

# Terms and Conditions of Purchase

## 1. DEFINITIONS

“Buyer” means Klinger Limited. “Seller” means the entity from which Buyer is purchasing Goods and/or Services. “Goods” means the products, materials, and/or equipment purchased by Buyer under Buyer’s Order. “Services” means services performed by Seller. “Offer” means any quotation, bid, or proposal for Goods and/or Services made by Seller to Buyer. “Order” means Buyer’s purchase order or similar instrument. “Statement of Work” means the specification(s), requirements, and details related to the Goods and/or Services. All references to “terms and conditions” herein mean and include (a) these “General Terms and Conditions of Purchase”, (b) Buyer’s Special Terms and Conditions of Purchase, as applicable, and (c) any other terms and conditions mutually agreed by the Parties in writing in accordance with Section 2 herein. Buyer and Seller are referred to herein individually as a “Party” and collectively as the “Parties”.

## 2. ACCEPTANCE OF ORDER

These terms and conditions apply to Buyer’s Order. Seller’s acceptance of Buyer’s Order, and any changes or amendments thereto, is strictly limited to Seller’s assent to Buyer’s terms and conditions. Unless agreed otherwise in writing by a duly authorised representative of Buyer, Buyer objects to and shall not be bound by any terms or conditions that differ from, add to, or modify these terms and conditions. Buyer’s failure to object to any other terms and conditions contained in any communication from Seller does not waive any of the terms and conditions specified herein. Buyer’s Order shall be binding upon the Parties upon the earlier of Seller (i) executing and returning an Order acknowledgement to Buyer, (ii) commencing performance pursuant to Buyer’s Order, or (iii) delivering to Buyer any of the Goods and/or Services under Buyer’s Order.

## 3. SCOPE OF WORK AND PERFORMANCE

(a) Seller is responsible for delivery of Goods and/or performance of Services under Buyer’s Order, as applicable.

(b) If Buyer’s Order includes a Statement of Work, (i) Seller is responsible for meeting all requirements specified therein, and (ii) Seller is strictly prohibited from subcontracting any part of the Statement of Work to third parties without Buyer’s prior written authorisation.

(c) Seller shall promptly notify Buyer in writing of any changes that (i) affect, or have the potential to affect, the form, fit, or function of Goods, or (ii) affect the processes and operations used to manufacture the Goods. Seller shall ensure that any such changes are accepted by Buyer in writing prior to delivery of the affected Goods. In the event of such a change, Buyer reserves the right to inspect a representative item from the first production run of the affected Goods to verify that the production processes, documentation, and tooling are capable of producing Goods that meet the requirements of Buyer’s Order.

(d) Seller is made aware of Buyer’s control and monitoring of Seller’s performance, which may include, but is not limited to: On- Time Delivery, Product Conformity, Lead Times, Pricing, etc.

## 4. PRICES

Unless otherwise agreed in writing by a duly authorised representative of Buyer, all prices are fixed & firm. Seller shall not charge Buyer prices higher than those stated in Buyer’s Order, unless authorised by a written change order or notice signed by a duly authorised representative of Buyer.

## 5. INVOICES AND PAYMENT

(a) Unless otherwise provided in Buyer’s Order, Seller shall not submit invoices and Buyer shall make no payments prior to physical delivery of Goods or completion of Services. Seller shall issue individual invoices showing Buyer’s Order number, line item number(s), part number(s), description(s), and quantity invoiced. Shipping charges and all applicable taxes, or any other charges for which Buyer has agreed to pay and has not furnished an exemption certificate, shall be itemised separately on Seller’s invoices. (b) Buyer shall make payment to Seller in accordance with the payment terms specified on the face of the Buyer’s Order upon receipt of correct invoices from the Seller. Payment of the Price is conditional upon the Goods and/or Services being supplied in all respects in accordance with the Order and in particular with the Specification and delivery requirements.

## **6. TAXES**

Unless otherwise agreed the Price shall not be subject to variation except insofar as the Seller may be obliged by any statute statutory instrument order or regulation having legal effect to vary the same to take account of new or revised tax rates or duties. The Price shall be inclusive of all taxes, duties, packaging and delivery costs and expenses unless otherwise agreed in writing by the parties.

## **7. PACKAGING AND MARKING**

If specified in Buyer's Order, Seller shall comply with any special packaging and marking requirements; otherwise, Seller shall package and mark all Goods in accordance with best commercial practices to adequately protect Goods against damage and deterioration during transit. No charges shall be allowed for packing or marking unless specifically authorised in Buyer's Order. Seller's packing list shall include, at a minimum, Buyer's Order number, line item number(s), part number(s), description(s), and quantity shipped.

