



Klöckner Pentaplast (Suzhou) Specialty Material Company Ltd. General Terms and Conditions of Purchase

1. Applicability

- 1.1 All purchases of goods and services by Klöckner Pentaplast (Suzhou) Specialty Material Company Ltd. ("we", "us" or "Buyer") from the party to whom a Purchase Order is addressed ("your company", "you" or "Seller") shall be governed exclusively by the Purchase Order issued by Buyer and these Terms and Conditions. Delivery and payment terms which contradict or differ from the Purchase Order and these Terms and Conditions will not be accepted by us, except in cases where we have approved such terms in writing.
- 1.2 These Terms and Conditions also apply in cases where we accept your delivery without any reservations and in express knowledge of the contradicting or differing delivery and payment terms.
- 1.3 Seller has read and understands these Terms and Conditions and agrees that Seller's acceptance of or its performance in relation to a Purchase Order (as defined in Provision 2) shall constitute Seller's acceptance of these Terms and Conditions.

2. Orders

- 2.1 Offers submitted by you shall be free of charge.
- 2.2 Orders, agreements or modifications are only binding if confirmed by us in writing.
- 2.3 Unless agreed otherwise, you are obliged to notify us in writing of your acceptance of our orders within 7 working days from the date of the order (the "Purchase Order"). Otherwise, we reserve the right to revoke the Purchase Order.
- 2.4 In any event any performance by Seller in relation to a Purchase Order will constitute acceptance of such Purchase Order. In the event that Seller does not forward a written acceptance or start performance in relation to a Purchase Order within 7 working days after Seller's receipt of the Purchase Order, Buyer shall be entitled but not obliged, to revoke such Purchase Order without incurring any liability.
- 2.5 Acceptance of a Purchase Order by Seller is expressly limited to the terms of the Purchase Order and to these Terms and Conditions. Any additional or different terms and conditions are expressly excluded and are deemed to be objected to without further notification by Buyer, and shall be of no force or effect unless specifically agreed to in writing.
- 2.6 Buyer shall have the right to amend or vary a Purchase Order in any respect or cancel a Purchase Order for any reason. In such circumstances Buyer will reimburse the costs actually incurred by Seller in relation to such change or cancellation. In any event, Seller is obliged to take all reasonable steps to minimise all such costs to the greatest possible extent.

3. Shipping, and Passage of Risk and Title

- 3.1 Seller agrees to properly pack, identify, label, and ship goods in accordance with the requirements of Buyer to the shipping address indicated by Buyer. Seller shall submit to Buyer a notification of dispatch in duplicate for each individual consignment to the respective shipping address on the day of dispatch.
- 3.2 Seller is required to provide necessary documents, approvals, and/or certificates in a proper manner to complete the delivery of goods to us. The notifications of dispatch, consignment notes and package markings must all bear the Purchase Order number provided by us, the receiving department and other comments requested with the Purchase Order.
- 3.3 Seller shall be liable for any additional cost incurred by Buyer and for any loss or damage to the goods resulting from failure to comply with Buyer's packaging and shipping instructions, as well as damages and losses incurred by Buyer resulting from false, incomplete or delayed documents or approvals or certificates.
- 3.4 If Seller fails to comply with Buyer's packaging and shipping instructions, we may, in addition to our other rights, cancel any Purchase Order, without any liability.

3.5 Unless otherwise agreed by the parties, the title and risk in the goods shall remain with Seller until the goods are delivered to the location specified in the Purchase Order (in accordance with PRC contract law) and a delivery receipt is signed by an authorized representative of Buyer, at which time title and risk in the goods shall transfer to Buyer. The risk of loss or damage to the goods prior to completion of delivery shall be upon the Seller, and any such loss or damage to goods ordered hereunder shall not release Seller from any obligation hereunder.

4. Delivery Periods, Delivery Dates

4.1 The terms of delivery indicated in the Purchase Orders is binding on you.

4.2 Delivery is not complete until the goods have been actually received and accepted.

4.3 Time, quantity, and accuracy of deliveries are of the essence. Seller agrees to take all actions necessary and appropriate to ensure that goods are received by Buyer as required under the relevant Purchase Order. Should it become apparent that you will not be able to meet an agreed delivery period or date, you must inform us immediately in writing, stating the reasons for and the expected duration of the delay and corrective measures which Seller is taking to minimize the effect of such occurrence. We may, at our sole discretion, refuse or agree upon such delayed delivery.

