

**General terms of sale and delivery for KYOCERA UNIMERCO Tooling UAB.**

**These terms of sale and delivery apply for all agreements made between KYOCERA UNIMERCO Tooling UAB (hereinafter referred to as KUT) and the Buyer, unless otherwise agreed between KUT and the Buyer in writing.**

Any purchasing terms, or similarly, of the Buyer shall not be legally binding for KUT.

KUT can change the general terms of sale and delivery terms without notice (this applies to all future agreements).

The terms goods, products, tools and services all have the same meaning, unless otherwise clearly apparent from the context when the terms are used individually. If nothing appears from the context, the words are used as umbrella terms for products/services sold by KUT to the customer.

If one or more provisions are or become invalid or void because of any local legislation, or if it contains a cap, the validity of these general terms and conditions shall not thereby be affected. The parties are obliged to replace any invalid or void provision with a valid provision that comes as close as possible to the commercial meaning and purpose of the invalid or void provision.

**1. Formation of contract**

If using an order confirmation, orders from the Buyer shall not be legally binding for KUT until the Buyer has received a written order confirmation.

**2. KUT's delivery**

KUT's delivery solely comprises products that have been specified in the order confirmation.

All intellectual property rights, drawings, drafts, technical specifications, etc., are the property of KUT and shall not be copied or handed over to any third party without prior written acceptance from KUT. The products delivered by KUT may not be manufactured, copied or handed over to any third party with this end in view.

If the product is manufactured in accordance with customer requirements, the customer warrants that the product does not infringe any third party immaterial rights, and if the product is protected by immaterial rights, the customer is obliged to notify KUT hereof.

**3. Prices**

All written quotations are valid for 14 calendar days from offer date, unless otherwise stated in writing in the offer.

KUT's prices are stated excl. VAT and taxes. The currency shall appear from order, order confirmation or invoice.

However, the stated prices are subject to documented changes in duties and taxes, exchange rate changes, price increases on raw materials or any other conditions beyond KUT's control.

If such price changes occur, KUT shall be obliged to inform the Buyer without undue delay, and the Buyer shall then be entitled to consider for 1 (one week) if he wants to accept the offer with the price increases that have subsequently been added. The time of delivery shall be extended accordingly with the respite granted to the Buyer.

If the delivery is changed or if KUT's costs increase due to Buyer conditions, e.g. in case of changed design requirements, after KUT has initiated production, KUT shall be entitled to adjust the agreed price accordingly.

**4. Terms of payment**

If the agreed time of delivery has been reached, KUT shall be entitled to invoice the Buyer for all deliveries made or reported ready for shipment.

KUT's terms of payment shall appear from offer, order confirmation or invoice.

If payment is not received in due time, KUT shall be entitled to payment of interests on amounts due at any time counting from payment date at an interest rate equal to 8% p.a.

The Buyer should note that KUT uses the Buyer's customer data for continuous credit rating of the Buyer. Thus, KUT discloses the Buyer's customer data to credit rating agencies with a view to obtaining the Buyer's customer and credit information.

**5. Property/reservation of property**

The property in the delivery shall remain with KUT until the total purchase price has been paid.

**6. Terms of delivery**

The term of delivery is Ex Works, the business address of the selling KUT company, according to Incoterms 2000, unless otherwise agreed between KUT and the Buyer.

#### **7. Time of delivery, etc.**

If delivery has been agreed to take place at a certain date, delivery on this date shall be considered timely.

If delivery has been agreed to take place in a certain week, delivery at the end of this week shall be considered timely.

KUT shall be entitled to postpone the time of delivery in the following instances:

- Changes to the order which are required by the Buyer
- Delayed deliveries or services the Buyer has agreed to carry out or which the Buyer has booked a third party to carry out
- In case of force majeure, cf. clause 14
- If work on the delivery has to be stopped or becomes delayed due to orders of a public authority
- In case of delivery failure or defective delivery from sub-suppliers, however, max. 6 weeks.

If the delivery is substantially delayed, and if KUT is not entitled to postpone delivery, the Buyer shall be entitled to cancel the agreement in writing following an unsuccessful written demand for delivery to KUT, if the Buyer proves that the delay will result in an essential nuisance for him.

If only a part of the sold products is delayed, the Buyer shall be entitled to cancel the agreement for the delayed part of the sold products only. If the delay concerns products manufactured in accordance with directions or specifications, or if the products are not normally carried in stock by KUT, the agreement can be cancelled only if the delay substantially invalidates the purpose of the purchase.

If the Buyer can prove that the delay has been caused by errors or omissions on the part of KUT, he shall be entitled to claim damages for the loss hereby inflicted on him, however cf. clause 12.

Such damages cannot exceed an amount equal to 0,5% of the agreed payment for the delayed service and/or product for each full week the delay has lasted, and the total damages can amount to no more than 7,5% of the total payment for the delayed service and/or product, unless KUT can prove that the customer suffered no damage or less damage there from.

Apart from the above, KUT disclaims all other liabilities for delays or any consequences following delays. In addition, the Buyer shall have no additional remedies for breach of contract than those stated in the above.

#### **8. Failure in accepting performance**

If, when the time of delivery has been reached, the Buyer does not collect the products or arrange for shipment, KUT shall be entitled to store and insure the delivery for the Buyer's account and to issue an invoice covering the delivery.

#### **9. Returning products**

KUT does not take back products from the Buyer, and products can only be returned if a separate written agreement has been made in advance.

A returning fee of 15% on net sales amounts shall be charged at all times.

Only standard products in intact packing shall be accepted for return.

#### **10. Liability for defects**

KUT is liable for defects for 1 year counting from the product delivery date. Within this period of time, KUT shall be obligated to remedy any lack of conformity in the delivered, i.e. by means of repair or new delivery in replacement, at KUT's discretion. KUT does not compensate for any expenses related to separation, dismantling, transportation, mounting and re-establishment.

