

Terms and Conditions of Purchase Order Klueber Lubrication India Private Limited

1. This Purchase Order is an offer by the company (name and address as indicated above and hereinafter referred to as "**Klueber**") for the purchase of the goods or services specified hereunder, from the party to whom the purchase order is addressed to (the "Supplier"), in accordance with and subject to these terms and conditions (the "**Terms**"; together with the terms and conditions on the face of the purchase order, the "**Purchase Order**").

2. This Purchase Order will be deemed accepted by the Supplier upon the first of the following to occur: (a) Supplier making, signing, or delivering to Klueber any letter, form, or other writing or instrument acknowledging acceptance; (b) any performance by Supplier under the Order; or (c) the passage of three (3) working days after Supplier's receipt of the Order without written notice to Buyer that Supplier does not accept the Order. The Supplier shall send a response to this Purchase Order to Klueber regarding the specifications, quantity, prices, and terms of payment and delivery schedules indicated in the Purchase Order within 3 days of receipt of the Purchase Order, failing which, the Supplier shall be deemed to have accepted the Purchase Order and the dates mentioned in the Purchase Order shall be considered as the committed delivery dates. Once the Supplier has accepted the Purchase Order, the Supplier is not entitled to change the price, specifications, quantity or delivery schedule indicated in the Purchase Order.

3. The purchase order number, item code number, vendor code number and batch number mentioned in this Purchase Order must appear on all invoices, challan and packing slips sent by the Supplier.

4. The property in and title to the products, material/equipment passes to Klueber only upon delivery thereof in good condition, in accordance with the terms and conditions herein and after due acceptance of the products, material /equipment by Klueber.

5. The Supplier warrants as follows:

(a) That all the products, material/ equipment supplied by the Supplier will be free from any defect arising from faulty material, design or workmanship and that the said products, material/equipment will be fit for the purposes expressed or implied in the Purchase Order and that the said products, material/equipment will perform as per the specifications provided in the Purchase Order for the Guarantee Period. "**Guarantee Period**" means the longer of twelve (12) months from the date of delivery or the Supplier's usual guarantee period.

(b) All the products, material/ equipment supplied will comply with all applicable statutory requirements and regulations including, in particular, any relating to health and safety.

(c) The Supplier shall provide any services specified in this Purchase Order or connected with the delivery of the product/material/equipment through appropriately qualified and trained personnel using all reasonable skill and care and to the satisfaction of Klueber. The Supplier shall promptly replace any personnel with whose performance Klueber has reason to be dissatisfied.

(d) During the Guarantee Period, if any defects develop arising from faulty material, design or workmanship, the Supplier shall remedy such defects at its own cost including transportation, insurance and other direct or indirect costs and consequential loss. If it becomes necessary, the Supplier will replace any defective portion of the products or replace the material/ equipment as a whole.

6. The Supplier shall securely pack the products, material/equipment to protect against damage and deterioration in transit and a copy of the packing note should be placed just below the lid of the package. In case of consolidated packing, the packing note should be prepared for the total materials/equipment packed in all packages; with a tick mark against the items packed in each particular package. The package should bear the sender's and Klueber's full name and address on the side. All shipments should be accompanied with a test certificate from the Supplier.

7. Dispatches are to be made only through the transporters whose name is given in this Purchase Order or as agreed upon between Klueber and Supplier in writing. In case dispatches are made otherwise, the expenses incurred in collecting such products, material/equipment will be realized from the Supplier.

8. Dispatches should be made only after thorough inspection of products, material/equipment by the Supplier. In case, the products, materials/equipment is found to be defective, Klueber may reject the same at its own discretion. Rejected products, material/equipment will be returned to the Supplier at the Supplier's cost with to and fro transportation.

9. The Supplier shall send the bill(s)/ document(s) for the products, material/equipment supplied under this Purchase Order in Quadruplicate along with Challan (duly acknowledged by Klueber representative) and GR/FWB to Klueber Stores in charge. The Supplier shall also send a copy of this Purchase Order and original set of documents to Klueber Purchase Department for advance intimation at the Klueber Work address.

