

Terms and conditions for the delivery of machines from KNOCKS FLUID – Technik GmbH

(Status March 2015)

I. General

1. The following Terms and Conditions of Sale shall apply between Knocks FLUID-Technik GmbH (hereinafter: Supplier) and the customer (hereinafter: Purchaser) for the sales contracts, service contracts and contracts for work and materials concluded regarding the delivery and/or manufacture of goods.

2. These Terms and Conditions and - primarily - any individual contractual agreements shall form the basis of all deliveries and services. They shall also apply - until the withdrawal of the current Terms and Conditions of Sale - for all future sales contracts, service contracts and contracts for work and materials, even if these have not yet been expressly agreed. Our Terms and Conditions of Sale shall apply exclusively. Any deviating Terms and Conditions of Purchase by the Purchaser shall not represent contractual content, even without express contradiction and/or through order acceptance. In individual cases, individual agreements concluded with the buyer (including supplementary agreements, additions and changes) shall have priority in all cases over these Terms and Conditions of Delivery. A written contract or our written confirmation shall be decisive for the content of such agreements.

3. The Supplier reserves the property rights and copyrights of samples, estimates, drawings - amongst other things information of a physical and non-physical nature - also in electronic form; they may not be made accessible to third parties. The Supplier obligates themselves only to make information and documents accessible to third parties which have been labelled by the Purchaser as confidential with the Purchaser's consent.

II. Conclusion of the contract

A contract shall take effect - provided that no contrary individual agreement has been made - with the written order confirmation of the Supplier.

III. Price and payment

1. In the absence of any special agreement, the prices shall apply ex works including loading at the works, but excluding packaging, transport and unloading. In addition to the prices, VAT at the respective statutory rate shall also be added. The Purchaser shall also bear the cost for freight, for packaging costs which exceed those usual in the trade, for public taxes (incl. tax at source) and customs duties.

2. The purchase price shall be due, and, subject to differing individual regulations, is to be paid within 14 days from the issuing of the invoice and delivery or acceptance of the goods. For contracts with a delivery value of more than EUR 10,000.00, we shall however be entitled to request an advance payment to the amount of 25 % of the purchase price. This advance payment shall be due and is to be paid within 14 days from the issuing of the invoice.

The Purchaser shall be in default with the expiry of the abovementioned payment deadline. Interest shall be due on the purchase price at the respectively valid statutory rate of default interest for the duration of the period of default. We reserve the right to assert further default damages. In the case of merchants, our claim for commercial default interest (§ 353 HGB - German Commercial Code) shall remain unaffected.

3. The Purchaser shall only be permitted the right to withhold payment to the extent that their counterclaims are undisputed or determined as legally binding.

4. The right of the Purchaser to offset using counterclaims from other legal relationships shall only be permissible to the extent that they are undisputed or determined as legally binding.

IV. Delivery period, delivery delay

1. The delivery period shall arise from the agreements between the contractual parties. Compliance with this by the Supplier is conducted on the assumption that all commercial and technical questions between the contractual parties have been clarified and that the Purchaser has fulfilled all (cooperative) obligations incumbent upon them, for example, the provision of the necessary official certifications or approvals or performance of advance payments. Should this not be the case, then the delivery period shall be extended accordingly. This shall not apply insofar as the Supplier is responsible for the delay.

2. Partial deliveries are permissible, insofar as this is reasonable for the Purchaser.

3. Compliance with the delivery period shall be subject to correct and punctual self-delivery. The Supplier shall inform of impending delays and their estimated length of time as soon as possible.

4. The delivery period shall be deemed observed if the delivery item has left the works of the Supplier by the time of expiry of the delivery period, or if readiness for shipment has been announced. Insofar as an acceptance is to be performed, the acceptance date shall be decisive – except in case of a justified refusal of acceptance.

5. Should the shipment or acceptance of the delivery item be delayed for reasons for which the Purchaser is responsible, then the costs arising through this delay

shall be charged to them, beginning one month after notification of the shipment or acceptance readiness.

6. Should the non-compliance of the delivery period be attributable to force majeure, industrial disputes or other incidents which are beyond the scope of influence of the Supplier, then the delivery period shall be extended accordingly. The Supplier shall inform the Purchaser of the beginning and the end of such circumstances as soon as possible.

