

## **KML LINEAR MOTION TECHNOLOGY GMBH GENERAL TERMS AND CONDITIONS**

(February 2013 Version)

Terms: The representational General Terms and Conditions will be hereafter referred to as KML terms. KML Linear Motion Technology GmbH will be hereafter referred to as **KML**. The respective contracting party will be hereafter referred to as **CP**.

### **I. GENERAL SECTION**

#### **1. KML terms:**

1.1. All quotations given, deliveries made, services rendered, reservations made, orders taken and contracts signed by KML, shall exclusively reflect the subject terms of contract on account of these KML terms. They also apply to all further business co-operations. CP terms and conditions and the subject terms of contract shall in no case be accepted by KML, also if KML is not expressly in opposition. Acts of fulfilment of a contract or acceptance acts and KML payments apply in no case as acceptance of CP terms and conditions, in particular as acceptance of amendments to or contractions in CP terms and conditions. A reference to CP documents by KML does not represent acceptance of CP terms and conditions.

1.2. If KML conditions were not exclusively implemented on the basis of point 1.1, the following is stipulated: Should the terms and conditions of both parties to a contract contain a specific question and policies different to discretionary law respectively, then the legal requirements exclusively apply to this question. If KML terms contain a question and policies different to discretionary law respectively and CP terms and conditions have no policy on this question, then the corresponding KML terms exclusively apply. If CP terms and conditions contain a question and policies different to discretionary law respectively, and KML conditions have no policy on this question, then the legal requirements exclusively apply.

1.3. Terms and conditions supplied with software or contracts of the CP, its suppliers and sub-contractors do not apply in the absence of a special written approval by KML, even if KML or its employees set a therein specified conduct giving rise to a contract or use registration or other cards provided or endorse or sent them to the CP.

#### **2. Verbal agreements and guidelines:**

Verbal agreements or commitments are binding upon KML, once they have been endorsed by KML in writing. CP guidelines then only apply as subject terms of contract, if they have been expressly accepted by KML in writing. Written agreements and or written undertakings shall only be obligatory on KML if they have been duly signed by KML management or by an authorised agent specifically empowered to do so.

#### **3. Transfer of orders and liability:**

The entire or partial transfer of the order, given by KML to the CP, to a third-party requires prior written consent by KML. The CP is nonetheless responsible for the deliveries made and services rendered by its sub-contractors and suppliers.

#### **4. Delivery risks and costs, requisite approval:**

4.1. Deliveries invariably reflect CP costs and risks to KML, or to the receiving centre specified by KML. The CP must nonetheless pay shipping and packaging costs and transportation insurance costs, which also include the loading procedure.

4.2. The CP is exclusively responsible and liable for all requisite approval, in particular for the provision of services and delivery.

#### **5. Audit:**

KML reserves the right, should the occasion arise, to demand proof of the CP quality assurance system and the documentation on quality inspection. This also includes the right to an audit of the CP companies.

#### **6. Risk transfer:**

In the case of deliveries with installation or assembly, the risk is transferred on acceptance, in the case of deliveries without installation or assembly, the risk is transferred on receipt at the receiving stations specified by KML.

#### **7. Retention of title, transfer agreement, rescission:**

7.1. KML reserves ownership on all items, which it delivered and transferred, until total payment is made on the invoice amount and on all CP receivables. The reserved ownership is used as security for KML's overall outstanding amount of receivables against the CP.

7.2. If the goods and items, which are subject to retention of title, are processed, reshaped or incorporated with, associated or mixed with other items, then this is done for KML; if this is done with items which does not belong to KML, KML gains co-ownership of the new items in proportion to the value of the items subject to reservation to the other goods. The CP shall store the property free of charge for KML.

7.3. The CP may only sell on the goods and items in standard business.

7.4. The CP subtracts all claims and receivables to the amount of the outstanding KML receivables from resale, in particular the purchase price receivable, and agrees to apply the requisite notation in his books, accounts and suchlike as shown. The CP is only authorised to collect these receivables, as long as he complies with KML vis-à-vis his payment obligation. The CP shall provide KML with the necessary collection particulars to deliver the

documentation and impart the act of transfer. KML can also inform the recipient and CP customers respectively of the act of transfer at any time. In the case of resale by cash sale, the proceeds earned up to the amount owed, do not go to the CP ownership; the CP shall store the proceeds separately and pay KML without delay.