4.4 In the event that Seller fails for any reason whatsoever to effect delivery consistent with the delivery dates specified in the Purchase Order, Buyer shall be entitled to recover from Seller all actual, consequential and incidental losses, costs, expenses, and damages including, but not limited to, losses and damages relating to and arising out of incremental cost of labour, transportation, production changes and storage, except where (1) a delay is caused by riots, war, governmental laws, orders or regulations, embargoes, acts of God, fire, or similar causes beyond the reasonable control of Seller, and (2) Seller notifies Buyer as aforesaid. If Seller cannot comply with the delivery schedule, Buyer may terminate the Purchase Order or cancel any shipments without further liability to Seller, in addition to any other rights or remedies.

4.5 If in order to comply with Buyer's required delivery date it becomes necessary for Seller to ship by a more expensive way than specified in a Purchase Order, any increased transportation costs resulting there from shall be paid for by Seller unless the necessity for such rerouting or expedited handling has been caused by Buyer.

5. Prices

5.1 Seller warrants that the prices for the goods sold to Buyer are not less favourable than those currently extended to any other customer for the same or similar articles in similar quantities.

5.2 Prices shall be as stated in the Purchase Order and are binding on you.

5.3 Unless agreed otherwise in writing, the price stated in a Purchase Order includes all charges related to the product or service ordered, including the purchase price, insurance, delivery, packaging, fees, boxing, crating, special handling, and freight, and applicable taxes and duties. No modification or adjustment of the stated price may be made without the signed written agreement of Buyer.

5.4 If Seller requires the return of packaging, the parties shall enter into a separate written agreement.

5.5 In case where a price is agreed as "ex works", "ex warehouse" or, "excluding packaging", we will only be responsible for the most favourable freight charges and/or packaging costs at our sole discretion.

6. Invoicing and Payment

6.1 Payment terms are as specified in the Purchase Order. If no payment terms are specified, payment will be due thirty (30) days after delivery of the goods or invoice date, whichever occurs later. All payments are subject to adjustment for rejection.

6.2 No invoices shall be issued nor payment made prior to delivery.

6.3 Invoices shall be submitted in duplicate for every order separately and shall include the following information:

6.3.1 Buyer's Purchase Order number;

6.3.2 Specification of delivery or service rendered;

6.3.3 Delivery note number indicated by Seller, date of shipping;

6.3.4 Quantity, unit of scale;

6.3.5 Value of consignment (price per item and total price) – if applicable;

6.3.6 Price unit, currency unit;

6.3.7 Price of packaging (per unit of goods);

6.3.8 Number of packages, weight (gross/net);

6.3.9 Delivery address / point of unloading;

6.3.10 VAT percentage rate; and

- 6.3.11 Seller's corporate name, registered office and registered number.
- 6.4 You shall be responsible for all consequences of non-compliance with these obligations.
- 6.5 Payments shall be effected according to the terms set forth in a Purchase Order.
- 6.6 Payment of invoices does not imply a waiver of claims based on defects in regard to a delivery. A later notice of defects is not excluded by such payment.
- 6.7 Where goods are not supplied in accordance with a Purchase Order or these Terms and Conditions, Buyer shall be entitled to withhold payment of or offset from other payments owed to Seller, to the fullest extent as permitted by applicable law, the respective amount of the price until Seller has fulfilled its obligations in full.
- 6.8 Seller may not assign its payment rights hereunder without the prior written consent of Buyer.
- 6.9 Payment by Buyer for any goods does not indicate nor constitute acceptance of such goods.

7. Transfer of Duties

Without our prior written consent, you are not entitled to transfer your rights and obligations under any Purchase Order, agreement, or modification executed for the purchase or your contractual claims under any of them to any third party, whether in full or in part.

8. Quality

- 8.1 The Seller shall comply all applicable laws and regulations in the jurisdiction in which the Seller is located relating to the safe usage of chemicals, health and safety of workers and pollution or protection of the environment.
- 8.2 Seller shall permit a designated representative of Buyer to visit Seller's premises to observe and monitor the development and production of the goods to verify compliance with applicable quality standards.
- 8.3 Upon Buyer's request Seller shall make available to Buyer all records that relate to specified requirements and the effectiveness of Seller's quality system.