## **8. DELIVERY, SHIPPING TERMS, TITLE, AND RISK OF LOSS**

(a) Buyer's production schedules and warranties to its customers are dependent upon the Goods purchased under Buyer's Order being delivered by Seller to Buyer in accordance with the required delivery dates delineated in Buyer's Order. Accordingly, time is of the essence. Seller agrees to notify Buyer in writing immediately if at any time it appears that Seller may not be able to meet the Order's delivery schedule. Such notification shall include the reasons for the delay (actual or potential), the actions being taken to remedy the delay, and the anticipated revised delivery schedule. Such notice, and any assistance furnished by Buyer to overcome delays, shall not waive Buyer's remedies for default, including termination rights, if Seller fails to meet the Order's delivery schedule.

(b) All shipments shall be in accordance with the Incoterms stated on the Order.

(c) Seller shall not be excused from performing its obligations hereunder if the Goods identified are destroyed prior to delivery. Delivery shall not be deemed complete until the Goods have been actually received by Buyer at the delivery location identified on Buyer's Order. Seller shall bear risk of loss or damage to Goods during transit, and title to Goods shall not pass to Buyer until received at Buyer's designated location in accordance with the terms of Buyer's Order.

(d) Unauthorised advance shipments and shipments of excess quantities may be returned at Buyer's option and Seller's expense.

## **9. INSPECTION**

Buyer reserves the right to inspect all Goods prior to shipment by Seller, and in furtherance thereof, Seller shall permit employees and/or representatives of Buyer and Buyer's customer, and regulatory authorities to have access to Seller's facilities at all reasonable hours. Where work is subcontracted to third parties, Seller shall secure rights for Buyer to inspect, test and review work at subcontractors premises. Notwithstanding such inspection, all Goods shall be subject to final inspection and approval by Buyer upon receipt. Buyer's inspection, or its lack of inspection, shall not affect any express or implied warranties. If Buyer's Order specifies that Goods shall be subject to inspection at Seller's facilities, Seller shall provide reasonable space and assistance for the safety and convenience of Buyer's employees and/or representatives and Buyer's customer's employees, and/or representatives. At the time of inspection, Seller shall make available to such representatives copies of all specifications, drawings, and other technical data applicable to the Goods ordered. No inspection, test, delay or failure to inspect or test, or failure to discover any defect or other nonconformance shall relieve Seller of any obligations under Buyer's Order or impair any rights or remedies of Buyer, including revocation of acceptance. Where requested, Seller shall provide a Certificate of Conformity with all deliveries certifying that Goods delivered and/or Services performed meet all requirements of Buyer's Order and any Statement of Work thereunder. If as a result of any inspection or test the Buyer's representative is of the reasonable opinion that the Goods or Services do not comply with the Order or on completion of manufacture or processing or carrying out are unlikely so to do it shall inform the Seller accordingly in writing and the Seller shall take such steps as may be necessary to ensure such compliance at the Seller's cost and the test shall be repeated at the Seller's cost.

All nonconforming Goods and materials designated as scrap shall be permanently marked and controlled as such until physically rendered unusable.

## **10. ACCEPTANCE**

Payment for any Goods and Services under Buyer's Order shall not constitute acceptance thereof. Buyer reserves the right to reject and refuse acceptance of Goods that are not in accordance with the requirements, instructions, specifications, drawings, data, or warranties referenced in Buyer's Order. Goods rejected by Buyer shall be returned to Seller for full credit, repair, or replacement at Seller's sole risk and expense, including transportation charges. No replacement of rejected Goods shall be made unless authorised in writing by a duly authorised representative of Buyer. Acceptance of all or any part of the Goods shall not be deemed to be a waiver of Buyer's right to either cancel or return all or any portion of the Goods due to failure to conform to Buyer's Order, or by reason of defect, patent or latent, or other breach of warranty, or to make claim for damages, including manufacturing costs, damage to material or articles caused by improper boxing, crating, or packing, or other damages occasioned Buyer. Such rights shall be in addition to any other remedies provided by law.

## **11. WARRANTIES**

(a) All warranties of Seller, whether created expressly by law or in fact, are incorporated herein by reference, and shall include and are supplemented by the following express warranties. For a period of twelve (12) months from receipt or acceptance, or such other period as may be agreed by the Parties in writing, the Goods and/or Services shall (i) comply with any and all specifications, drawings, samples, or other descriptions referenced in and/or furnished with Buyer's Order, and (ii) be merchantable, of good design, material, and workmanship, free from defects, and suitable for their intended purpose.