7.5. In the case of all third party access to goods subject to reservation of ownership by KML, in particular in the case of levy of execution, the CP shall refer to the KML ownership and advise KML without delay. The CP must reimburse KML for the costs associated with a possible attachment nullity, including lawyer fees. The pledge or transfer, by way of security, in aid of the third party, without KML approval, is excluded.

7.6. KML is entitled to withdraw items and goods covered by ownership subject to reservation, and also to remove the items and goods if the CP is behind in payment vis-à-vis KML or if the uncertainty of its financial status becomes known to KML, in particular if the situation shall become known after the conclusion of the contract, which also puts the CP's ability to meet financial obligations in question. All costs linked to the rescission must be reimbursed by KML. A withdrawal can only take place in rescission as well as the levy of execution of goods, if KML expressly declares it in writing.

**8. Payment charge, delayed payment by the CP, interest on arrears:**

8.1. It is stipulated that CP payments or payments intended for the CP, in particular also if the CP accepts a payment dedication, shall be foremost credited against all outstanding costs, then against all outstanding interest and lastly against the current oldest date-related debt.

8.2. In the case of any delayed payment by the CP, KML is exempt from all further contractual obligations, in particular delivery obligations and liability.

8.3. In the case of delayed payment, the contracting party is obligated to compensate KML for all reminder and collection costs, and the legal representative costs.

8.4. In the case of delayed payment with only a part payment, all cash discount agreements become invalid, in such a way that the CP is obliged in particular to pay all previously withheld discounts.

8.5. In the case of delayed payment, KML can at any rate charge a monthly interest of 1% on late payments.

**9. Right to withdraw from a contract and damages:**

9.1. In the case of default of acceptance by the CP, in the case of delayed payment by the CP, or if the CP is in a poor business position, that raises concern that the contract's due compliance is not assured, in the case of bankruptcy, with bankruptcy dismissal in default of assets or in the case of settlement, KML is entitled to withdraw from the contract with immediate effect and to immediately demand payment on all outstanding receivables.

9.2. In the case of an indebted rescission from the contracting party, KML can demand all-inclusive damages of 25% of the gross contract price from the contracting party, for which the rescission was declared. KML reserves the right to assert damages resulting from this.

**10. Warranty:**

10.1. In the case of all contracts concluded between KML and the CP, KML had to determine the exclusive law upon

faults shown, whether to primarily carry out an upgrade or exchange; the CP shall comply with this ruling without objections, in particular without raising the objections under the terms of § 932 ABGB (Austrian Civil Code). KML also has the exclusive right to determine where the fault is repaired.

10.2. At any rate the CP bears the delivery and shipping costs respectively, for upgrading or exchanging the goods.

**11. Contractual exclusion of set-off:**

KML is excluded against the retention of payments by the CP and the charging of CP receivables, unless the CP counter claim was already established as judicially legally binding.

**12. Diagrams, plans and suchlike and other documents:**

12.1. Diagrams, plans, moulds, samples, models, submittals and suchlike, which KML makes available to the CP, are to be immediately tested by the CP. It is the CP's responsibility to warn of such problems. The CP must immediately disclose defects, discrepancies, complaints and suchlike in writing, otherwise they are deemed to be approved.

12.2. KML retains the ownership and all copyright on diagrams, plans, moulds, samples, models, submittals and suchlike, cost estimates as well as other documents, which will be relinquished to the CP. These should only be allowed to be used by the CP for the agreed purposes and should not be accessible to a third party.

12.3. Tools relinquished by KML remain KML property until the order is completed. These and items manufactured thereafter should neither be passed on to a third party nor be used for anything other than contractual obligations, without the written consent of KML.

12.4. Tools, moulds and suchlike, which are manufactured at a cost to KML, become the property of KML after they have been paid for.

