

## Terms of Sale and Delivery, v.05 – 2018

Kallesoe Machinery A/S

### 1. General terms

These Terms of Sale and Delivery apply to all products (referred to as the "Product(s)") delivered by Kallesoe Machinery A/S, CVR no. 32 89 53 44, (referred to as "KM") to its customers (referred to as the "Buyer"). These Terms of Sale and Delivery apply to all offers, purchase agreements and order confirmations etc. (referred to as the "Agreement") entered into between the Buyer and KM. Where application of these Terms of Sale and Delivery is excluded or insufficient, they will be supplemented by the provisions in ORGALIME SE-01.

Any reference to specific or general terms, conditions or requirements by the Buyer in tender documents, orders, acceptances, terms of purchase, etc. and any oral agreement will not be deemed a departure from these Terms of Sale, unless expressly accepted in writing by KM.

### 2. Prices

All prices specified in the Agreement or in current price lists, offers, invoices, etc. are exclusive of VAT and other taxes. The prices are current prices, ex warehouse. In the event of changes in exchange rates, raw material prices, customs and tariff rates, freight charges or other changes beyond KM's control, KM reserves the right to adjust the agreed prices accordingly until the date of delivery. Further, KM reserves the right to adjust the prices indicated without notice.

Any freight and packaging costs will be added to the invoice.

### 3. Terms of payment

Payment must take place according to KM's terms of payment in force from time to time, unless otherwise agreed in writing. In case of late payment, default interest will be charged from the due date at a rate of 2% for every month or part of a month until payment is made.

If the Buyer defaults in payment, KM is entitled to cease all work and stop delivering the orders placed by the Buyer until payment of all amounts due. The Buyer is not entitled to settle KM's claim through a set-off.

KM may request the Buyer to provide security for any future payment if the Buyer has defaulted or is likely to default in payment of an instalment.

### 4. Technical specifications, instructions, etc.

Before executing the order, KM must send the Buyer a layout with dimensions which must be approved by the Buyer. If the Buyer provides KM with a layout, it must be prepared in file format approved by KM, and the Buyer will be responsible for the accuracy and adequacy of the layout. The Buyer assumes full responsibility for the layout, including for the results and functionality achieved and for the operating ability of the Products in the Buyer's existing or contemplated operating environment.

All drawings and other technical specifications which relate to the Products delivered under the Agreement and which are provided by one party to the other before or after conclusion of the Agreement will belong to the distributing party. Such drawings, technical specifications and other technical data may not be used for any purpose other than the intended purpose without the other party's consent.

Further, such material may not be copied or reproduced without the other party's consent.

KM is not required to make any drawings or documents used for the production of the Product or spare parts available to others. If the Buyer requests such drawings, including calculations etc., they will be invoiced to the Buyer according to separate agreement.

The Buyer assumes full responsibility for the selection of the Product. It is also the Buyer's responsibility that the Product can be used together with the Buyer's products in the Buyer's contemplated operating environment and that the Product generally performs as

expected by the Buyer. KM is only (jointly) responsible for this if KM has expressly guaranteed a certain performance in the Agreement.

All advice given by KM is for guidance only and will in no circumstances impose any professional liability on KM.

### 5. Execution of orders and delays

All indications of dates of delivery and prices etc. given in the Agreement are best estimates and are non-binding on KM, unless it is stated expressly in the Agreement that the date of delivery and the prices etc. are fixed. The date of delivery, price indications etc. will be binding only when KM has received all information necessary to execute the order.

In case of delay by KM, the provisions in ORGALIME SE 01, paragraphs 36-42, will apply.

### 6. Inspection and tests

All Products have been inspected and tested by KM before delivery. The Buyer may participate in a FAT test if agreed by the parties in the Agreement or in any other written agreement. Unless otherwise agreed in writing, the FAT test will take place within normal working hours, and all extra costs pertaining to the Buyer's participation are payable by the Buyer. If the Buyer requests a FAT test which is outside the usual test scope, the test specifications must be approved by KM on conclusion of the Agreement, and KM will be entitled to charge the Buyer separately for such test.

KM will give the Buyer 7 days' written notice of the FAT test, specifying the date and place for the test, to allow the Buyer's representative to participate.

The Buyer cannot demand changes to the Product after completion of the FAT test.