(b) Seller warrants that all Goods and Services (i) do not infringe upon or violate the legal or equitable rights of any person, corporation, or partnership arising out of any license or franchise, or out of any patent, trademark, or other proprietary right, now or hereafter in effect (except in the case of Goods for which Buyer furnishes detailed manufacturing drawings), and (ii) shall be free from any and all liens or other encumbrances.

(c) All obligations of Seller hereunder shall survive acceptance of and/or payment for the Goods. Seller shall indemnify and hold Buyer harmless from and against all liability, loss, consequential and incidental damages, and expenses resulting from the breach of any warranty, or resulting from any other act or omission by Seller, its agents, or employees, while in the performance hereof.

(d) If Buyer determines there is a defect in the Goods at any time during the warranty period, Seller shall, at its sole expense and without delay, repair or replace the defective Goods or refund to Buyer the price of the defective Goods. Any and all repaired or replaced Goods shall be covered by this warranty for a period equal to the original warranty period.

(e) In addition, if required by Buyer, Seller shall provide Buyer a report identifying the cause of failure and any additional Goods that may be affected by the defect and/or the repair action to be taken.

## **12. COUNTERFEIT PARTS**

(a) The Supplier shall ensure that Goods are in-line with the requirement for a conforming product and Counterfeit Goods are not delivered to the Purchaser.

(b) If the Supplier becomes aware of or suspects that it has acquired Counterfeit Goods, the Supplier shall as soon as practicable notify the Buyer. The Supplier shall provide documentation that authenticates the affected Goods and, where applicable, provide traceability of the sourcing route. The Supplier shall support the Purchaser in any investigation to support resolution of any such suspect or affected Goods.

(c) In the event that Goods delivered constitute or include Counterfeit Goods, the Supplier shall, at its expense promptly replace such Counterfeit Goods with genuine Goods.

(d) Notwithstanding any other provision in these terms, the Supplier shall be liable for all costs relating to the removal and replacement of Counterfeit Goods, including without limitation, the Purchaser's costs of removing Counterfeit Goods, of reinserting replacement Goods and of any testing necessitated by the reinstallation of Goods after Counterfeit Goods have been exchanged.

(e) Seller shall quarantine suspect counterfeit parts and counterfeit parts, and make them available for investigation by appropriate authorities.

### **13. CHANGES**

- (a) Buyer may at any time, by a written change order or similar instrument issued by a duly authorised representative of Buyer, make changes within the general scope of Buyer's Order including changes to (i) specifications, drawings, designs, or description of Services, (ii) method of shipment or packaging, (iii) reasonable adjustments in quantities or delivery schedules or both, and (iii) place of delivery. Seller shall comply promptly with such direction.
- (b) If Buyer's change order causes an increase or decrease in the cost of performance or in the time required for performance, an equitable agreed upon adjustment shall be made to the Order price and/or delivery schedule and Buyer's Order shall be modified in writing accordingly.
- (c) Buyer's engineering and technical personnel may from time to time render assistance, give technical advice, or exchange information with Seller's personnel in relation to Buyer's Order. Such assistance, advice, and/or exchange of information shall not be construed as Buyer's consent or authority to effect any changes to Buyer's Order or the Goods and/or Services provided thereunder. Under no circumstances shall any resulting change in Goods and/or Services or provisions of Buyer's Order be binding upon Buyer unless incorporated as a change in accordance with paragraph (a), above.

### **14. TERMINATION FOR CONVENIENCE; CANCELLATION**

- (a) Buyer may terminate or cancel performance (a) or work under Buyer's Order, in whole or in part, for any reason, by written notice to Seller. Upon receipt of such notice, Seller shall (i) stop work on the date, and to the extent, specified in the notice, (ii) terminate all lower-tier purchase orders and subcontracts to the extent they relate to the terminated work, (iii) promptly advise Buyer of the quantities of materials and work-in-process on hand or purchased prior to termination, and the most favourable disposition that Seller can make thereof, (iv) comply with Buyer's instructions regarding transfer and disposition of title to the possession of such material and work-in-process, and (v) submit all its claims resulting from such termination within fourteen (14) calendar days of the notice of termination.
- (b) Buyer shall have the right to check such claims at any reasonable time or times by inspecting and auditing the records, facilities, work-in-process, and materials of Seller relating to Buyer's Order. Buyer shall pay Seller the Order price for finished work accepted by Buyer and the substantiated cost to Seller of raw materials and work-in-process apportionable to the terminated work, based on any audit Buyer may conduct under generally accepted accounting principles, less however (i) the reasonable value or cost (whichever is higher) of any items used or sold by Seller without Buyer's consent, (ii) the agreed value of any items used or sold by Seller with Buyer's consent, and (iii) the cost of any defective, damaged, or destroyed work or material.
- (c) Buyer shall make no payment for finished work, work in process, or raw material fabricated or procured by Seller in excess of Buyer's Order. Notwithstanding the above, payments made under this Section shall not exceed the aggregate price specified in Buyer's Order, less payments otherwise made or to be made, and adjustments shall be made reducing the payments hereunder for costs of raw materials and work-in-process to reflect on a pro rata basis any indicated loss on the entire Order had it been completed. Payment made under this Section constitutes Buyer's only liability in the event Buyer's Order is terminated hereunder.