12.5. All trimmings and stopgaps in the broadest sense, in particular the aforementioned, are accordingly earmarked by the CP as KML property and are safeguarded against unauthorised inspection, usage and removal and shall be repaired or replaced if necessary. They are returned with delivery and cancellation respectively. Subject to further rights, KML is entitled to demand restitution, if the CP breaches these duties, or if manufacturing difficulties persist. A CP right of retention is at any rate excluded.

12.6. The CP is responsible for acquiring job training.

12.7. The CP indemnifies and holds KML harmless from and against semi-finished products, products, product components (manufacturing components, catalogues and standard parts), material, diagrams, plans, moulds, samples, models, submittals and suchlike and other documents, which KML receives from the CP and which encroach upon third party industrial property rights, in particular in the case of patent protection, copyright protection, brand protection and model protection legal disputes resulting from the CP delivery.

**13. Nondisclosure, data protection:**

13.1. The CP is sworn to secrecy in relation to information acquired through business contact with KML, in so far as they are not generally or otherwise lawfully established. The same applies to all personal data, which the CP has

acquired. The CP is obliged to protect all this information and data from third party access and agrees to apply the same corresponding non-disclosure to his employees, in particular those involved.

13.2. All instructions, information and data related to the handling of transactions can be saved and processed, taking into account the legal provisions of KML or associated companies.

**14. Area of execution, jurisdiction, choice of law and contractual language:**

14.1. Area of execution is KML headquarters in Vienna.

14.2. Austrian jurisdiction applies. As place of jurisdiction for all disputes relating to or not relating to the contract, the objective competent court is stipulated in Vienna. KML is also entitled to take legal proceedings against the contractual partner at the competent court of domicile and seat respectively.

14.3. It exclusively applies the application of Austrian law. The application of the UN Convention on Contracts for the International Sale of Goods and similar international agreements is excluded.

14.4. The contractual language is German.

**15. Business address amendment:**

The CP is obliged by KML to disclose business address amendments in writing, while the contract is not fully fulfilled. Failure to do so means that messages, letters and suchlike shall also be deemed as having been received, if they are sent to the last known address.

**16. CP violation of the KML terms:**

The CP has to indemnify and hold KML harmless from and against all violations of these KML terms.

**17. KML representatives and employees:**

KML representatives and employees have on principle no power to contract or authority to collect. They cannot make agreements, which are valid for KML or by which KML is bound.

**18. Inefficacy of individual terms:**

Inefficacy of individual KML terms does not affect the validity of the remaining terms. The ineffective term is replaced by an effective clause, with a similar spirit and purpose.

**II. ADDITIONAL CLAUSES, WHICH APPLY TO SALES, DELIVERIES MADE OR SERVICES RENDERED BY KML**

**1. Quotations, acceptance of goods and delivery dates:**

1.1 Price lists sent by KML are not regarded as a quotation unless otherwise indicated by KML, quotations are only valid for a maximum of four weeks following the issue date. Acceptance of a quotation applies to the entire quotation. Estimates are available for a fee. All-inclusive price commitments are not available.

1.2. KML is only bound by orders having received written confirmation by KML. Moreover, KML shall only be obliged to perform the relevant service if all technical details have been clarified and the CP has fully complied with any structural, technical and legal requirements for

performance, or completed other necessary preparatory works.

1.3. At the latest, on and through acceptance of the goods, deliveries made or services rendered, the CP accepts the full worth of the KML terms.

1.4. Particularly in the case of goods or property to be produced specifically, KML reserves the right to reasonable excess or under delivery. If KML performs services based on plans, layouts, sketches, instructions and/or other documents or information handed over by the CP, the CP shall guarantee their accuracy. No obligation to conduct testing or issue warnings arises for KML in this respect. If the CP requests a review of the plans, layouts, sketches, and/or other documents which it has provided, or of information or instructions which it has issued, this shall be explicitly agreed for a reasonable fee.

1.5. Delivery times are only regarded as approximate and subject to confirmation. Also, if certain delivery dates were agreed, compensation claims for untimely delivery cannot be asserted against KML.

1.6. Any minor or other amendments - considered reasonable by the CP - to the service and/or delivery commitment of KML shall be deemed approved in advance by the CP. This applies in particular to any resultant deviations (e.g. in measurements, colours, plastics, metals, composition of non-ferrous metals, etc.).

