements of ISO/IEC 27001 and the provisions of this agreement. The supplier shall be liable for breaches by its subcontractors in the same way as for its own breaches of duty.

All relevant documentation, reports and evidence in connection with the ISMS (e.g. test reports, training certificates) must be submitted to Klüh on request.

After termination of the business relationship, the supplier undertakes to securely delete or destroy all sensitive information from Klüh in accordance with the statutory provisions, unless there is a statutory obligation to retain it.

17. Place of performance and jurisdiction

Unless expressly agreed otherwise, the place of performance for the delivery obligation shall be the place of receipt specified in the order.

The exclusive place of jurisdiction for all disputes is Düsseldorf. We are also entitled to sue the supplier at any other permissible place of jurisdiction.

18. Severability clause

Should a provision of this contract be invalid, this shall not affect the validity of the contract as a whole. The contracting parties shall then agree on another provision that comes as close as possible to the meaning and economic significance of the invalid provision.