### **15. TERMINATION FOR DEFAULT**

- (a) Buyer may, by written notice to Seller and subject to paragraphs (c) and (d) below, terminate Buyer's Order in whole or in part if: (i) Seller fails to deliver the Goods or to perform the Services within the time specified in Buyer's Order, or any extension authorised by Buyer, (ii) Seller fails to make progress so as to endanger performance of Buyer's Order; (iii) Seller fails to perform any of the other provisions of Buyer's Order, or (iv) Seller is adjudicated bankrupt, files a petition for bankruptcy, makes an assignment for the benefit of creditors, or if an action under any law for the relief of debtors is taken.
- (b) Buyer's right to terminate Buyer's Order under subparagraphs (a)(ii) and (a)(iii) above may be exercised if Seller does not cure such failure within ten (10) calendar days (or more if authorised in writing by Buyer) after receipt of Buyer's notice specifying the failure.
- (c) If Buyer terminates Buyer's Order for default in whole or in part, Buyer may acquire Goods or Services from third parties similar to those terminated, and Seller shall be liable to Buyer for any excess costs for such Goods or Services. However, Seller shall continue performing the portion of the work not terminated.
- (d) Except for defaults of vendors or subcontractors at any tier, Seller shall not be liable for any excess costs if the failure to perform the Order arises as a result of Force Majeure, as defined herein.
- (e) If the failure to perform is caused by the default of a vendor or subcontractor at any tier, and if the cause of the default is beyond the control of both Seller and its vendor(s) or subcontractor(s), and without the fault or negligence of either, Seller shall not be liable for any excess costs for failure to perform unless the purchased Goods or Services were obtainable from other sources in sufficient time for Seller to meet the Order's required delivery schedule.
- (f) If Buyer's Order is terminated for default, Buyer may require Seller to transfer title and deliver to Buyer, as directed by Buyer, any completed Goods, partially completed Goods, and materials, parts, tools, dies, fixtures, plans, drawing, information, and contract rights (collectively referred to as "Manufacturing Materials" in this Section) that Seller has specifically produced or acquired for the terminated portion of Buyer's Order. Upon direction of Buyer, Seller shall also protect and preserve property in its possession in which Buyer has an interest.

(g) Buyer shall pay the Order price for completed Goods delivered and accepted. Seller and Buyer shall agree on the amount of payment for the Manufacturing Materials delivered and accepted and for the protection and preservation of the property. Buyer may withhold from these amounts any sum that Buyer determines to be necessary to protect Buyer against loss because of outstanding liens or claims of former lien holders.

(h) If, after termination, it is determined that Seller was not in default, or that the default was excusable, the rights and obligations of the Parties shall be the same as if the termination had been issued for the convenience of Buyer.

(i) The rights and remedies of Buyer in this Section are in addition to any other rights and remedies provided by law, or under Buyer's Order.

## **16. CONFIDENTIALITY**

(a) Buyer may disclose to Seller certain Confidential Information, as defined herein, to facilitate Seller's performance of Buyer's Order. Seller hereby agrees that any Confidential Information disclosed by Buyer (i) shall be maintained in a secure location, (ii) shall not be copied without the prior written approval of Buyer, (iii) shall be used by Seller solely to facilitate performance of Buyer's Order; and (iv) shall only be disclosed to Seller's employees on a need-to-know basis.

(b) Seller shall not disclose Buyer's Confidential Information to any third-parties, including, but not limited to, Seller's agents, consultants, vendors, suppliers, or subcontractors, without the prior written approval of Buyer. In the event Buyer provides Seller with written approval to disclose Confidential Information to a third-party, Seller shall ensure such third-party is bound by terms and conditions consistent with this Section prior to receiving such information.

(c) If it becomes necessary for Seller to disclose Buyer's Confidential Information to a third-party as a result of a requirement of law or regulation, such Confidential Information may be disclosed only to the extent required by law or regulation and, if so permitted, no earlier than five (5) business days after Seller provides Buyer with written notification of the requirement for such disclosure.

