

# General Terms and Conditions of Purchase of Klingele Papierwerke

## February 2006

### 1. General provisions

Orders placed by the purchaser shall be subject solely to the following Terms and Conditions of Purchase. The supplier's general terms and conditions of purchase will not become an integral part of the contract even if the purchaser does not expressly refuse to accept them. This applies even if the supplier states that it only intends to supply according to its own conditions. Confirmation or execution of the order shall be regarded as acknowledgment of these Terms and Conditions of Purchase. The acceptance of the products does not signify acknowledgement of other conditions. Data associated with the order placed under this contract or a relationship of trust similar to a contract shall be saved manually and mechanically observing German data protection regulations.

### 2. Conclusion of contract and amendments

- 2.1 Orders, transactions concluded and supply requests including amendments thereto shall be made in writing. These may be communicated by electronic data transmission or fax.
- 2.2 If the supplier does not accept the order within 10 working days of delivery the purchaser shall be entitled to revoke the order. Call-off requests are binding if the supplier does not object within five working days.

### 3. Delivery date

- 3.1 The agreed delivery times or dates shall always be binding. Receipt of the products by the purchaser shall be definitive for determining whether or not the delivery time has been observed.
- 3.2 In the event of a culpable delay in delivery the supplier shall owe the purchaser a contractual penalty of 0.1% of the order sum per working day of delay, however no more than 5% of the order sum. This shall have no effect on the purchaser's right to withdraw from the contract and to assert claims over and above that.
- 3.3 If it becomes apparent that delivery dates cannot be met the supplier shall contact the purchaser without undue delay. This shall have no effect on the rights of the purchaser.

### 4. Prices

- 4.1 The prices specified in the purchaser's order shall be deemed to be fixed prices for the entire term of the order. The purchaser shall be notified in writing without undue delay of any changes in prices resulting from an amendment to the contract. They will not be binding until confirmed in writing by the purchaser.
- 4.2 Unless otherwise agreed delivery shall be free domicile to the reception point stipulated by the purchaser including packaging and insurance.

### 5. Dispatch papers

The dispatch papers shall be marked with the references prescribed by the purchaser, a precise description of the quantity, weight (gross and net) and type of packaging of the products or the object.

### 6. Packaging

- 6.1 The products shall be packed properly. Any damage caused by improper packaging shall be borne by the supplier.
- 6.2 The supplier shall be obliged to take back all the packaging including the transport packaging at the place of delivery at its own cost.

### 7. Passage of risk

- 7.1 The risk shall pass to the purchaser when the products arrive at the reception point stipulated by the purchaser. If acceptance takes place the risk shall pass to the purchaser on acceptance at the reception point stipulated by the purchaser.
- 7.2 If the dispatch documents required for a consignment are not provided or if they do not contain the above information the products shall be stored at the cost and risk of the supplier until the proper dispatch documents have arrived or full information has been provided.

### 8. Force majeure

Circumstances of force majeure, which also include strikes, lockouts and disruptions in transport for which the purchaser is not responsible and operational disruptions in the sphere of responsibility of the purchaser, shall indemnify the purchaser from its obligations under the contract for the duration thereof and to the extent of their effect and shall entitle the purchaser – irrespective of its other rights – to withdraw from the contract in whole or in part in as far as these occurrences are not of inconsiderable duration.

### 9. Liability for defects

The rights of the purchaser with regard to legal and product defects shall be subject to statutory provisions plus the following:

- a) The purchaser has fulfilled its duty to report defects if it does so within 10 days of receiving the products. Latent defects shall be deemed to have been reported without undue delay if they are reported within 10 days after the defect has been discovered.
- b) The supplier guarantees that the recognised rules of technology will be observed and, in particular, that it will observe the specifications and guidelines issued by statute, supervisory authorities, employers' liability insurance companies (*Berufsgenossenschaft*) and the VDE with regard to execution, accident prevention, environmental protection and health.
- c) The limitation period for claims of the purchaser for defects is three years from delivery unless a longer limitation period is provided for by statute. Where the contract stipulates that the products to be delivered shall undergo acceptance, the limitation period begins to run on such acceptance.
- d) If the products delivered or services provided are defective the purchaser is entitled to demand repair or replacement delivery. If danger is imminent or if the supplier is in default with the subsequent performance required by the purchaser or refuses such performance or if the subsequent performance demanded by the purchaser is unsuccessful the purchaser is

entitled to remedy the defect itself, to have the defect remedied or the product replaced at the expense of the supplier. If danger is imminent the purchaser shall decide at its due discretion. After a deadline set to the supplier for remedying the defect has expired the purchaser is also entitled to remedy the defects itself or to have this done by third parties at the expense of the supplier.

