



These general terms of sale and delivery (the "**Terms**") apply to all deliveries of products and services (the "**Products**") from KP Components Inc. ("**KP**") to any buyer ("**Buyer**"), unless otherwise expressly agreed in writing. In case of any discrepancy between these Terms and any terms and conditions put forward by the Buyer in orders or otherwise, these Terms shall prevail.

1. FORMATION OF CONTRACT

- 1.1. KP shall not be deemed to have accepted a purchase order until (i) the Buyer has received a written order confirmation from KP; or (ii) KP has received a written, timely and unconditional acceptance from the Buyer of KP's quotation.
- 1.2. Where no specific time limit for acceptance of a quotation is indicated, the time limit acceptance is 4 weeks from the date of KP's quotation to the Buyer. If acceptance is not received on or before such date, the offer automatically expires by the end of such day.

2. PRICES

- 2.1. KP's prices are given on an Ex Works basis (as defined in the Incoterms valid on the date of KP's order confirmation or quote, as applicable) and, unless otherwise indicated by KP, exclusive of VAT, sales and use tax, customs or import duties, packaging and any other duty or taxes payable on the sale of the Products. The currency is set out in the order confirmation or invoice. Packaging is invoiced separately.
- 2.2. KP reserves the right to modify the price of the Products until the date of delivery to reflect documented changes in (a) duties and taxes (if payable by KP), (b) exchange rates and (c) raw material expenses, since the date of KP's order confirmation.
- 2.3. Any increase in price made in accordance with clause 2.2 above and notified by KP in writing to the Buyer without undue delay is binding on the Buyer.

3. PAYMENT TERMS

- 3.1. Products are invoiced to the Buyer on delivery.
- 3.2. Payment terms are net 30 days from date of invoice.
- 3.3. In the event of delayed payment, interest of 2 % per month shall accrue and KP is entitled to withhold any other orders placed and/or part deliveries not yet effected until all outstanding amounts owed have been settled.

4. RETENTION OF TITLE AND PASSING OF RISK

- 4.1. Until KP has received payment in full, title to the delivered Products KP shall retain title to the Products to the extent possible. The labels placed by KP on the Products or Products packaging indicating the Products belong to KP may not be removed until the Buyer has paid for the applicable Products. In the event of non-payment, KP shall, in addition to all other rights and remedies available, be entitled to recover possession of the Products. Notwithstanding the retention of title, the risk of loss and damage shall pass at delivery.

5. TERMS OF DELIVERY

- 5.1. The Products are delivered Ex Works at the business address of KP. If KP undertakes to engage a freight forwarder on the Buyer's behalf, the passing of risk and other legal consequences of the prescribed term of delivery shall not be altered thereby.
- 5.2. Unless expressly agreed between KP and the Buyer, time of delivery shall not be of the essence for purposes of any purchase order.
- 5.3. If the Buyer does not collect the Products or arrange for shipment hereof at the agreed time of delivery,

KP is entitled to store and insure the Products at the Buyer's expense and for the Buyer's account.

6. DELAY

- 6.1. If delivery by KP is delayed, the Buyer may request delivery in writing and fix an additional, reasonable time limit (of not less than ten (10) days) for delivery. If delivery is not made within such time limit, the Buyer may cancel the purchase order. However, if only a part of the Products is delayed, the Buyer is only entitled to cancel the part of the purchase order related to the delayed part. If a delay concerns Products manufactured based on specifications provided by the Buyer, or the Products are not normally carried in stock by KP, notwithstanding the foregoing, the Buyer is only entitled to cancel the purchase order, if the delay substantially invalidates the purpose of the purchase.
- 6.2. In case of delay caused by KP the Buyer is entitled to liquidated damages calculated as zero point five (0.5) per cent of the purchase price for the delayed Products for each full week the delay has lasted up to a maximum amount of seven point five (7.5) per cent of the total purchase price for the delayed Products.
- 6.3. The Buyer has no other rights or remedies in case of KP's delay other than those stated in clause 6.1-6.2.
- 6.4. Notwithstanding clauses 6.1-6.2, KP is entitled to a reasonable postponement of the delivery date in the following cases (in which case the remedies in clauses 6.1-6.2 shall not be applicable):
 - (i) The Buyer and/or third parties appointed by the Buyer are delayed with delivery of goods/services required in connection with the supply of the Products;
 - (ii) Force Majeure, cf. clause 10;
 - (iii) Work on the delivery is delayed/stopped due to orders of a public authority; or
 - (iv) Delivery failure or defective delivery from KP's sub-suppliers up to a maximum of 6 weeks.

7. DEFECTS

- 7.1. KP represents and warrants that the Products comply with the agreed specifications and are free from defects in workmanship (the "**Warranties**"). **ALL OTHER WARRANTIES (EXPRESSED OR IMPLIED), INCLUDING WITH RESPECT TO THE CHOICE OF MATERIALS, ADEQUACY, MERCHANTABILITY OR FITNESS OF THE PRODUCTS FOR A PARTICULAR PURPOSE OF THE BUYER AND ABSENCE OF HIDDEN DEFECTS IN MATERIALS, ARE EXCLUDED.**
- 7.2. The Buyer must carefully examine the delivered Products upon delivery, including arranging appropriate pilot production and measurement of dimensions of the Products to ensure that the Products comply with the agreed specifications and any other specifically agreed requirements. Any alleged defect of the Products shall be notified promptly to KP in writing and in no event later than 14 days after the Buyer's receipt of the Products. The notice shall contain a description of the alleged defect. If the Buyer fails to notify KP in writing within the time limit set forth above, the Buyer forfeits all of its rights to assert any claim or request any remedies against KP, including but not limited to those set forth under this clause 7.
- 7.3. KP is obliged to remedy any defect (understood strictly as a breach of any of the Warranties set out in clause 7.1 in relation to a Product) documented by the Buyer, by means of repair or delivery of replacement products at KP's sole discretion, such repair or delivery of replacement products to take



place within a reasonable period of time. The Buyer shall promptly give KP access to the defective Products or return the Products to KP at KP's cost, if requested by KP, for purposes of any the remedial action. If KP cannot remedy the defect, the Buyer is entitled to cancel the purchase, claim a proportional reduction of the purchase price and/or claim damages, subject to the limitations set out in these Terms. The remedies in this clause 7.3 are the exclusive remedies for defect Products.