(d) The obligations of confidentiality and restrictions on the use and disclosure of Confidential Information specified in this Agreement do not apply to any information that (i) is lawfully and rightfully already in the possession of Seller without obligation of confidentiality at the time of receipt from Buyer, (ii) is independently developed by Seller without use or reference to the Confidential Information as evidenced by tangible evidence, (iii) appears in any printed publication or patent, or is in the public domain, except as a result of a breach of this Agreement by Seller, or (iv) is lawfully and rightfully received, free of restrictions, by Seller from a third-party not known by Seller to be under any nondisclosure or confidentiality obligation or to have misappropriated or otherwise unlawfully obtained such information.

(e) All Confidential Information and any other technical information provided by Buyer to Seller shall at all times be and remain the property of Buyer and shall only be used by Seller in connection with Seller's performance of Buyer's Order. Unless agreed otherwise, Seller shall return all copies of Confidential Information provided by Buyer upon completion of Buyer's Order or at any time upon Buyer's request.

(f) "Confidential Information", as used herein, includes, but is not limited to, specifications, drawings, designs, technical data, data sheets, schematics, diagrams, configurations, business, financial, statistical, and commercial information, formulae, analyses, trade secrets, ideas, methods, processes, know-how, software, and computer programs.

## **17. PROPRIETARY RIGHTS**

(a) Unless otherwise agreed in writing, all tangible and intangible property, including, but not limited to, information or data of any description, drawings, computer software, know-how, documents, trademarks, or copyrights ("Buyer's Intellectual Property") provided by Buyer to Seller, or paid for by Buyer under Buyer's Order, shall be and remain Buyer's personal property. Buyer hereby grants a license to Seller to use any such Buyer's Intellectual Property solely for the purposes of performing Buyer's Order. This license is non-assignable, and may be terminated with or without cause by Buyer at any time.

(b) Buyer recognises and agrees that, unless otherwise agreed in writing between the Parties, the above rights and ownership of such rights shall not extend to or encompass any intellectual property owned, developed, or conceived by Seller prior to, or not in connection with, Buyer's Order.

## **18. BUYER-OWNED MATERIALS AND PROPERTY**

All materials, tools, designs, dies, fixtures, materials, and other property owned or paid for, or agreed to be paid for, by Buyer ("Buyer-Owned Materials"), whether directly noted on the face of Buyer's Order or included by Seller in the prices of Goods, shall be and remain the property of Buyer. All Buyer-Owned Materials (a) shall be used only for performance of Buyer's Order, (b) shall at all times be properly protected and maintained by Seller, (c) shall be covered, at Seller's expense, by adequate liability, damage, and fire insurance for the replacement cost, (d) shall not be conflated with the property of Seller or others, (e) shall not be moved from Seller's premises without prior written authorisation of Buyer, and (f) shall, upon Buyer's request, be immediately returned to Buyer in good condition, reasonable wear and tear excepted. Seller shall assume all risk of loss or damage to Buyer-Owned Materials while such are in the custody of Seller.



## **19. PUBLIC RELEASES**

Except as required by law or regulation, no news releases, public announcements, or advertising materials regarding Buyer's Order shall be issued by Seller without the prior written consent of Buyer. Seller shall extend this restriction to all lower-tier vendors and subcontractors involved in the performance of Buyer's Order.

## **20. INDEMNIFICATION**

Each Party (the "Indemnifying Party") agrees to indemnify, defend, and hold harmless the other Party, its officers, directors, and employees (the "Indemnified Parties") from and against any and all liabilities, losses, expenses, liens, claims, demands, and causes of action ("Claims") for death, personal injury, or property damage arising out of any negligent act or omission of the Indemnifying Parties in the performance of Buyer's Order, except to the extent such losses are contributed to by (a) the negligence or willful misconduct of the Indemnified Party, or (b) the negligence or willful misconduct of any third-parties related to the Indemnified Party. Buyer's indemnification of Seller does not apply unless Seller (a) notifies Buyer in writing of any such Claim as soon as reasonably practicable, and (b) allows Buyer to control, and reasonably cooperates with Buyer, in the defence of any such Claim and related settlement negotiations.

## **21. INSURANCE**

(a) Where the Seller undertakes to supply Goods or Services then the Seller shall insure against all losses claims demands proceedings costs charges and expenses for injury (including death) or damage to any person or property arising out of any and all occurrences which are the result of the fault or negligence of the Seller in the supply of the Goods or Services and any other liabilities covered under the Conditions. (b) The indemnity limit shall be not less than £10,000,000 (ten million pounds sterling) for each occurrence or such other sum as may be specified in the Order. (c) The Seller will whenever requested by the Buyer produce to the Buyer a copy of the policy and the receipts for payment of the current premium. (d) In the event that the Seller fails to comply with this condition the Buyer may at its option provide such insurance and the Seller shall be obliged promptly to reimburse the Buyer for all costs incurred.

