1. Scope of application

These General Terms and Conditions of Purchase are an integral part of contracts for the supply of goods and services between the supplier (hereinafter referred to as “Supplier”) and KLEBCHemie M. G. Becker GmbH & Co. KG and its affiliates (hereinafter referred to as “Purchaser”). If the Supplier has accepted these General Terms and Conditions of Purchase, they shall apply in full and future contracts with it. They shall also be deemed to have been accepted without express confirmation where an order is accepted or is executed, including in part. They shall also apply if the Purchaser accepts goods or services not knowing of contradictory terms of the Supplier deviating from these Terms and Conditions of Purchase. Order confirmations, agreements or terms of business of the Supplier which vary or supplement these Terms and Conditions shall require the express written agreement of the Purchaser in order to be effective, they are not to be deemed incorporated into the Parties’ contract even if the Purchaser does not expressly object to them.

2. Orders, orders

2.1 An offer must be made free of charge and without obligation. It does not give rise to any obligations on the part of the Purchaser. It must be given at least in text form [i.e., written or electronic form] pursuant to § 126 German Civil Code (Bürgerliches Gesetzbuch or “BGB”), unless otherwise agreed. The Supplier shall explicitly point out any deviations from the Purchaser’s inquiry in its offer and additionally offer the Purchaser alternatives which are technically or economically more favorable relative to the inquiry.

2.2 Orders shall be placed at least in text form [pursuant to § 126 BGB]. Oral agreements reached in meetings and telephone agreements shall require confirmation by the Purchaser in text form, either by fax or email.

2.3 Each order must be confirmed by the Supplier at least in text form, indicating the order number of the Purchaser. If confirmation is not given within fourteen days after the order has been placed, the Purchaser shall no longer be bound by the order. By confirming the order, drawings and other documents enclosed with the order form an integral part of the contract. The order number of the Purchaser is to be indicated throughout the correspondence, in all invoices and all shipping documents. The same applies to the date of the order and, if available, to the item number.

2.4 Any changes in respect of drawings and documents / confidentiality

2.4.1 Any changes in manufacturing processes and, if applicable, manufacturer shall be notified to the Purchaser in writing in accordance with the amendments, in writing to obtain approval for the changes. The Supplier must likewise give written notice of intended discontinuation of production as early as possible, but at least 12 months in advance.

4. Quality management

4.4.3.1 The Purchaser is entitled to demand detailed dispatch notifications in triplicate separately for each consignment from the Supplier, irrespective of the type of dispatch or issue of invoice, at the latest 15 days in advance.

5. Subcontractor

5.2.2 The contracts to the party undertake to treat as confidential business secrets all commercial technical details disclosed to them in the course of the business relationship. The Supplier must impose equivalent obligations on any subcontractor and third parties engaged by it.

6. Drawings and documents / confidentiality

6.1 Drawings and documents, in particular those required by the Purchaser for the erection, operation, maintenance or repair of the delivery or service, shall be provided free of charge by the Supplier to the Purchaser. They are the property of the Purchaser and may not be used, reproduced, or otherwise made accessible to third parties and may be provided to third parties only with prior written consent.

6.2 The parties to the contract undertake to treat as confidential business secrets all commercial technical details disclosed to them in the course of the business relationship. The Supplier must impose equivalent obligations on any subcontractor and third parties engaged by it.

7. Delivery terms

7.1 The delivery time stated in the order is binding. In the case of short-time work, business interruptions and other cases of downtime which prevent the Purchaser from accepting the delivery and services without any fault on its part, the contracting parties shall agree on a suitable substitute date.

7.2 Unless otherwise agreed, the delivery period shall begin to run from the date of the order. As soon as the Supplier is able to discern that, under certain circumstances, it will be unable to execute an order in full or in part as a result of the causes of the delay, it must promptly notify the Purchaser in writing, stating the reasons and the anticipated duration of the delay. If this notice is given in good time, the Purchaser shall grant the Supplier a reasonable time for delivery. If the Supplier fails to give notice in good time, the Supplier shall be liable for impossibility of performance. In such cases, the Purchaser shall also be entitled to withdraw from the contract, in whole or in part, without notice, even if the delayed delivery is outside the Supplier’s control. Otherwise, the statutory provisions apply. In no case shall partial deliveries previously made be deemed to constitute an independent transaction.

8. REACH and CLP

8.1 In addition, the Supplier is responsible for ensuring that the goods comply with the provisions of REACH (Registration, Evaluation, Authorization and Restriction of Chemicals) as amended, for the registration, evaluation, authorization and restriction of chemicals, as amended. In particular, the substances contained in the goods are pre-registered or registered, as required under the provisions of the REACH Regulation.

In accordance with the provisions of the REACH regulation, the Supplier shall provide the Purchaser unsolicited with safety data sheets and additional necessary information. In particular, restrictions and/or prohibitions on substances or uses and possible contents of substances on the candidate list (SVHC) must be observed and communicated. The information must be sent to msds@kleiberit.com.

Substances in Annex XIV are not included in the products supplied, or are only used if permitted to use these substances in adhesives and coatings has been applied for and granted.