KUT's liability for defects requires the Buyer to prove that the delivered products suffer from defects that can be related to KUT, and in addition, renders probable that the products have been stored, installed, used and maintained correctly and in compliance with directions provided by KUT, or what can be considered usual. Moreover, KUT's liability is conditional on the Buyer giving KUT immediate access to the defective parts at his own initiative, for the purpose of remedial action.

KUT shall be responsible for making the delivered adequate and/or suitable to solve the Buyer's tasks in all respects, only if KUT has been responsible for the planning and if the Buyer can document that the information provided by the Buyer is correct and adequate. In addition, the drawings etc. which have been supplied by KUT must be used in accordance with the directions stated on them. KUT only assumes responsibility for provided information and specifications, choice of materials, etc., including planning or contributions to planning if delivery of the said is an explicit part of the agreement.

KUT's liability shall lapse if components not manufactured or approved by KUT are used in connection with the delivered, unless the Buyer proves that this has not caused the defect.

If KUT cannot remedy the defect, and if the defect is fundamental, the Buyer shall be entitled to cancel the purchase or claim a proportional reduction of the price, but not compensation.

### **11. Product liability**

KUT shall be responsible for product liability to the extent defined in binding law.

KUT shall be responsible for damages to real and personal property only if it can be substantiated that the damage was caused due to errors or omissions on the part of KUT or others for whom KUT is responsible. However, the compensation can never exceed the value of the delivery which the defective product is a part of, however, a max. value of EUR 150,000 incl. interest and costs.

Moreover, any product liability does not include loss, expenses or costs related to purchasing, reproducing, re-delivering, re-doing, repairing, destroying or any similar measures regarding defect products or services.

In the event that KUT is met by a product liability claim from a third party, the Buyer shall be obliged to indemnify KUT to the same extent as KUT's liability has been limited in the conditions of these present conditions. If a third party claims damages from one of the parties according to this clause, this party is to immediately inform the other about the claim for damages.

The Buyer shall be liable to prosecution at the court of law processing claims for damages raised against KUT on the grounds of a damage allegedly caused by the delivery.

### **12. Limitation of liability**

Under no circumstances shall KUT be liable for indirect damages or loss of any kind, including, but not limited to, liquidated and consequential damages, the Buyer may incur towards a third party, as well as the Buyer's operating losses, loss of time, loss of delivery or similar losses.

In all respects, KUT's liability shall be limited to the value of the individual product/service stated on the invoice.

In the event that KUT should waive a claim or right towards the Buyer, this shall not mean that KUT has waived such claims or rights in instances other than the agreed.

### **13. Duty of complaint and inspection**

The Buyer shall be obliged to carefully inspect the delivery immediately when received, including to arrange possible pilot production and measurement of the dimensions of the finished product, to make sure that the delivery conforms with the agreed. The Buyer shall be obliged to make an immediate complaint in writing in the event of defects found under such an inspection, and the Buyer cannot rely on defects that were or should have been found under this inspection at a later point in time. The above also applies if the Buyer fails to make an immediate complaint over latent defects when found.

### **14. Export Control, Sanctions and compliance**

The Buyer acknowledges that the products may be subject to the European Export Control Regulations and/or U.S. Export Administration Regulations, applicable sanctions laws, and other applicable laws and related regulations (collectively, "Regulations"). The Buyer hereby gives assurance, that he will comply with the Regulations, and the Buyer agrees that he must not sell, transfer or deliver, directly or indirectly, any part or portion of the products or related documentation supplied by KUT to any person or organization in violation of such Regulations.

The Buyer declares that neither the Buyer nor any of its principals, officers, or directors, or any person or entity known to the Buyer being directly involved in this transaction as freight forwarder, end-user, consultant, agent or otherwise is designated on any of the EU, U.S. or Japanese restricted parties lists.

The Buyer agrees that it shall not engage in any activity that would expose KUT to a risk of penalties under any applicable law and regulation, including but not limited to, regulations related to anti-bribery, anti-corruption, anti-trust or anti-money laundering.

The Buyer shall indemnify and hold KUT harmless from and against any and all damages, liabilities, penalties, fines, costs and expenses arising out of claims, suits or allegations of Buyer's failure to comply with this provision.

### **15. Force majeure**

KUT shall not be liable for non-performance or delayed performance of contracts caused by force majeure, war, riots, civil disturbances, government interventions or interventions by public authorities, fire, strikes, lockout, export and/or import

embargoes, mobilisation, vandalism, exchange control regulations, epidemics, computer virus, hacking, natural disasters, adverse weather conditions, lack of labour, energy and water supplies, or any other reason beyond KUT's control.

In the event that delivery on time is temporarily hampered due to one of the above mentioned circumstances, delivery shall be postponed for a period of time equal to the duration of the hindrance plus a reasonable period of time to normalise conditions depending on the circumstances. Delivery at the hereby postponed delivery time shall be considered timely in all respects. In the event that the delivery hindrance is estimated to last longer than 8 weeks, both KUT and the Buyer shall be entitled to cancel the agreement without this being considered breach of contract.

#### **16. Governing law and venue**

Any dispute between the parties shall be settled fully and finally under the national law which the selling KUT company is subject to, to the exclusion of any conflict of laws rule that would refer the matter to another jurisdiction. KUT can freely choose whether the dispute shall be settled by the ordinary courts or by arbitration. If KUT chooses arbitration, the rules in force at the Copenhagen Arbitration shall apply. The arbitral tribunal shall be held in the city where the selling KUT company is domiciled.

Venue at the ordinary courts shall be the judicial district to which the selling KUT company belongs.

*Valid date: 21-11-2016*