## **22. LIMITATION OF LIABILITY**

Except for (a) infringement of third party patents and intellectual property, (b) noncompliance with the Counterfeit Parts section herein, and (c) violations of law, under no circumstances shall either Party be liable for any consequential, special, incidental, indirect, multiple, administrative, or punitive damages, or any damage of an indirect or consequential nature arising out of or related to its performance under Buyer's Order, including, without limitation, loss of use, loss of revenues, loss of anticipated profits, and cost of capital, whether based upon breach of Buyer's Order, warranty, negligence, or any other type of Claim, and whether grounded in tort, contract, civil law, or other theories of liability, including strict liability, even if advised in advance of the possibility of such damages. Buyer's total liability arising from or related to Buyer's Order, including, but not limited to, its liability for indemnity, defence, and hold harmless obligations under Buyer's Order, is limited to no more than the amount paid by Buyer to Seller under Buyer's Order, and Seller agrees to indemnify Buyer for any excess amounts. To the extent that this limitation of liability conflicts with any other Section or provision herein, such provision shall be regarded as amended to whatever extent required to make such provision consistent with this Section.

## **23. NOTICE TO BUYER OF LABOUR DISPUTES**

Whenever Seller has knowledge that any actual or potential labour dispute is delaying or threatens to delay the timely performance of Buyer's Order, Seller shall immediately give notice to Buyer thereof, including all relevant information with respect thereto.

## **24. ETHICS AND VALUES**

Buyer is committed to uncompromising ethical standards, strict adherence to laws and regulations, and customer satisfaction. Seller is encouraged to communicate any concerns or questions regarding the ethics and values of Buyer.

## **25. PRODUCT SAFETY AND CONFORMITY**

Buyer is aware of its contribution to Product/Service Conformity, and is committed to performing in every available, appropriate manner to ensure Product Safety, especially when contributing to the success of Critical Items and Key Characteristics, as defined or flowed down by the Buyer. Seller is made aware of its contribution to Product/Service Conformity, and is to inform all appropriate personnel and subsidiaries, as required. Seller supports Product Safety by strict adherence to Buyer requests and best practice, and is committed to performance excellence, especially when contributing to the success of Critical Items and Key Characteristics.

## **27. ORDER OF PRECEDENCE**

The following order of precedence shall apply in the event of an inconsistency within Buyer's Order and its related documents, as applicable:

- (a) Buyer's Order
- (b) Buyer's Special Terms and Conditions of Purchase
- (c) Buyer's General Terms and Conditions of Purchase
- (d) Specification
- (e) Statement of Work or Scope of Services

## **28. COMPLIANCE WITH LAW**

- (a) In performance of Buyer's Order, the provision of Services, and/or the shipment of Goods covered by Buyer's Order, as applicable, Seller agrees to comply with (and to bear all expense required for compliance) all applicable laws, rules, and regulations
- (b) Seller shall not offer or give a kickback or gratuity (in the form of entertainment, gifts, or otherwise) to any employee of Buyer for the purpose of obtaining or rewarding favourable treatment.
- (c) Seller represents and warrants to Buyer that it does not and will not knowingly engage in any forced labour, slavery, or human trafficking.
- (d) All of the provisions delineated in subparagraphs (a) through (c) of this Section are incorporated by reference as part of Buyer's Order. Seller further agrees to indemnify Buyer against any loss, cost, liability, or damage whatsoever, including Lawyers fees, which may result from Seller's violation of this Section.