9. Warranty

- 9.1 Seller warrants that all goods will be merchantable and free from defects in material, workmanship and design; conform to applicable specifications, drawings, samples and descriptions; conform to all applicable laws wherever the goods or other goods or services incorporating the goods are manufactured or sold; and be suitable for Buyer's and its customers' intended use. Seller warrants that it will transfer to Buyer ownership and good title to the goods, free of all liens, encumbrances and rights of third parties. Deliveries that fail to meet any of the above standards are deemed to be "Defective Goods".
- 9.2 The foregoing warranties are in addition to and shall not be construed as limiting any other warranties or buyer protections that exist by operation of law. In all respects, performance shall comply with all applicable federal, state and local laws and regulations.
- 9.3 We will be fully entitled to any statutory claims relating to Defective Goods. We are entitled, in our sole discretion, to claim for repair of any Defective Goods and/or return the Defective Goods at your cost and delivery of non-defective replacement goods. We expressly reserve the right to claim damages in relation to any Defective Goods.
- 9.4 We are entitled to conduct the remedy of defects at your costs in case of imminent danger or particular urgency.
- 9.5 The period of limitation for dealing with material defects is 36 months, beginning with the time of passage of the risk
- 9.6 In case of the rectification of any defect, a new warranty period shall begin for such rectified goods starting on the date when the rectification is completed. In the case of rectification of defect by means of delivery of spare parts, the new warranty period shall only be applicable to the spare parts, unless the spare parts are constitutive parts of the entire object that is being manufactured by you, in which case, the warranty period will start running anew for the entire object starting on the date the rectified goods is delivered to the Buyer.
- 9.7 Buyer shall not be obliged to conduct any inspection of incoming goods prior to their use in production. Buyer shall notify Seller in writing regarding any deficiency of goods delivered once the deficiency has been discovered by the Buyer in the ordinary course of its business. To this extent Seller hereby waives any right to reject delayed notification of deficiencies.

10. Indemnification

Seller shall defend, indemnify and hold harmless Buyer, its agents, officers, directors and employees, Buyer's distributors, dealers and all entities which sell goods or products into which the goods are incorporated, and their respective customers ("Indemnitees"), against all damages, claims or liabilities and expenses (including attorneys' fees) arising out of or resulting in any way from any defect in the goods or services purchased hereunder, or from any act or omission of Seller, its agents,

employees or subcontractors. This indemnification shall be in addition to the warranty obligations of Seller and shall survive the termination or expiry of any Purchase Order of these Terms and Conditions.

11. Intellectual Property Rights

Seller shall indemnify Indemnitees from and against all liabilities, costs, damages, claims and expenses (including legal expenses) that may be awarded or paid to any third party in respect of any claim or action that the goods or their use by Indemnitees infringe the intellectual property rights of such third party, save to the extent that Seller has manufactured the goods in accordance with instructions received from Buyer and Seller having taken all reasonable precautions could not have known that following these instructions would result in an infringement of a third party's intellectual property right. The Parties will inform each other forthwith of all such infringements or suspected infringements of which they became aware.

12. Confidentiality

12.1 Seller shall hold in strict confidence and not use for itself or any other person all information, specifications, data, processes, reports, or technical or business information submitted by or on behalf of Buyer to Seller pursuant to, or in connection with any Purchase Order (collectively, "Buyer Information"). Buyer shall retain title to all such Buyer Information and Seller shall, at Buyer's request or upon completion of this Purchase Order, return or deliver to Buyer all such Buyer Information. Seller shall not sell, or dispose of as scrap or otherwise, any completed or partially completed or Defective Goods embodying or comprising any Buyer's Information without Buyer's written consent. Buyer shall have the right to audit all of Seller's pertinent books and records in order to verify compliance with the Purchase Order.

12.2 Seller shall not disclose to third parties any information regarding Buyer or its business or its customers, including the existence and terms of any purchase order, or use such information itself for any purpose other than performing this order, without Buyer's written prior approval. Seller shall not use Buyer's name or any Buyer trademark in any advertising or publicity without Buyer's prior written approval.

12.3 This Provision 12 shall survive expiration or termination of any Purchase Order.

13. Insurance

Seller shall procure and maintain at its sole expense insurances, including transport insurance for the goods, with reputable and financially responsible insurance companies, which adequately cover Seller's liability against Buyer and third parties. Buyer is entitled to require certain insurance coverages and amounts to be taken out by Seller. Buyer shall not be liable for the costs of any insurance.

14. Place of Performance, Legal Venue and Applicable Law

The place of performance for all deliveries and performances is the seat of the respective receiving centre designated by us. Exclusive place of jurisdiction is the applicable court of the Peoples' Republic of China at Buyer's registered office (Suzhou Industrial Park, Suzhou, PRC). The legal relationship between us and you shall be governed by the laws of the Peoples' Republic of China.