10. The Supplier represents and warrants that

(a) The prices for the products, material/equipment and /or service provided hereunder are the lowest prices at which the Supplier has sold or is willing to sell such products, material/equipment and/or Services taking into account any differences in quantities, schedule and other substantive terms.

(b) Klueber shall be entitled to any price reduction which the Supplier makes to others for comparable products, material/equipment or services as on (i) the Delivery Date for the products material/equipment and/or the date upon which supplier is to begin performing the services hereunder, or (ii) the date an acceptable invoice for the products, material/equipment and/or services is received by Klueber, whichever is later.

11. Payment of correct invoices which are duly submitted in accordance with Klueber's instructions will be made as mentioned in the Purchase Order or within 30 days after the delivery of the products, material/equipment, which is the subject of the invoice or within 30 days after performance of the services which are the subject of the invoice. In the event of partial delivery of products, material/equipment, proportionate payment will be made for the actual weight or quantity received by Klueber. Klueber's records shall be considered as final and decisive on this point. In the event that proper documentation as specified in Sections 6, 7 and 9 is not submitted along with the material/equipment or if the material/equipment is rejected under Section 16 below, Klueber shall be under no obligation to pay any invoices until the proper documentation has been submitted or the defective material/equipment has been rectified/replaced.

12. (a) Time is of the essence to this contract. The Supplier shall immediately notify Klueber in the event that the Supplier's timely performance under this Purchase Order is delayed or likely to be delayed, in whole or in part, and the Supplier shall provide Klueber with all available information regarding the reasons for such delay. Such notice shall not constitute a waiver by Klueber of any of the Supplier's obligations hereunder. Unless authorized by Klueber, partial dispatches/delivery of the products, material/equipment is not allowed. The Delivery schedule given by Klueber must be strictly followed.

(b) If the products, material/equipment is not delivered strictly within the stipulated time in this Purchase Order, Klueber may accept/reject the material/equipment at its sole discretion. In the event of delay the Supplier shall be liable to pay damages of 1% of the order value for every week's delay in the delivery of products, material/equipment, subject however, to a maximum of 10% of the total order value. This is notwithstanding Klueber's right to reject the products, material/equipment received beyond the delivery date mentioned above. Klueber may also at its discretion, increase the time period for payment of invoices by three (3) days for every day of delay in delivery of the products, material/equipment beyond the scheduled date. In the event of that the material/equipment is found to be defective on delivery or if the proper documentation is not provided by the Supplier, Klueber shall be entitled to increase the time period for payment of the invoice by one (1) week.

13. Klueber shall obtain an insurance policy which covers all indirect material, capital items Raw material and Packing material which is the subject of the Purchase Order.

14. Klueber shall not pay G.S.T. due on the products, material/equipment unless G.S.T credit mentioned on the Supplier's documents including the invoice is available to as Klueber on G.S.T.N website.

15. All material/equipment, on their arrival at Klueber's factory/ stores, will be subject to inspection by Klueber's Inspection Department and their decision in the matter will be considered final. Klueber may reject all or part of the material/equipment if they do not comply with Clause 5. Klueber shall specify the reasons for rejection and return the rejected products, material/equipment to the Supplier at the Supplier's risk and expense. The Supplier shall, within the time for delivery stated in the Purchase Order or such time as Klueber may agree in writing, replace such rejected material/equipment with material/equipment which are in all respects in accordance with the Purchase Order. Without prejudice to any other rights and remedies, any moneys paid by Klueber to the Supplier in respect of any rejected material/equipment not replaced by the Supplier within the time specified by Klueber together with any additional expenditure reasonably incurred by Klueber in obtaining other goods in replacement shall be paid by the Supplier to Klueber.