## **29. EXPORT COMPLIANCE**

- (a) Shipment of Goods, provision of Services, and delivery and use of technical information under Buyer's Order is subject to all decrees, statutes, laws, rules, and regulations which govern export, re-export, or otherwise pertain to export controls, including, but not limited to, the United States Department of Commerce Export Administration Regulations (EAR), and the United States Department of State International Traffic in Arms Regulations (ITAR). Seller hereby agrees to indemnify Buyer for all liabilities, penalties, losses, damages, costs, or expenses that may be imposed on or incurred by Buyer in connection with any violations of such laws and regulations by Seller.
- (b) Information furnished to Seller under Buyer's Order may contain technical data, as defined in ITAR Section 120.10. Seller is advised and hereby acknowledges that such technical data, relating to export controlled items appearing on the U.S. Munitions List (USML) at ITAR Section 121, may not be exported, disclosed, or transferred, as defined in ITAR Section 120.17, to any foreign person (whether in the United States or abroad), as defined in ITAR Section 120.16, without first complying with all relevant requirements of ITAR Sections 120-130 (22 CFR 120-130), including the requirement for obtaining any written export authorisation from the United States Department of State, Directorate of Defense Trade Controls (DTC), or otherwise make and document the determination that an ITAR licensing exemption applies, as the case may be.
- (c) If performance under Buyer's Order requires Seller to export, as defined in ITAR Section 120.17, temporarily import into the United States, as defined in ITAR Section 120.18, or re-export or retransfer, as defined in ITAR Section 120.19, defense articles, as defined in ITAR Section 120.6, or to export defense services, as defined in ITAR Section 120.9, relating to items appearing on the USML in ITAR Section 121, to a foreign person (whether in the United States or abroad), as defined in ITAR Section 120.16, Seller is advised and hereby acknowledges that such defense articles may not be exported, temporarily imported, re-exported, or retransferred, and such defense services may not be exported to a foreign person in the United States or abroad, without complying with all relevant requirements of ITAR Sections 120-130, including the requirements to obtain any written export, temporary import, or re-export or retransfer authorisation from the DTC, or otherwise make and document the determination that an ITAR licensing exemption applies, as the case may be.
- (d) Seller is further advised that if it engages in the United States in the business of either manufacturing or exporting defense articles as defined in ITAR Section 120.6 or defense services as defined in ITAR Section 120.9, then Seller is required by ITAR Section 122 to register with the DTC. Manufacturers of defense articles who do not engage in exporting of same must nevertheless register with the DTC. Registration does not by itself confer export rights or privileges, but is generally a precondition to the issuance of any license or other approval by the DTC.
- (e) Information furnished to Seller under Buyer's Order, if not regulated by the ITAR, may contain technical data, as defined in the United States Department of Commerce, Bureau of Industry and Security (BIS), Export Administration Regulations (EAR) Part 772 (15 CFR 772) relating to export-controlled items appearing on the Commerce Control List (CCL) at EAR Part 774 (15 CFR 774). Seller is advised and acknowledges that such technical data may not be exported out of the United States, or to a foreign person in the United States, as defined in EAR Part 772, without complying with all relevant requirements of EAR Parts 730-774 (15 CFR 730-774), including the

requirement to obtain any written export authorisation from BIS, or to otherwise make and document the determination that a license exception applies, as the case may be.

(f) If performance under Buyer's Order requires Seller to export or re-export, as defined in EAR Part 772, commodities, technology, or software as defined in EAR Part 772, that do not relate to items appearing on the USML, but do relate to items appearing on the CCL, Seller is advised and hereby acknowledges that such commodities, technology, or software may not be exported out of the United States, re-exported from one foreign country to another foreign country, or to a foreign person outside of the United States without complying with all relevant requirements of EAR Parts 730-774, including the requirement to obtain any written export authorisation from BIS, or to otherwise make and document the determination that a license exception applies, as the case may be.

(g) Seller agrees to provide Buyer with applicable Export Control Classification Number(s) (ECCN) for any Goods to be exported by Seller.

### **30. GOVERNING LAW**

The Contract shall be read and construed in all aspects in accordance with the laws of England and Wales and the parties hereto hereby irrevocably submit to the jurisdiction of the Courts of England and Wales.

### **31. DISPUTES AND ARBITRATION**

If there is any dispute at any time between the Parties, then the Parties shall use reasonable endeavours to resolve the dispute amicably.

The Parties agree that any dispute that cannot be resolved amicably shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration. The number of arbitrators shall be one. The seat or legal place of arbitration shall be London. The language to be used in the arbitration shall be English.

### **32. MODIFICATIONS TO ORDER**

Buyer's Order may only be modified by written instrument, approved by a duly authorised representative of Buyer.

### **33. NOTICES**

All notices given by the Parties shall be made in writing and delivered personally or sent by prepaid recorded mail or email, addressed to the intended recipient at its address, or at its electronic address. Regardless of the method of transmittal, the sending Party is responsible for obtaining a return receipt for the notice.

### **34. ASSIGNMENT**

Neither Party may assign, delegate, sublicense, or transfer, whether by operation of law or otherwise, their obligations or rights hereunder without the other Party's written consent, and any assignment, delegation, sublicense, or transfer (a) without such written consent is void and of no effect, and (b) if consent is given, shall be binding upon, and inure to the benefit of the successors and assigns of the Parties. Notwithstanding any provision of these terms and conditions, Buyer may, without Seller's consent, assign Buyer's Order to a parent, subsidiary, or affiliate company of Buyer. In addition, without securing such prior consent, Buyer shall have the right to assign Buyer's Order to any successor, by way of merger or consolidation, or the acquisition of substantially all of the entire business and assets of Buyer relating to the subject matter of Buyer's Order, provided that such successor shall expressly assume all of Buyer's obligations and liabilities under Buyer's Order.