- 7.4. Any liability of KP is subject to the Buyer being able to substantiate that the defective Products have been stored, installed, used and maintained correctly, that the defect is not caused by components (not manufactured by KP) that are used in connection with the delivered products, and that the Products have not been used for any unusual and/or unintended purposes, and that the defect not otherwise has arisen as a result of fair wear and tear or abnormal working conditions.
- 7.5. Notwithstanding the above, the Buyer shall in any event lose its right to rely on any defect or other non-conformity of the Products if the Buyer fails to notify KP thereof in writing within 12 months after the delivery of the Products.

8 GENERAL LIMITATIONS OF LIABILITY

- 8.1. Unless mandatory legislation provides otherwise, KP shall in no event be liable for any loss or damage arising, directly or indirectly, from the use or inability to use the delivered Products, including any product liability, and/or for any indirect or consequential loss or damages of any nature whatsoever, including but not limited to loss of profits, business, contracts, anticipated savings, goodwill, revenue, loss of interest, loss or corruption of data or other losses sustained by the Buyer or third parties arising out of the use or inability to use the Products.
- 8.2. Without limiting the above, KP shall in no event be liable for any damage to, or destruction of, real estate or any other item of property, provided that the item of property (i) is of a type not ordinarily intended for private use or consumption, and/or (ii) was not used by the injured person mainly for his own private use or consumption.
- 8.3. KP's aggregate liability whether in contract, warranty, tort or otherwise, arising out of or connected with the performance or non-performance of any purchase order governed by these Terms shall in no event exceed the total amount paid by the Buyer to KP under all purchase orders issued by the Buyer to KP during the 6 calendar months immediately prior to the Buyer's notice to KP of the claim.

9 BUYER'S INDEMNITY AND INSURANCE

- 9.1. The Buyer agrees to indemnify KP and its employees and agents in full and on demand and keep them so indemnified from and against all claims, actions, proceedings and all damages, losses, costs and expenses, which are made or incurred by any of them directly or indirectly and whether wholly or in part resulting from any of the matters listed below:
 - (a) the manufacture and sale of the Products by KP in accordance with the Buyer's designs, drawings, specifications or other data or information furnished, or instructions given by the Buyer;
 - (b) the cancellation of any order by the Buyer after its acceptance by KP, unless another cancellation procedure is agreed in writing by KP and the Buyer; and

- (c) any breach by the Buyer of its obligations under any purchase order governed by and governed by these Terms.

10. FORCE MAJEURE

- 10.1. KP shall not be liable for the following causes or events where such causes or events hinder the performance of or make the performance thereof unreasonably onerous to KP: Industrial or labour disputes and any other cause or event beyond KP's control, including, but not limited to, fire, war, mobilizations or calling up for military service to a similar extent, acts of terrorism, riots, commotions, requisitions, confiscation, exchange control restrictions, transport hindrances, power restrictions, embargoes on imports or exports, and defects or delays in deliveries caused by sub-contractors.
- 10.2. Notwithstanding clause 10.1, either party may terminate the relevant purchase order by notice in writing to the other party if performance of any purchase order is delayed more than six (6) months by reasons of the force majeure as described in this clause 10.

11. CONFIDENTIALITY

- 11.1. Any non-public information, including but not limited to prices, drawings, descriptions and any technical documents which KP has made or may make available to the Buyer ("**Confidential Information**") shall remain the property of KP and shall be treated as confidential by the Buyer and its representatives and must not, without the prior written consent of KP, be copied, reproduced or transferred to a third party or be used for other purposes than those intended when the Confidential Information was made available. Confidential Information shall be returned to KP upon request.

12. APPLICABLE LAW AND VENUE

- 12.1. These Terms and any purchase order governed hereby shall be governed by the laws of the State of New York/South Carolina, excluding the United Nations Convention on Contracts for the International Sale of Goods ("**CISG**") and excluding the Uniform Commercial Code to the extent otherwise applicable. Notwithstanding any provision of this Agreement relating to which state laws govern this Agreement, all issues relating to arbitrability or the enforcement of the agreement to arbitrate contained herein shall be governed by the Federal Arbitration Act (9 U.S.C. SSSS 1 et seq.) and the federal common law of arbitration.
- 12.2. Any dispute arising out of or in connection with a purchase order governed by these Terms, including any disputes regarding the meaning, interpretation, effect, existence, validity, performance, enforcement, or termination thereof, shall be settled by arbitration administered by the American Arbitration Association (or any like organization successor thereto) ("**AAA**") in New York, New York in accordance with the AAA's Commercial Arbitration Rules in force at the time when such proceedings are commenced. The arbitral tribunal shall be composed of three arbitrators, where KP appoints one arbitrator, the Buyer appoints one arbitrator and the AAA appoints the last arbitrator, who shall be the chairman of the tribunal. The place of arbitration shall be New York State, New York City, New York County. The language to be used in the arbitral proceedings shall be English.

These General Terms of Sale and Delivery enter into force on 1 February 2019