16. In the event of strike, accident, natural disasters and/ or other unforeseen contingencies causing, stoppage of production at Klueber's factory, Klueber reserves the right to cancel and/ or modify the Purchase Order without liability to compensation and/or claim of any description.

17. Klueber shall be entitled to appropriate and recover from the payments required to be made to the Supplier any outstanding dues from the Supplier.

18. Klueber shall not be liable for any failure or delays in meeting any of its obligations under this Purchase Order which are due to causes and circumstances beyond its reasonable control including but not limited to war, famine and acts of God, or other Force Majeure events.

19. This Purchase Order including the terms and conditions stated herein shall be governed by the Laws of India and the parties hereby submit to the exclusive jurisdiction of the Bangalore Courts.

20. The Purchase Order may be terminated at any time by Klueber by notice to the Supplier, who shall forthwith cease work on the Purchase Order and at Klueber's sole discretion deliver all materials and components to Klueber as instructed. Klueber shall pay a fair and reasonable price for all work performed up to the time of termination. Klueber may (without prejudice to any other action or remedy) terminate the Purchase Order forthwith by written notice to the Supplier if the Supplier shall commit a breach of any of its obligations under the Purchase Order and shall not have remedied such breach within seven days of receiving written notice of the breach, or if the Supplier has a winding up petition presented or enters into liquidation whether compulsorily or voluntarily (otherwise than for the purposes of amalgamation or reconstruction without insolvency) or makes an arrangement with its creditors or petitions for an administration order or has a receiver or manager appointed over any of its assets or generally becomes unable to pay its debts.

21. The Supplier agrees that any data, design, specification, drawings, documents, and all other business, product technical and financial information including this Purchase Order and its contents, that it obtains from Klueber are the confidential property of Klueber ("Confidential Information").

Except as expressly and unambiguously allowed by Klueber in writing the Supplier will hold in confidence and not use or disclose any Confidential Information without Klueber's prior written consent and shall similarly bind its employees, consultants or subcontractors of the Supplier who have a legitimate need to know. The Supplier's nondisclosure obligation hereunder shall not apply to information which it can document, is generally available to the public or was rightfully disclosed to the Supplier by a third party without restriction. All intellectual property rights in and to the Confidential Information shall remain the property of Klueber and upon Klueber's request, or upon termination of this Purchase Order, Supplier shall promptly return all Confidential Information and any copies thereof to Klueber.

22. Quality Management System (ISO 9001) requirements :

Klueber is known for its Quality and high value products. It maintains high quality standards during production. To maintain such high standards seamlessly, Klueber expects the suppliers also to ensure:

- The material/equipment supplied shall be tested by the Supplier before dispatch and test certificate for such tests shall be sent for every dispatch.
- The test certificate shall include test methods employed.
- The material/equipment shall be identified with batch numbers which are traceable to the Supplier's production process.
- In any particular supply there shall not be items from more than 3 batches.
- For packing material (metal or plastic) supply, the test certificate for material composition shall be provided.
- A declaration that paints, inks and other chemicals used on packing materials supplied are non hazardous shall be provided.

23. Environmental Management System (ISO 14001) requirements : Klueber believes in creating a safe and clean global environment. Towards this end, Klueber dedicates itself. It aims at a controlled environment in and around the factory to ensure:

- Safe and Healthy Working Conditions
- Continuous Improvement in quality of its environment through efficient use of resources and prevention of pollution
- Compliance of applicable statutory environmental rules and regulations.
- The Supplier should send only emission free certified vehicles/ driving license for drivers, for loading/unloading and the emission free certificate should be available in all trucks/vehicles while coming to Klueber's factory
- The Supplier should ensure that there is no leakage of oil from the vehicle
- The material supplied should not affect the environment in Klueber's plant and the packing of the materials should be as per Material Safety Data Sheet (MSDS) already sent by the Supplier.
- If there are any changes in MSDS, the Supplier should forward the same immediately for updating at Klueber's end.