### 7. Delivery and packaging

Unless otherwise agreed, delivery takes place ex works (Incoterms 2010) whether KM has agreed to pay the freight charges or not. The Buyer must take out its own insurance against damage to the goods occurring after the risk has passed to the Buyer.

Packaging will not be taken back.

### 8. Receipt

Upon receipt of the Product, the Buyer must ensure that everything is ready at the point of installation, and that all facilities allow easy and unimpeded installation of the Product. If agreed, the required staff and equipment, including a crane and transport systems, must be available.

If the Buyer refuses to take delivery of the Product on or after the agreed date of delivery, KM is entitled, without prejudice to KM's right to claim compensation for any loss or damage to the Product caused by termination or breach, to invoice all extra costs incurred as a result of such refusal to the Buyer. In that case, KM may place the Product in a storage facility at the Buyer's expense and claim reimbursement of any costs of transporting the Product to the storage facility. Further, KM may claim payment by the Buyer of any difference between the agreed price and the resale price charged to a third party.

### 9. Documentation

The Product is delivered with one hard copy of the user manual, including, if applicable, spare parts lists and diagrams. If the Product is delivered with a login to KM's website, all spare parts lists and diagrams will generally be available on this website.

The user manual will be drawn up in the official language of the relevant country, unless otherwise stated in the Agreement. All other documentation will be drawn up in Danish, German or English.

If the Product requires a prolonged run-in period after or in connection with delivery and installation at the Customer's place, or if it is necessary to change control units for the purpose of such running-in, then KM reserves the right to deliver a preliminary user manual only. In that case, the final documentation will be provided as soon as possible after expiry of the run-in period, ie. when the operating procedures have been finally determined.

## 10. Complaints and defects

In connection with a SAT test or upon receipt of a Product, the Buyer must inspect the Product in detail to ensure that it is free from defects. The Buyer cannot complain to KM of any defects which should have been established by the Buyer in connection with the SAT test or inspection of the Product. Complaints etc. must be made in writing to KM as soon as the defect is established or could have been established and, in any circumstances, no later than 3 months after the date of delivery. If the Buyer fails to complain in time, the Buyer will no longer have any remedies for breach against KM. However, KM is liable for "ingredient or component defects" if such defects are covered by KM's insurance. The Buyer cannot claim that the Product is defective if the Buyer has already started using it. KM is not liable for any deterioration and/or inoperability of the Product which is caused by the Buyer's wrong storage or misuse or by the quality of materials/raw materials which are worked up and/or processed by the Product, etc.

If the Buyer complains of the Product, KM must be given access to inspect the point of installation and to make check measurements subject to prior written notice to the Buyer.

KM's liability for defects is in any circumstances limited to replacement delivery, remedial action or a proportionate reduction of the purchase price at KM's own option. No other remedies will be available to the Buyer. KM is liable for "ingredient or component defects" if such defects are covered by KM's insurance.

## 11. Product liability

KM is liable for defective products under the mandatory provisions of the Danish Product Liability Act. KM disclaims product liability on any other basis, unless KM's insurance provides coverage. KM's liability for defective products is limited to the amount of KM's insurance coverage at the time when notice of the claim is given. The Buyer must, without undue delay, notify KM in writing if the Buyer becomes aware of any damage caused by the product purchased, of any third-party claim that such damage has occurred, or of any risk that such damage may occur. If KM is held liable to any third party, the Buyer must indemnify KM to the same extent as KM's liability is limited under this paragraph.

KM is not liable, notwithstanding the degree of negligence, for any indirect or consequential loss that was not reasonably foreseeable, including for any operating loss, loss of profit, loss of data or costs incurred in connection with the recovery of such data, loss of goodwill, garbling of notices, loss of anticipated savings or similar losses.

## 12. Guarantee

KM guarantees that the Product meets the specifications set out in the Agreement, provided that the Product is used according to the instructions.

The warranty period is one year from the agreed date of dispatch of the Product. Warranty work will be performed only within normal working hours.

- The warranty will lapse in case of non-compliance with these Terms of Sale and Delivery. Also, the warranty will not apply to the Product if:
- KM's fitter is denied access by the Buyer to pay a service visit, either within one year or after 1800 operating hours.
- The Buyer or any third-party fitter who is not approved by KM has installed, adjusted or otherwise influenced the Product.
- Part of the Product is modified or replaced by spare parts of another brand without KM's prior written consent.
- The Product is used for other purposes than specified.
- The Product is not installed, used or maintained in accordance with KM's instructions, specifications and directions for use or in accordance with normal machine safety regulations.
- The materials and/or semi-manufacture delivered by the Buyer or the materials, instructions and/or procedures

prescribed by the Buyer prove to be unfit for the intended purpose.