7. The Purchaser can withdraw from the contract without setting a deadline, if the complete performance is finally rendered impossible for the Supplier prior to the transfer of risk. Furthermore, the Purchaser can withdraw from the contract if, in case of an order, the delivery partially becomes impossible and they have no interest in a partial delivery. Should this not be the case, then the Purchaser shall pay the contractual price due on the partial delivery. Furthermore, Paragraph VII. shall apply. Should the impossibility occur during the acceptance delay, or if the Purchaser is solely or mainly responsible for these circumstances, then they shall remain obligated quid pro quo.

8. Should the Supplier be in default, and should damages be incurred by the Purchaser as a result, then they shall be entitled to request a lump sum compensation for this delay. This shall be 0.5% for every full week of the delay, but as a whole, a maximum of 5% of the value of the part of the complete delivery which cannot be punctually used or used according to the contract as a result of the delay. Should the Purchaser set the Supplier – allowing for statutory exceptions – an appropriate deadline for performance after the due date and this deadline is not observed, then the Purchaser shall be entitled to withdraw within the scope of the statutory regulations. On request by the Supplier, they shall be obligated to declare within an appropriate deadline whether they shall make use of their right to withdraw. Further claims arising from the delivery delay shall exclusively be determined according to Paragraph VII.2 of these Terms and Conditions.

9. The rights of the Purchaser pursuant to clause VIII of these Terms and Conditions of Sale and our statutory rights, particularly in case of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of the performance and/or subsequent performance) shall remain unaffected.

V. Shipment/transfer of risk, acceptance

1. Provided no other individual agreements have been made, the delivery shall occur ex works, and shipment and transport shall occur at the risk of the customer.

2. The risk shall be transferred to the Purchaser as soon as the consignment has been transferred to the person performing the transport, even if partial deliveries occur, or if the Supplier has taken over other performances, e.g. the delivery and/or the set-up. Insofar as an acceptance should be performed, then this is

decisive for the transfer of risk. This must be performed immediately on the acceptance date, alternatively following notification by the Supplier regarding acceptance readiness. The Purchaser may not refuse acceptance in case of a non-significant defect.

3. Should the shipment or acceptance be delayed or stopped as a result of circumstances which are not attributable to the Supplier, then the risk is transferred to the Purchaser from the day of notification of the shipment or acceptance readiness. The Supplier is obligated to concluded the insurance which the Purchaser requests and at the cost of the Purchaser.

VI. Reservation of proprietary rights

1. The Supplier reserves the rights of ownership on the goods sold until complete payment of all present and future claims of the Supplier arising from the sales contracts, service contracts and/or contracts for work and materials and a current business relationship (secured claims).

2. The goods under reservation of proprietary rights may neither be pledged to third parties, nor assigned as security prior to complete payment of the secured claims. The Purchaser must immediately notify the Supplier in writing if and insofar as access to the goods belonging to the Supplier by third parties occurs.

3. In case of conduct by the Purchaser in breach of the contract, especially in case of non-payment of the due purchase price, the Supplier shall be entitled to withdraw from the contract in accordance with the statutory provisions and demand the return of the goods subject to the reservation of proprietary rights and withdrawal. Should the Purchaser not pay the due purchase price, then the Supplier may only assert this right if the Supplier has previously unsuccessfully set an appropriate grace period for the payment, or if such a grace period is unnecessary according to statutory provisions.

4. The Purchaser shall be authorised to sell on and/or process the goods under reservation of proprietary rights in the proper course of business. In this case, the following provisions shall apply.

a.) The reservation of proprietary rights extends to products arising from the processing, mixing or combining of the goods of the Supplier to their full value, whereby the Supplier is deemed as the manufacturer. Should a reservation of proprietary rights of a third party exist after this processing, mixing or combination, then the Supplier shall acquire co-ownership to the proportion of the invoice value of the processed, mixed or combined goods. Furthermore, the same shall apply for the product created as for the goods delivered under reservation of proprietary rights.

b.) The Purchaser shall assign as of now claims against a third party arising from further sale of the goods or the product created to the Supplier in total or to the amount of any co-ownership of the Supplier as security pursuant to the

abovementioned Paragraph. The Supplier shall accept this assignment. The obligations of the Purchaser stated in Para. 2 shall also apply in respect to the assigned claims.