24. Occupational Health & Safety Management System (OHSAS 18001) requirements : Klueber actively supports and works for Health and safety of all the employees/sub-contractors/visitors. To ensure this:

- the Supplier's personnel should follow all safety standards of Klueber and wear personal protective equipments (PPE) appropriately when they enter Klueber's premises.
- Transporter should keep the wedge to the vehicle immediately after parking the vehicle in our premises.
- Klueber is strictly against Child Labour in direct or indirect contract of working. The Supplier should not depute any labourers below 18 years.

25. This Purchase Order constitutes the entire agreement between the parties with respect to the products, material/equipment and/or services described herein and supersedes all prior oral and written communications relating thereto.

26. The Supplier shall be responsible for and indemnify Klueber against all claims, proceedings, damages, costs and expenses arising from or incurred by reason of:

- (a) Any infringement or alleged infringement of any patent, copyright, registered design, trade mark, trade name or other intellectual property right by the use, possession, supply or sale of the products, material/equipment and/or services which Klueber its clients or agents may incur or become liable for in any action for such infringement; and
- (b) any personal injuries or any loss of or injury or damage to any property tangible or intangible caused by, or in the course of or in any way arising out of the work done by the Supplier (or his servants, agents or subcontractors) or any damages arising from any defect in or failure of the products, material/equipment and/or services.
- (c) Any breach of the Purchase Order by the Supplier, including any non-conformity of the products,

material/equipment with the agreed upon specifications or delay in delivery of the products, material/equipment beyond the stipulated time in the Purchase Order.

27. The Supplier shall not assign or otherwise transfer the Purchase Order or any of its rights or obligations under it without prior written consent from Klueber.

28. If any part of the Purchase Order is held unlawful or unenforceable that part shall be struck out and the remainder of the Purchase Order shall remain in effect. No delay, neglect or forbearance by Klueber in enforcing its rights under the Purchase Order shall be a waiver of or prejudice those rights.

29. All differences, disputes or claims arising out of or in relation to this Purchase Order, or any breach or alleged breach thereof, shall be settled by the parties through mutual discussions. In case where such disputes are not settled through mutual discussions, the parties shall refer such dispute to Arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and its subsequent amendments. The arbitration shall be referred to a panel of three (3) arbitrators. The Supplier shall have the right to appoint one arbitrator and Klueber shall be entitled to appoint one arbitrator. The two (2) arbitrators so appointed by the parties shall appoint the third arbitrator. The Arbitration proceedings shall be held at Bangalore, India. The language of the Arbitration Proceedings shall be in English.

30. Both Parties shall comply with all respective statutes, affecting the arrangement under this Purchase Order whether directly or indirectly. It is understood that the personnel deputed by the Supplier shall be the employees of the Supplier. The Supplier shall not and shall ensure that the personnel shall not make any claims or statements in respect of Klueber or its business or anything concerning Klueber unless prior express consent in writing shall be obtained to do so from Klueber. The Supplier shall be solely liable to pay all the dues of its employees/personnel.

31. It is the intent of the Parties that no payment or transfers of value shall be made which have the purpose or effect of public or commercial bribery, acceptance or acquiescence in extortion, kickbacks or other means of securing the success of a contract. It is the further intent of the Parties that no payments of money or anything of value will be offered, promised or paid, directly or indirectly, to any officials, political parties, party officials, or candidates for public or political party office to influence the acts such officials, political parties, party officials, or candidates in their official capacity, to induce them to use their influence with the government or an instrumentality thereof, or to obtain an improper advantage in connection with any business venture or contract in which Klueber is a participant.

32. Any breach of this Purchase Order may result in irreparable damage to Klueber for which Klueber will not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, Supplier acknowledges and agrees that Klueber may immediately seek enforcement of this Purchase Order, by means of specific performance or injunction, without any requirement to post a bond or other security.

33. The Supplier shall be fully and totally liable for all acts and omissions of its agents and employees in connection with the provision of products, material/equipment or performance of services under this Agreement and for any breach by it of the terms of this Purchase Order.