The warranty does not cover wearing parts or normal tear and wear.

## 13. Limited liability

KM is not liable, regardless of the basis for the claim and the degree of negligence, for any indirect or consequential loss that was not reasonably foreseeable, including for any operating loss, loss of profit, loss of data or costs incurred in connection with the recovery of such data, loss of goodwill, garbling of notices, loss of anticipated savings or similar losses. Further, KM is not liable for any loss of or damage to property or trademarks.

However, the above does not apply to product liability, which is subject to paragraph 11.

KM's liability for any loss or damage not covered by the product liability insurance (see paragraph 11) is limited to the amount which the Buyer has paid to KM under the agreement whereby KM's liability was established. However, KM is liable for defective products to the extent that KM has insurance coverage (see paragraph 11).

## 14. Software

Software includes all software embedded in the Product whether developed by KM and/or a third party (sub-licensed software).

### License terms for third-party software

Software developed by a third party may be used as set out in that third party's license terms in force at any time. The Buyer must comply with the license terms and hold KM harmless from and against any claim raised against KM as a result of the Buyer's breach of the license terms.

KM assumes no liability to the Buyer for any infringement of third-party rights resulting from the Buyer's use of the software.

### Special license terms for KM software

Where special terms apply to the software developed by KM, such terms will prevail over the below terms.

### Right of use

The Buyer gains a non-exclusive, non-transferable right of use for the agreed number of users and/or the agreed number of licenses to the software, including any ancillary modules and written documentation material.

Unless otherwise agreed in writing, KM has no obligation to provide the Buyer with updated software versions.

### Software copying

The Buyer may not copy the software or any part of its, except in connection with its installation. However, the Buyer may take back-up copies of the software or copies for filing purposes if necessary in order to use the software. Copies for back-up or filing purposes are also subject to these license terms.

### Changes

The Buyer may not change the software or engage in reverse engineering or decompilation of the software other than as permitted by mandatory law applying to the parties. If the Buyer or any third party intervenes in or changes the software, KM disclaims all liability for the consequences of such intervention or changes. All remedies of breach will still be available to KM.

### Transfer

The Buyer may not sell, lease, lend, permit the use of, or in any other way assign or transfer the right to use the software to any third party.

### Intellectual property rights

KM holds all copyrights and other rights in the software or is entitled to sublicense the software on behalf of third parties. The Customer must observe the rights held by KM/third parties and will be liable for any infringement of such rights, including for unauthorised transfer of the software to a third party. The Buyer may not break or change any security codes, nor change or remove any proprietary rights or

trademark notices in the software or on the media on which the software is delivered.

Remedy of antecedent defects

The software is licensed "as is" with no warranties, remedial obligations or remedies for breach other than those specified above. Thus, KM does not guarantee that the software can be used without interruptions or errors, nor that any software errors can or will be corrected.

Paragraph 10 on defects also applies to defects in the licensed software.

**15. Force majeure**

KM is not liable for any breach of its obligations in connection with offers, order confirmations and/or purchase agreements which is caused by force majeure, including war, mobilisation, national/local commotion or unrest, government or local authority intervention, strikes, blockades or lock-outs, import and export bans, currency restrictions, natural disasters or other weather conditions, fire, general scarcity of goods, seizure or by shortage of labour, means of transportation or energy supplies or other circumstances beyond the parties' control which prevent performance of the Agreement.

This force majeure clause will apply in any circumstances, whether the impediment to performance affects KM or any of KM's sub-suppliers. If punctual or compliant delivery is temporarily impeded by any of the above circumstances, the date of delivery will be postponed as long as the impediment exists. However, each party is entitled to terminate the Agreement in writing without incurring liability if the impediment is likely to last more than 3 months from the agreed date of delivery.

**16. Disputes**

Any dispute between the Buyer and KM must be settled in accordance with Danish law with the exception of the Danish conflicts of law rules. Any dispute between the Buyer and KM must, at KM's option, be settled by the Court of Herning as the court of competent jurisdiction or by arbitration at the Danish Institute of Arbitration in accordance with its Rules of Procedure as amended from time to time.