1.7. Any claims of the CP against KML may not be assigned to third parties without the explicit consent of KML (prohibition on assignment).

1.8. KML shall be informed of discontinuations immediately.

**2. Prices and KML minimum order value:**

2.1. All prices are subject to confirmation and are understood to be the net prices (excluding delivery, packaging and suchlike), unless otherwise expressly agreed. Price increases due to an increase in actual costs between quotation and delivery may be invoiced. The cost reflects current and expected prices respectively and terms and conditions on the day of delivery.

2.2. All rebates, price reductions, discounts etc. granted by KML become invalid in the case of delayed payment or insolvency of the CP. KML is entitled to charge the full price.

2.3. KML is entitled, in the case of orders, in which the so-called KML minimum order value is greater than the net order value, to charge the KML minimum order value. The KML minimum order value is fixed by KML annually.

**3. Packaging and shipping:**

3.1. Containers, lattice boxes, cases and pallets remain the property of KML, shall be stored accordingly and returned or sent back to KML without causing any costs for KML. Wooden boxes, cardboard boxes and disposable packaging will be charged at cost price and are non-returnable.

3.2. The shipping reflects the CP account and risk ex works. Additional express parcel costs, postage and express parcel costs in the case of small items being mailed, are charged to the CP. The method of shipping used is decided by KML.

3.3. The CP shall observe and comply with operating and commissioning instructions handed over during the purchase and in particular shall ensure that stipulated

maintenance works are properly carried out. In this context the CP hereby promises to indemnify and hold KML harmless from all disadvantages resulting from improper handling, commissioning and/or custody of goods delivered by KML.

3.4. If the CP has not accepted the goods as agreed (default in acceptance), KML shall be entitled, after the expiry of a subsequent deadline, to place the goods in storage at KML, for which a storage charge of 0.1% of the gross invoice amount is charged per commenced calendar day, or to place the goods in storage at an authorised third party, at the expense and risk of the CP.

#### **4. Pre-emptive right:**

The CP concedes the pre-emptive right to items purchased from KML to KML in the case of liquidation, the institution of compensation or bankruptcy proceedings, closure of the business and in the case that the CP can no longer process items purchased from KML.

#### **5. Requirement to give notice of defects and warranty:**

5.1. Immediately following delivery, the CP shall examine the goods purchased from KML, and shall immediately complain, according to §§ 377f UGB (Austrian Commercial Code), about faults, discrepancies and incorrect delivery, and also if the goods clearly differ from the order. In particular in the case of acceptance of goods shipped, the CP shall immediately inspect them and make the written complaint directly on the transport document and shall also send a written complaint to KML on the same day. In the case of all hidden faults, discrepancies and wrong delivery, the written complaint registered by the CP shall be sent to KML within 3 working days of the problem being identified. The CP is under the obligation to furnish proof in the case of timely dispatch of the written complaint to KML. In the case of failure to comply with the aforementioned terms, in particular the time limits and formalities mentioned, the goods and delivery respectively shall be deemed to be approved by the CP; furthermore, all claims and receivables of any kind, in particular from the warranty title and the damages, shall be terminated and forfeited vis-à-vis KML.

5.2. Should faults arise, the CP is not entitled to a retention of the whole amount, but simply a reasonable share of the gross invoice amount.

5.3. The contracting party is only entitled to a price reduction, or, provided that it concerns a significant fault, is entitled to redhibitory action if KML refuses the selected upgrade or replacement relevant to point I.10.1., or does not undertake this in a reasonable period of time.

5.4. The warranty period is set at an abbreviated term of 6 months, and any special right of recourse for the CP - in excess of this period -, pursuant to Article 933 of the Austrian Civil Code ("ABGB"), by virtue of self-fulfilled warranty obligations is excluded. Otherwise, the CP shall always be subject to the burden of proving that the defect already existed at the time of goods handover.

5.5. No warranty claims shall arise if KML services have been amended, supplemented or adapted by third parties or the CP, or in case of defective assembly by the CP and/or third parties.

5.6. Moreover, no warranty claims shall arise in the event of damage to goods caused by external, possibly mechanical actions, for wearing parts and/or other parts

which are subject to wear and tear.