8.2 The Supplier shall continuously monitor the publication and updating of the so-called list of substances of very high concern ("SVHC") of the European Chemicals Agency ECHA (see http://www.echa.europa.eu/web/guest/candidate-list-table) and inform the Purchaser immediately if the goods delivered contain SVHC>0.1% by weight or contain substances subject to a restriction or prohibition according to the REACH Regulation.

The indication that the delivered goods contain SVHC>0.1% by weight shall include the name of the substance and the weight fraction of the substance. The presence of SVHC>0.1% by weight does not mean that it is registered in order to be included. If the goods supplied are chemical raw materials, the information on the safety data sheet can be communicated and addressed to the Purchaser at msds@kleiberit.com.

8.3 If the Supplier has breached its obligations under paragraphs 7.1 or 7.2, the Purchaser shall be entitled to withdraw from the contract if the delivered goods of the Supplier do not comply or no longer comply with legal requirements. Any additional claims for damages shall remain unaffected thereby.

8.4 If a claim is made against the Purchaser by a third party who has purchased goods delivered because the delivered goods do not comply with the requirements of the REACH Regulation, the Supplier shall be obliged to indemnify the Purchaser against such claims upon the Purchaser’s first written request where the claim is based on a breach of the Supplier’s obligations under secs. 7.1 to 7.2. The Supplier’s obligation to indemnify the Purchaser relates to all costs necessarily incurred by the Purchaser arising out of or in connection with the claim by the third party, in particular also to legal defense and administrative costs as well as all costs of procuring necessary replacements.

9. Information on hazardous substances and product information

The goods or substances shall be marked in accordance with the regulations of the Dangerous Goods Regulations and the EC / EU directives for hazardous substances / preparations, as amended. Chemical raw materials shall be classified, labeled and packaged in accordance with Regulation (EC) No 1272/2008 (“CLP Regulation”).

The Supplier undertakes to provide the Purchaser with all necessary product information, in particular on composition and disposition, e.g., safety data sheets, processing instructions, labeling instructions, assembly instructions, work safety measures, etc., including any changes thereto in good time before delivery / performance.

The Supplier shall ensure that the goods or services do not contain “conflict minerals” as set out at section 16 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) as amended. The Supplier shall provide the Purchaser, upon request, with information on the origin of the substances and / or compounds concerned.

10. Packaging and shipping

10.3.1 The packaging of all goods must be done in such a way that transportation damage is avoided. If the packaging is charged separately, the costs for this must be stated separately in the offer and invoice. The costs must be calculated at cost price.

10.3.2 The supplier shall be undertaken according to the specifications of the Purchaser. If the shipping conditions and the loading point are not agreed separately, then CIP INCOTERMS 2010 70365 Weingarten / Baden, Max-Becker-Str. 4 shall apply. If the Supplier fails to comply with these specifications, it shall bear the resulting costs.

10.3.3 The Supplier shall be liable to the Purchaser for the correct labelling/identification of all goods subject to identification/labelling requirements. Identification shall also be made in order confirmations and all dispatch documents.

10.4.2 The consignment note shall be attached to each consignment as accompanying documentation where the delivery is made by vehicle, forwarder or post office. In the case of goods delivered by rail, the delivery note must be sent by post on the day of dispatch. The exact order number of the Purchaser must be indicated on all shipping documents and delivery notes. Invoices are not deemed to be delivery notes.

10.5.3 The Purchaser is entitled to demand detailed dispatch notifications in triplicate separately for each assignment from the Supplier, irrespective of the type of dispatch or issue of invoice, at the latest one day on the day of the dispatch or performance.

11. Transfer of risk

11.3.1 In all cases, risk will pass to the Purchaser only upon acceptance. The time and place of acceptance are determined according to the order. The risk shall pass to the Purchaser in the freight forwarder, freight carrier or other agent of the Purchaser, irrespective of whether the goods are delivered to the Purchaser's premises.

12. Weight / quantities

12.2 The Purchaser shall determine the weight on receipt and send notification of receipt confirming same. Without undue prejudice to further claims, in the event of deficiencies in weight the weight determined by the Purchaser in the notification of receipt shall apply unless the Supplier objects within three working days and proves that the weight calculated by it was correctly determined at the time of the passing of the risk by a generally accepted method. This also applies analogously to the quantities.

13. Liability for Defects

13.1.1 In all cases (even if the goods were previously transferred to the Purchaser’s ownership or delivery to the forwarder, freight carrier or other agent of the Purchaser), the obligation to investigate and to remedy obvious deficiencies or deficiencies in quantity shall begin only once the goods have been received at the Purchaser’s premises and the proper dispatch notice is available.

A complaint will be deemed raised in time if it is received by the Supplier within seven working days in the case of patent defects and within fourteen days after discovery of latent defects. Extended notice periods due to special agreements remain unaffected.

13.1.2 If a specific defect shall be deemed suspended upon notification of a defect by the Purchaser until the defect has been rectified. However, such suspension shall end three months after receipt of the declaration that the defect is eliminated or that there is no defect.