### **35. REMEDIES**

The remedies herein reserved shall be cumulative and in addition to any other or further remedies provided by law or equity. The failure of Buyer to insist upon, in any one or more instances, the performance of any of the terms, covenants, or conditions of Buyer's Order, or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such item, covenant, or condition or the future exercise of such right, and the obligation of Seller, with respect to such future performance, shall continue in full force and effect. None of the Sections, terms, conditions, or provisions herein shall be waived by any act or knowledge on the part of Buyer, except by written instrument signed by a duly authorised representative of Buyer. The waiver by Buyer of any term, condition, provision, or right hereunder, or the failure to enforce at any time any of the terms and conditions herein, or any rights with respect thereto, is not a continuing waiver or a waiver of any other rights, or of any material breach or failure of performance of Seller. The remedies herein reserved or created for Buyer shall be cumulative, and additional to any other or further remedies provided at law or in equity. Buyer may remedy any breach of the terms or conditions hereof without waiving the breach remedied, or without waiving any other prior or subsequent breach. Seller shall pay all Buyer's costs and expenses, including Lawyers fees, incurred by Buyer in exercising any of its rights or remedies hereunder, or enforcing any of the terms or conditions hereof.



### **36. SEVERABILITY**

If any term, condition, or provision herein is invalid, ineffective, or unenforceable under present or future laws, then the remainder of the terms, conditions, and provisions shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

### **37. PARTIES**

The Parties to any Offer, Order, or associated transaction, are Buyer and Seller as identified above and unless expressly stated otherwise, no other persons, parties, or entities have any rights, or receive any benefits hereunder.

### **38. HEADINGS**

The headings used herein are for reference purposes only and shall not affect the meaning or interpretation of any term, condition, or provision herein.

### **39. SURVIVAL**

Any Section or provision herein which contemplates performance or observance subsequent to any termination or expiration of the Order, or which by its nature should survive, shall survive any termination or expiration of Buyer's Order and continue in full force and effect.

### **40. FORCE MAJEURE**

Any delay or failure of either Party to perform its obligations under Buyer's Order shall be excused if such delay or failure is the result of an unforeseeable event or occurrence beyond the reasonable control of such Party, and without such Party's fault or negligence, including, but not limited to, acts of God, actions by any governmental authority, terrorism, fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, labour problems (including lockouts, strikes, and slowdowns), inability to obtain power, utilities, materials, equipment, transportation, or court injunction. If such delays exceed thirty (30) calendar days, Buyer shall be entitled to terminate the Order without further liability, except for Goods already delivered by Seller and accepted by Buyer prior to the date of such termination.

## Additional Terms and Conditions of Purchase for Aerospace Applications

Acceptance of our Purchase Order to supply will be deemed as agreement to accept the following Klinger Ltd Terms and Conditions of Purchase in accordance with our company policies. These conditions are in line with our AS9100 accreditation and reflect the requirements of Clause 7.4.2 Purchase Information.

1. **Pre-delivery**. We require you to inform us of any non-conforming product found in the fulfilment of our Purchase and notify Klinger Ltd to obtain our approval for its disposition.
2. **Post-delivery**. Any non-conformity that is discovered after delivery to Klinger Ltd should be immediately advised to us with details of the relevant batch traceability.
3. **Changes**. Any changes or planned changes to the product or process specification, suppliers or manufacturing facility location should be immediately advised to Klinger Ltd. This is required so that we can determine if product re-validation is required and obtain any customer approvals that may be required.
4. **Ethical Supply**. We require you to be ethical in your supply and maintain traceability throughout original source and manufacture. No attempt to substitute approved materials with counterfeit material can be made or will be tolerated by Klinger Ltd.
5. **Product Safety**. Klinger product is used in safety critical components and or application. We require you to ensure that your processes are not detrimental to the product quality through manufacture and delivery condition to Klinger Ltd.
6. **Records**. Records of conformance to specification should be retained for 10 years.
7. **Access**. Klinger and/or our customer and/or regulatory authorities reserve the right to access your facility and review the records of conformance to specification for all of our purchase orders.
8. **Non-Disclosure**. Any information supplied by Klinger Ltd with the order is confidential and should not be disclosed to a third party without the written permission of Klinger Ltd.
9. **Control of Suppliers and sub-contracted services**. Those whose failure would have significant impact on the product specification or delivery must be performance monitored. Verification to specification must be planned, and confirmed on receipt. Records must be maintained and provided with delivery to Klinger where requested on the purchase order.
10. **Heat treatment**. All heat treatment ovens must be temperature surveyed in accordance with API 6A annex M and verified by annotation on the 3.1 certificate provided to Klinger.