5.7. Furthermore, no warranty claims arise for inappropriate or improper use, wear and tear, in case of failure to arrange for maintenance works, defective or negligent handling, or in the event of use of inappropriate and/or inadequate equipment.

#### **6. Damages, liability and non-liability:**

6.1. Any KML liability for property damages is excluded. In the case of resale of goods purchased from KML, the contracting party is obliged to pass on the non-liability for item damages to every further consumer while indemnifying and holding KML harmless.

6.2. KML liability for any damages is deemed to be excluded, if the contracting party fails to disclose the damages and the person/s responsible in writing to KML within 8 working days of the damages being identified. KML can no longer invoke contracting party compensation claims vis-à-vis in the case of slight negligence and can only do so in the case of intent or gross negligence, if the intent or the gross negligence of KML or its subsidiaries is proven, whereupon the full burden of proof of the contracting party is made. In the case of gross negligence, KML shall not be liable for the loss of profit and consequential harm caused by a defect or third party damages.

6.3. KML accepts no liability whatsoever for the suitability of the goods and products for the use intended for them by the contracting party; also, KML is excluded from liability for instructions in brochures, operating or assembly instructions or other product information, provided by a third-party; there is a warning about using the goods and products in any way that may exceed this. KML also accepts no liability for damages, which are due to improper or incorrect use, incorrect assembly or operation, faulty or careless handling or wear and tear. KML also accepts no responsibility whatsoever for damages in transport caused by the haulier. KML shall, excluding any liability, be entitled, in the case of an act of God or in the case of similar events, to cease fulfilment of a contract or delivery.

6.4. In the case that KML persons, who are working with a CP customer, cause personal injury or property damage, the CP has to indemnify and hold KML harmless from and against all claims, brought by the CP customer against KML.

### **Ila. ADDITIONAL CLAUSES WHICH APPLY TO PURCHASING OR ORDER PLACEMENT BY KML**

#### **1. Orders, deviation from the order confirmation and cancellation:**

1.1. Orders are only legally binding for KML, if they have been issued on a purchase order form by KML and have been signed by the company. The order from KML is to be confirmed promptly by the CP with the price and delivery time details. Any deviation from the order confirmation from the order will not be accepted by KML, particularly not implied. By accepting the order the CP hereby undertakes to deliver goods correctly in the indicated, ordered quality, quantity and description. Specifications, parts lists, drawings, technical documents and/or other necessary data for implementation of the order, as stated by KML,

shall be strictly adhered to.

1.2. KML reserves the right to cancel the order if the proper order confirmation does not arrive with an agreed time, at least within two weeks of KML placing the order.

## **2. Delivery date and penalty:**

2.1. The goods have to be at the stated receiving site on the agreed delivery day at the latest for all orders placed by KML.

2.2. All contracts between KML and the CP - where a delivery date is agreed - shall be regarded as fixed-date transactions. As a result KML shall be entitled to withdraw from the relevant contract, pursuant to Articles 919 et seq. of ABGB, if the CP fails to observe a delivery deadline for any reason.

2.3. Therefore the CP has to notify KML immediately, and to secure a decision from KML for all forthcoming delays. By default – independent of point 2.2 –KML is entitled to claim a penalty of 1% of the total order value or total compensation, without evidence of accrued damages. The assertion of further additional damages is reserved by KML. This also applies if a delayed partial delivery has been previously accepted unconditionally by KML. For deliveries that are ahead of schedule, KML has the right to bill the CP for incremental costs such as storage costs, as well as the payment corresponding to the agreed delivery date.

## **3. Deliveries, hazardous materials:**

3.1. All deliveries to KML are carried out free from reservation of title.

3.2. A delivery note is to be enclosed to all deliveries, with an exact summary, complete purchase order indicator as well as all details required concerning export licence regulations (e.g. Export Control Commodity Number) and that the goods are not subject to preferential treatment (e.g. movement certificate, certified declaration of origin). The CP has to send a copy of the delivery papers immediately to KML when they deliver directly to KML's customers.

3.3. In the case of an intra-community delivery, the CP has to provide the necessary data for labour statistics (Intrastat).