13.1.3 The Supplier warrants its goods for a period of three years after acceptance, in the case of machines for the duration of 13,200 service hours, where applicable also following elimination of defects compensated of including without timely notice of defect, that the goods are not subject to defects impairing or affecting use or operation and possess the characteristics required by the contract.

13.2 In particular, the Supplier shall also be liable for the performance and consumption figures given. Liability also extends to any defects caused by the Supplier.

13.3 The Supplier guarantees that its services and goods comply with the latest state of the art, the accident prevention and occupational safety regulations, the generally accepted safety and occupational medical regulations, as well as the agreed technical data and that the supply or service
with a complete safety data sheet in accordance with sec. 14 of the Hazardous Substances Act. Packaging, transport, storage, handling and demarcation, the Supplier shall provide the Purchaser which must therefore on the basis of regulations be subject to special treatment in respect of condition, may pose a threat to the life and health of humans, the environment and property, and the observance of these regulations by its personnel or by third parties engaged by it. In the event of changes to the materials after delivery, the Purchaser shall be entitled to set off the costs necessary to remove the defect.

15.3 The Supplier may assign its claims against the Purchaser - without prejudice to its right to fulfill its obligations according to law and regulations and shall undertake no actions or do anything which could lead to criminal liability for fraud and breach of trust, insolvency, competition law offences, the granting of an advantage to or corruption of persons employed by the Purchaser or other third parties. Purchaser shall, be to assure compliance, entitled to perform audits at the Supplier. Any breach of this provision shall give the Purchaser an extraordinary right to terminate or rescind all legal transactions with the Supplier and to terminate all negotiations.

16. Technical capital equipment

When ordering technical capital equipment, the Purchaser is entitled to monitor the execution of the order at the premises of the Supplier and its suppliers at any time. The equipment, resources and services required for the test shall be provided by the Supplier free of charge. Such monitoring does not release the Supplier from the contractual obligations and performance obligations entered into and does not deprive the Purchaser of the right to raise any defects found subsequently. If the Supplier does not produce the goods or services mainly within its own business, it must immediately notify the Purchaser of this before the start of production and obtain Purchaser’s consent.

17. Compliance with the provisions of the German Minimum Wage Act (Mindestlohngesetz or “MLoG”)

The Supplier warrants that payment of the statutory minimum wage is ensured by it or its subcontractor or service provider, within the meaning of the MLoG. Upon request, the Supplier shall submit the relevant evidence thereof to the Purchaser without undue delay. The Purchaser shall also be given the opportunity to carry out checks at any time on a sample basis and to perform its own checks of the Supplier’s compliance with the minimum wage provisions. In the event of a breach of the minimum wage payment by the Supplier or a subcontractor or service provider engaged by it, the Supplier undertakes to notify the Purchaser without undue delay, to terminate the underpayment immediately and to make appropriate supplemental payments, thus to take immediate remedial action. In addition, the Supplier undertakes to indemnify the Purchaser against all direct claims by authorities or third parties in full. The Purchaser has the right to make this payment itself and then to recover it from the Supplier.

18. Child, Forced and Bonded Labor

18.1 The Supplier and its subcontractors shall not use child labor. Proof of age must be available for all employees and shall be provided to the Purchaser immediately upon request. The Purchaser shall also be allowed to conduct random checks at any time and to verify compliance with national and international laws and regulations concerning the rights of children.

18.2 The Supplier and its subcontractors shall not use forced, prison or bonded labor. In the event of a breach of this provision, the Purchaser shall be entitled to extraordinary withdrawal or termination, without notice, from all legal transactions existing with the Supplier and cancellation of all negotiations.

19. Compliance

The Supplier shall ensure that the supplies and services for which it is responsible comply with the Corporate Compliance Policy of KLEBECHMIE (available at www.kleiberit.com). The Supplier shall fulfil its obligations according to law and regulations and shall undertake no actions or do anything which could lead to criminal liability for fraud and breach of trust, insolvency, competition law offences, the granting of an advantage to or corruption of persons employed by the Purchaser or other third parties. Purchaser shall, be to assure compliance, entitled to perform audits at the Supplier. Any breach of this provision shall give the Purchaser an extraordinary right to terminate or rescind all legal transactions with the Supplier and to terminate all negotiations.

20. Final provisions - Applicable law - Jurisdiction

20.1 References to the business relationship with the Purchaser for the Seller’s advertising may only be made with the written permission of the Purchaser.

20.2 If individual provisions of these terms of purchase or a contract based thereon are deemed invalid or incomplete, this shall not affect the validity of the remaining provisions. The parties hereto are obliged to agree on a new provision coming the closest to the purpose of the invalid or incomplete provision.

20.3 The place of performance for all obligations arising from these terms and conditions of purchase is exclusively Karlsruhe. Jurisdiction for all disputes arising from all current or future transactions, including bills of exchange or checks issued as legally permissible, shall be vested in the courts of Karlsruhe, unless otherwise agreed. The Purchaser is also entitled to bring an action at the registered office of the Suppliers.

20.4 The relations between the Purchaser and the Supplier shall be exclusively governed by the law of the Federal Republic of Germany, but without any application of the provisions of the United Nations Convention on International Sales of Goods (CISG) and private international law.