### 10. Product liability, insurance

10.1 If a claim is made against the purchaser on the grounds of product liability the supplier shall indemnify it from any third-party claims to the extent that the damage was caused by the products supplied by the supplier. To the extent that the cause of the loss falls within the responsibility of the supplier the supplier shall bear the burden of proof. The supplier shall assume all costs and expenses, including the costs of any legal action. In all other respects the statutory provisions shall apply.

10.2 The supplier shall take out appropriate insurance cover for product liability and shall provide the purchaser with the insurance policy for inspection on request. This shall have no effect on the claims of the purchaser against the supplier.

### 11. Quality assurance

The supplier shall establish and maintain a state-of-the-art quality assurance system of suitable type and scope and provide evidence of this on request. Should the purchaser consider it necessary the supplier shall enter into a quality assurance agreement to this effect.

### 12. Intellectual property

If a third-party asserts claims against the purchaser on the grounds of an infringement of intellectual property rights associated with the contractual products supplied by the supplier, the supplier shall indemnify the purchaser at first request from liability to the extent that the property rights were known or ought to have been known to the supplier had the care required in commercial dealings been exercised.

### 13. Confidentiality

13.1 As long as and to the extent that it is not publicly known, any business or technical information made available by the purchaser shall be kept secret from third parties and may only be disclosed to persons in the supplier's own company who require such information for the purpose of supplying to the purchaser; such persons must also be obliged to observe secrecy. This information shall remain the sole property of the purchaser. Such information may not be reproduced or used without the prior written consent of the purchaser other than for supplies to the purchaser. At the purchaser's request all information originating from the purchaser (including any copies or records made) and any objects provided on loan shall be handed back to it without undue delay and in full or, if so requested by the purchaser, destroyed. The supplier shall have no right of retention.

13.2 The purchaser reserves all rights in such information (including copyright and the right to file applications for industrial property rights such as patents, utility models, etc.). To the extent that these have been made available to the purchaser by third parties this reservation of rights shall also apply in favour of such third party.

13.3 Products manufactured to documents drafted by the purchaser, such as drawings, models, etc. or to confidential data provided by the purchaser or using the purchaser's tools or tools modelled thereon may not be used by the supplier itself or offered or supplied to third parties.

### 14. Provision of material

14.1 The purchaser shall reserve title in material provided. Processing or re-working by the supplier shall be carried out for the purchaser. If the reserved goods belonging to the purchaser are processed using items which do not belong to the purchaser the purchaser shall acquire co-title in the new item *pro rata* in the ratio of the value of the item provided by the purchaser to the other processed goods at the time of the processing.

14.2 If the item provided by the purchaser is irreversibly mixed with other items which do not belong to the purchaser the purchaser shall acquire co-title in the new item *pro rata* in the ratio of the value of the reserved good to the other mixed goods at the time of mixing. If the mixing process takes place in such a way that the supplier's item must be regarded as the principal item the parties shall be deemed to have agreed that the supplier shall transfer co-title to the purchaser *pro rata*.

14.3 The supplier shall hold the sole property or co-property for the purchaser free of charge.

14.4 As long as the sole property or co-property is in the possession of the supplier it must be insured against fire and theft to the benefit of the purchaser at the expense of the supplier. The material provided may only be used for orders of the purchaser.

### 15. Assignment

The supplier may only assign rights associated with this order with the prior consent of the purchaser.

### 16. Reservation of title

The purchaser will not accept prolonged or extended reservation of title by the supplier. The supplier shall permit the purchaser to process, work and sell the products supplied in the framework of its usual business.

### 17. Place of performance, jurisdiction, miscellaneous

17.1 The place of performance for the supplies shall be the delivery address stated, for payment the place of performance shall be the domicile of the purchaser, the place of jurisdiction shall be Stuttgart. Sentence 1 shall only apply if the purchaser is a merchant, a legal person under public law or a special public fund.

17.2 All legal relationships between the supplier and the purchaser shall be subject solely to the law of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).