3.4. The CP is responsible for all existing regulations regarding the shipping, delivery and transportation; importing and exporting as well as labelling and packaging are adhered to when delivering hazardous materials. When delivering hazardous materials, particularly in the sense of the German HGR/ADR, the corresponding accident procedures sheet has to accompany the consignment.

3.5. Provided that nothing else has been agreed, it applies to all deliveries (from Austria, Europe and overseas) that the CP has to pay all costs and risk including import charges and the customs duty up to the point of destination (DDP / Delivered Duty Paid according to current Incoterms). Accrued provisions regarding mode of transport and haulier are complied with by KML. Incremental costs for a rush transportation, which is necessary to comply with the delivery date, are borne by the CP.

3.6. The CP is liable for all damages and costs, which are a result of non-observation of shipping instructions. KML reserves the right to refuse the assumption of the CP's costs and risks in the case of missing or incomplete

shipping papers, particularly with errors in reported order dates.

3.7. The CP hereby specifically promises KML that - on the orders of KML - it will arrange for repair of goods relevant to the contract at usual market prices and/or delivery of an equivalent technical replacement for a period of at least 11 years. This shall apply in addition to any other obligation to compensate all disadvantages caused to KML.

## **4. Price, packaging and damages:**

4.1. As far as the price is calculated "excluding packaging", this is to be invoiced as original costs and accounted for separately. For want of a special agreement, the value of reusable packaging provided by KML is to be paid by the CP. All damages as a result of improper packaging are charged to the CP.

4.2. The prices agreed in the order are fixed prices. In the event of a change to prices caused by changing costs, a price increase cannot be enforced by the CP. Additional and/or supplementary deliveries shall be priced by the CP under the same conditions; this applies regardless of the order quantity or other conditions of the new order.

## **5. Invoicing, cession and payment:**

5.1. The invoice has to show all order data and legally stipulated content, and is to be sent immediately to KML in duplicate after delivery and the entire work has been performed. Invoices for job performance or assembly are to be settled by clock-in cards authenticated by KML. The invoice has to contain all the required designations for goods that require an export licence. Invoice copies are to be clearly marked. KML is entitled to send back any invoice regarding order details or the VAT regulations as unprocessed. In this case, the invoice is not considered to have been filed.

5.2. Cession requires our prior written consent.

5.3. The CP's term of payment first commences after the CP's delivery or performance has completely taken place, free of defects, after acceptance by KML has taken place and the properly issued invoice has been entered in the sense mentioned above. As far as the CP's material tests, test records, quality documentation or other records are made available; the term commences if these have also been entered completely and defect-free with KML.

5.4. Unless otherwise expressly agreed in writing, KML will pay the invoice within 30 days, less 3% discount, or within 90 days net. A payment by KML does not mean recognition of the delivery in accordance to regulations or performance and does not waive KML's entitled rights.

## **6. Delivery, software, security requirements, regulations and state of technology, duty to supply information and identification:**

6.1. The CP has to guarantee KML independent use of the delivered items and goods. Drawings and technical calculations, unless otherwise agreed, are to be delivered free of charge by the CP.

6.2. KML will concede a right for a negotiable and non-exclusive user right for software delivered by the CP, which has not been individually developed for KML. This usage right is temporarily unlimited if the payment of a single fee is agreed for this purpose. KML will concede a transferable and temporarily unlimited usage right for all types of use for customized software for KML.

6.3. Equipment constructed by the CP or products delivered have to be equipped with the prescribed safety appliances, and also correspond to the effective safety regulations. In particular, equipment and equipment components have to correspond to the safety regulations in force at the place of installation. The condition and rules of the technology are to be observed in any case, in particular the Electrotechnology Act and all regulations based on it (all in the respective version in effect), as well as the respective valid Austrian Electrotechnical Association and the VDE (German Association for Electrical, Electronic & Information Technologies) regulations to be applied as well as technical Austrian standards, German and European standards. Machines and their components have to correspond to the machine guidelines and to the EU-harmonised Austrian standards. An EU conformity declaration has to be issued for all machines and the CE label must be affixed.

