



General Conditions of Purchase - Updated: December 2008

1. Applicability

Our conditions of purchase exclusively apply. Delivery and payment terms which contradict or differ from our conditions of purchase will not be accepted by us, except in cases where we have approved such terms in writing. Our conditions of purchase also apply in cases where we accept your delivery without any reservations and in knowledge of the contradicting or differing delivery and payment terms.

2. Orders

2.1 Offers submitted by you shall be free of charge.

2.2 Orders, agreements or modifications are only binding if effected or confirmed by us in writing. Unless agreed otherwise in the orders, you are obliged to accept our orders within 7 working days from the date of the order.

3. Shipping and Passage of Risk

3.1 Goods shall be shipped by you according to our shipping instructions to the shipping address indicated by us. A notification of dispatch shall be submitted in duplicate for each individual consignment to the respective shipping address on the day of dispatch. The notifications of dispatch, consignment notes and package markings must all bear the purchase order number, the request number, the receiving department and other comments requested with the order.

3.2 The relevant goods shall remain at your risk until delivery to us is complete.

3.3 You shall bear the consequences of false, incomplete or delayed freight documents. In case of non-fulfilment of the foregoing provisions, we are entitled to refuse the delivery.

3.4 You shall be liable for any damages and costs which are the result of improper shipping (e.g. demurrage, shunting costs, etc.). Excepted are cases where you can prove to our satisfaction that neither you nor your vicarious agents are responsible for the improper shipping.

3.5 We are not liable for the costs of any transport insurance.

4. Delivery Periods, Delivery Dates

The term of delivery indicated in the orders is binding. 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. In case of a delay in delivery we are entitled without prejudice to any other rights and/or remedies that we may have to (i) reject any goods not delivered on time and/or (ii) cancel any agreement, order or any other contract of which any such goods are the subject and/or (iii) return any goods at your cost already delivered which by virtue of such rejection or cancellation are no longer of use.

5. Prices

5.1 Prices indicated in the orders are binding on you. These prices are net prices, i.e. they do not include the applicable value added tax.

5.2 Unless agreed otherwise in writing, prices include the price of delivery, including packaging. The return of packaging requires a separate agreement. In the exception that a price is agreed "ex works", "ex warehouse" or "excluding packaging" we will only be responsible for the most favourable freight charges or packaging costs.

6. Invoicing and Payment

6.1 Invoices shall be submitted in duplicate for every order separately and must display the purchase order number. You shall be responsible for all consequences of non-compliance with these obligations, unless you can prove to our satisfaction that you are not responsible for such non-compliance.

6.2 Payments shall be effected according to the conditions given in the order.

6.3 Payment of invoices does not imply a waiver of claims based on defects in regard to the delivery. A later notice of defects is not excluded by such payment.

6.4 Without prejudice to any other right or remedy, we are entitled to offset or to retain any amount owing from you to us against any amount payable by us to you.

7. Transfer of Duties

Without our prior written consent, you are not entitled to transfer or deal in any way with the benefit of and/or your rights and/or benefits under this agreement or any other contracts between the parties, whether in full or in part.

8. Warranty and Liability

8.1 You warrant that:

8.1.1 the relevant goods will conform to the specifications referred to in the relevant order as to quantity, quality and description and any other specifications, requirements or instructions made known to you; and

8.1.2 the relevant goods will be of satisfactory quality, fit for purpose, comply with all recognised technical standards, free from the rights of third parties and any other encumbrances, of good material and workmanship and free from defects.

8.2 You will pass on to us the benefit of any additional warranties secured from your suppliers.

8.3 Without prejudice to any other rights and/or remedies we may have, you will be liable for any loss or damage incurred by us as a result of the breach and/or performance and/or non-performance of any of the terms and/or conditions of any contracts between the parties and/or any of these conditions of purchase.

8.4 Our rights under this clause are in addition to the statutory rights implied in favour of us by the Sale of Goods Act 1979.

8.5 In addition to our rights under clauses 8.3 and 8.4, we will be fully entitled to make any statutory claims relating to defective goods. We are entitled, in our sole discretion, to claim repair of any defective goods and/or delivery of non-defective replacement goods. We expressly reserve the right to claim damages in relation to any defective goods.

8.6 We are entitled to conduct the remedy of defects at your costs in case of imminent danger or particular urgency.

8.7 The period of limitation for dealing with material defects is 36 months, beginning with the time of passage of the risk.

8.8 In case of the rectification of any defect, the period of limitation for dealing with material defects in any rectified goods will start running anew with the completion of the rectification; in case of rectification of defect by means of delivery of spare parts, this shall only be applicable for the spare parts. If the spare parts are constitutive parts of the entire object that is being manufactured by you, the period of limitation for dealing with material defects will start running anew for the entire object.

8.9 We are obliged to examine the delivery in a reasonable period of time for eventual discrepancies in quality or quantity. We shall not be deemed to have accepted a delivery until such reasonable period of time has passed. Our notifications of defect are in time if they have been made within 5 working days, starting with receipt of the delivery and, in the case of concealed defects, starting with their discovery.



9. Termination

9.1 We can terminate any contracts between the parties, in whole or in part, at any time and for whatever reason by giving you seven days' written notice whereupon, to the extent necessary, all work on the relevant contract will be discontinued.

9.2 We can immediately terminate any contracts between the parties at any time if:

9.2.1 you breach any of the terms and conditions of a contract between the parties;

9.2.2 you are acquired by or merge with any third party;

9.2.3 a meeting is convened, a petition presented, an order made, an effective resolution passed, or a notice is given for your winding up or dissolution (other than for the sole purpose of amalgamation and reconstruction);

9.2.4 an application is made for, or any meeting of your directors or members resolves to make an application for an administration order in relation to you; or any party gives or files notice of intention to appoint an administrator for you or such an administrator is appointed;

9.2.5 an incumbrancer takes possession, or a receiver or manager or administrative receiver is appointed, of the whole or any part of your assets;

9.2.6 you cease or suspend payment of any of your debts or are unable to pay your debts as they fall due within the meaning of section 123 of the Insolvency Act 1986;

9.2.7 a proposal is made for a composition in satisfaction of your debts or a scheme or arrangement of your affairs including a voluntary arrangement within the meaning of part I of the Insolvency Act 1986; or

9.2.8 you cease or threaten to cease to carry on your business.

9.3 The termination of any contract between the parties, however arising, shall be without prejudice to our rights accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

10. Third Parties

A person who is not a party to this contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the contract. This condition does not affect any right or remedy of any person that exists or is available otherwise than pursuant to that Act.

11. Applicable Law and Jurisdiction

The laws of England and Wales apply to these conditions of purchase and any contracts between the parties. The parties hereby agree to submit to the exclusive jurisdiction of the English and Welsh courts.

12. All deliveries have to be delivered conform to REACH, means in accordance to regulation (EC) No. 1907/2006

Klöckner Pentaplast Limited