c.) Besides the Supplier, the Purchaser shall remain authorised to collect the claims. The Supplier shall obligate themselves not to collect the claims as long as the Purchaser fulfils their payment obligations to the Supplier, does not fall into default, does not make an application to open insolvency proceedings and no other deficit exists. However, should this be the case, then the Supplier may demand that the Purchaser informs them of the assigned claims and their debtors, provides all the data necessary for collection, hands over the associated documents and informs the debtors (third party) of this assignment.

d.) Should the realisable value of the securities exceed the claims of the Supplier by more than 10%, then at the Purchaser's request the Supplier shall release securities of their choice.

VII. Claims for defects

1. The statutory provisions shall apply for the rights of the Purchaser for defects of quality and title (including false and shortfalls in delivery and incorrect assembly or faulty assembly instructions), insofar as nothing else has otherwise been determined in the following. In all cases, the special statutory provisions for the final delivery of the goods to a consumer shall remain unaffected (Supplier recourse pursuant to §§ 478, 479 BGB - German Civil Code).

2. The basis for liability for defects of the Supplier shall be concluded in particular in the agreement concerning the quality of the goods. As an agreement regarding the quality of the goods, the product descriptions (also of the manufacturer) designated as such which were handed over to the Purchaser prior to their order shall apply, or in the same way as these Terms and Conditions of sale have been included in the contract.

3. Insofar as the quality has not been agreed, then it is to be assessed according to statutory provisions whether a defect exists or not (§ 434 Para. 1 pp 2 and 3 BGB). However, we shall not assume liability for public statements of the manufacturer or other third parties (e.g. advertising statements).

4. Claims for defects by the Purchasers are only possible if they have fulfilled the statutory obligations of inspection and notification (§§ 377, 381 HGB). Should a defect become apparent during the inspection or later, then the Supplier is to be immediately notified of this in writing. The notification shall be deemed immediate if it occurs within two weeks, whereby punctual dispatch of the notification shall suffice for the observance of this deadline. Independent of these obligations of inspection and notification, the Purchaser must notify of obvious defects (including false and shortfalls in delivery) within two weeks of delivery, whereby here, too, the punctual sending of the notification shall suffice for the observance of this deadline. Should the Purchaser neglect the proper inspection

and/or notification of defects, then a liability of the Supplier for the unannounced defect shall be excluded.

5. If the delivered item is defective, then at their discretion, the Purchaser may first demand rectification of the defect (repair) or delivery of a non-defective item (replacement delivery) as a subsequent performance. Should the Purchaser not declare which of the two rights they wish to select, then the Supplier may set them an appropriate deadline. Should the Purchaser not undertake this selection within the deadline, then with the expiry of the deadline the right of selection shall pass to the Supplier.

6. The Supplier shall be entitled to make the subsequent performance dependent on the Purchaser paying the due purchase price. However, the Purchaser shall be entitled to withhold the appropriate part of the purchase price in relation to the defect.

7. The Purchaser must provide the Supplier with the required time and opportunity for the due subsequent performance, in particular to hand over the rejected goods for the purpose of inspection. In case of a replacement delivery, the Purchaser must return the defective item to the Supplier in accordance with statutory provisions. The subsequent performance shall not include the de-installation of the defective item or renewed installation if the Supplier was not originally obligated to this installation.

8. The expenses necessary for the purpose of the inspection and subsequent performance, in particular transport, road, labour and material costs (not: de-installation and installation), shall be borne by the Supplier if a defect actually exists. However, should it be proven that the demand for defect rectification of the Purchasers was unjustified, then the Supplier may demand reimbursement from the Purchaser for the costs incurred.

9. In urgent cases, for example, in case of a risk to operational safety or for the prevention of disproportionate damage, the Purchaser has the right to rectify the defects themselves and to demand reimbursement from the Supplier for the objectively necessary expenses. The Supplier is to be immediately informed of such self-performance, if possible in advance. The right to self-performance shall not exist if the Supplier were to be entitled to refuse a corresponding subsequent performance according to statutory provisions.