6.4. Regardless of legal or (pre-) contractual briefing obligations, the CP has to give all necessary and useful information on the goods to be delivered or the service to KML, in particular, advice on appropriate storage, as well as certificates of origin or declaration of materials according to the relevant Austrian Standards Institute. The CP has to inform KML in time about change of materials, manufacturing process and vendor parts, as well as to immediately provide a conformity declaration (CE label) at our request, corresponding to the directive in force for the product.

#### **7. Warranty:**

If only parts of the delivery do not correspond to KML's specifications resp. KML's order or are not in a commercial condition, KML can send back the entire delivery. The receiving office's delivery receipts are not statements by KML about the goods' being free of defects and their suitability. KML has no requirement to make a complaint in respect of a defect immediately on receipt of goods. The CP guarantees the application of the best materials, competent and suitable execution, practical construction and sound assembly. The warranty period for classified defects begins from the actual recognition of the fault at the earliest. The warranty period for deliveries to a location, which is not KML's registered office, where KML are carrying out contracts, starts at the earliest with KML's customer's acceptance. Should the CP procure pre-deliveries from a third party, they must ensure the quality of such pre-deliveries either by their own means, particularly through their own quality tests or by contractual involvement with the preliminary supplier in the KML requirements. Preliminary suppliers are considered as a vicarious agent of the CP.

#### **8. Compensation and liability:**

8.1. At any rate, KML is entitled to claim the lost layout costs and all manipulation costs from the CP and also the compensation of all pure financial costs. Investigation costs are to be refunded to KML at any rate, if the investigation shows a fault. In the case of a particular priority, for example, to avoid delays, the CP's tardiness in the repairing of defects or in impending damage claims, KML is entitled to carry out the repairs at the CP's cost immediately and without detriment to existing guarantee and compensation rights or to obtain supplies elsewhere.

The full costs for this are to be refunded to KML, even if they are higher than those of the CP. All pre-identified claims are barred at least three years after the notice of defect. This regulation applies correspondingly to the removal of defects.

8.2. The CP is obliged to conduct product monitoring of its goods and constantly update goods in light of the latest scientific and technological developments. Upon request by KML, all production documents shall immediately be released by the CP and importers and parts manufacturers named.

8.3. If product defects (construction, production, instruction errors or transport damage, etc.) arise, or if the CP becomes aware of such defects, the CP shall immediately notify KML thereof and reimburse all costs and other financial detriments to KML, including those caused by product recall.

8.4. The CP hereby assigns all claims from insurance companies in the form of payment to KML.

#### **9. Product liability:**

Regardless of other obligations, the CP indemnifies and holds KML harmless for and against all matters, goods, products and work performed by him in consideration of all third party product liability claims. At any rate, the CP is obliged to compensate KML for all costs that KML has accrued from the defence of a claim or from compensation. The CP is obliged, for a duration of 11 (eleven) years from delivery, in relation to the products delivered by him, to name the respective manufacturer, importer or preliminary supplier immediately to KML on request, as well as to make particular manufacturing records and files from which production and delivery charges and/or production and delivery time available immediately to KML on the defence of appropriate evidence of third party product liability claims. The CP is obliged to adequately insure the above-mentioned risk of a demand and to produce suitable evidence about it on demand to KML.

#### **10. Dangerous waste and disposal:**

10.1. The CP has referred KML to the possibility of access to special refuse, dangerous waste, used oils, and such goods and items delivered by him, particularly given the type and any sorting alternatives. Should the CP fail to do this, the CP is obliged, at KML's request, to remove and transfer remaining special refuse after conventional use for free, and dangerous waste and suchlike and to indemnify and hold KML harmless. If the CP refuses to remove and transfer, or if it is not possible, KML has the right to charge the CP sorting costs.

10.2. All individual containers of chemicals and preparations are to be identified beside the label with danger symbols, R/S rates and waste code numbers corresponding to the material declaration.

#### **11. Patent and trademark protection:**

11.1. Where products acquired by KML are subject to industrial property rights, in particular patent rights, the acquisition of such industrial property rights shall be compensated and included in the price to the necessary extent for using, handling and processing delivered goods.

11.2. The CP shall be liable to KML for non-violation of third-party industrial property rights, and shall indemnify and hold KML harmless at the first request.