10. If the subsequent performance is unsuccessful or an appropriate deadline set by the buyer for subsequent performance has unsuccessfully expired or is unnecessary according to statutory provisions, then the Purchaser may withdraw from the sales contract or reduce the purchase price. However, no right to withdraw shall exist in case of a negligible defect.

11. Claims of the buyer for compensation or replacement of wasted expenditure shall only exist according to clause VIII. and are otherwise excluded.

VIII. Liability of the Supplier, disclaimer

1. Insofar as nothing else arises from these Terms and Conditions of Sale including the following provisions, then the Supplier shall assume liability in case of a breach – caused by themselves or attributable to them – of contractual and extra-contractual obligation according to the relevant statutory provisions.

2. The Supplier shall assume liability for compensation – regardless for which legal reason – in case of intent and gross negligence. In case of minor negligence, the Supplier shall only assume liability:

a) For damage arising from injury to life, limb or health

b) For damages arising from the violation of an essential contractual obligation (obligations, the fulfilment of which makes proper implementation of the contract possible at all, and the observance of which the contractual partners normally rely on and may rely on); however, in this case, the liability of the Supplier shall be limited to compensation for foreseeable, typically-occurring damages.

3. The limitations of liability arising from Para. 2 shall not apply insofar as the Supplier has maliciously concealed a defect or has assumed a guarantee for the quality of the goods. The same shall apply for claims by the Purchaser according to the German Product Liability Act.

4. Due to a breach of duty which does not exist as a defect, the Purchaser may only withdraw or terminate if the Supplier is responsible for this breach of duty. A free right of termination of the Purchaser (in particular pursuant to §§ 651, 649 BGB) shall be excluded. Furthermore, the statutory requirements and legal consequences shall apply.

IX. Statute of limitation

1. Divergent from § 438 Para. 1 No. 3 BGB, the general period of limitation for claims arising from quality and title shall be one year from delivery. Insofar as an acceptance is agreed, the period of limitation begins with the acceptance.

2. However, should the goods concern a building or an item which, according to its normal use, has been used as a building, and this has caused defects (building material), then the period of limitation pursuant to the statutory provisions shall be 5 years from delivery (§ 438 Para. 1 No. 2 BGB). The special statutory provisions shall also remain unaffected for third party claims for return (§ 438 Para. 1 No. 1 BGB), in case of malice of the Supplier (§ 438 Para. 3 BGB) and for claims for recourse against the supplier for the final delivery to a consumer (§ 479 BGB).

3. The abovementioned period of limitation of the purchase right shall also apply for contractual and extra-contractual claims for compensation of the Purchaser, which are based upon a defect of the goods, unless the application of the normal

statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in an individual case. The period of limitation of the Product Liability Law shall remain unaffected in any case. Otherwise, the statutory periods of limitation pursuant to § 8 shall apply exclusively for claims for compensation of the Purchasers.

X. Software use

Insofar as software is included within the scope of delivery, the Purchaser shall be granted a non-exclusive right to use of the supplied software including its documentation. This is to be handed over for use with the delivery item for which this is intended. Use of the software on more than one system is prohibited. The Purchaser may only copy, edit, translate or convert the object code into the source code of the software to the legally permissible extent (§§ 69 a ff. UrhG - German Copyright Act). The Purchaser obligates themselves not to remove or to change manufacturer data – especially copyright comments – without the previous express agreement of the Supplier. All other rights on the software and the documentation including copies shall remain with the Supplier or the software supplier. The issuing of sub-licences shall not be permitted.

XI. Applicable law, place of jurisdiction

1. For these Terms and Conditions of Sale and all legal relationships between the Supplier and the Purchaser, the law of the Federal republic of Germany shall apply under exclusion of international uniform law, in particular the UN sales law (CISG). Prerequisites and effects of the reservation of proprietary rights pursuant to clause VI shall be subject to the law at the respective location of the item, insofar as a choice of law in favour of German law is not permissible or ineffective.

2. Provided the buyer is a trader in terms of the German Commercial Code, a legal entity of public law or a special public fund, then the place of jurisdiction – also internationally –for all disputes arising directly or indirectly from this contractual relationship shall exclusively be the headquarters of the Supplier in Selm. The Supplier shall however also be entitled to file proceedings at the general place of jurisdiction of the Purchaser.