

# General Terms and Conditions of Sale and Delivery

Of Kamstrup A/S – CVR No. 21 24 81 18

## 1.0 General terms and conditions

1.1. These General Terms and Conditions of Sale and Delivery (“Conditions”) shall apply to all contracts of sale of products entered into by Kamstrup A/S (“Kamstrup”) and a purchaser (“Buyer”) to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

## 2.0 Interpretation

- 2.1. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 2.2. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 2.3. A reference to “writing” or “written” includes fax and email.
- 2.4. Any words following the terms “including”, “include”, “in particular”, “for example” or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## 3.0 Price, Quotation and acceptance

- 3.1. All prices stated in quotations and order confirmations are in EURO (EUR) and shall be exclusive of VAT. Unless otherwise specified in the quotation or order confirmation, the price does not include any or storage or services related to the products (including installation, travel, consultation, evaluation, or maintenance).
- 3.2. Kamstrup shall not be liable for any misprints, erroneous calculations or any other errors in quotations made.
- 3.3. A quotation for the products given by Kamstrup shall not constitute an offer. All quotations made by Kamstrup shall only be valid for a period of thirty (30) days of the date of the quotation. Kamstrup reserves the right to withdraw any quotation at any time within such period.
- 3.4. The Buyer's order for the products, which may be set out in its purchase order or otherwise by written acceptance of Kamstrup's quotation, shall constitute an offer by the Buyer to purchase the products in accordance with these Conditions. The Buyer is responsible for ensuring that the terms of the order and any applicable specification are complete and accurate.

- 3.5. Any order received by Kamstrup shall be deemed to be accepted only when Kamstrup has issued a written order confirmation to the Buyer, at which point a contract between Kamstrup and the Buyer for the sale and purchase of the products in accordance with these Conditions (“the Contract”) shall come into existence.
- 3.6. Kamstrup reserves the right to make changes to the products, including to products already ordered where such changes do not materially affect the functionality of the products. This includes any amendments or changes required in order to maintain compliance with applicable statutory or regulatory requirements.

## 4.0 Delivery

- 4.1. Delivery shall be “Delivered At Place” (DAP) (Incoterms® 2020) to the location set out in the order confirmation (or such other location as the parties may agree). The Buyer shall be responsible for and shall bear the cost of unloading at the delivery location.
- 4.2. A handling fee of EUR 40.00 shall be charged in respect of all orders for less than EUR 350.00.
- 4.3. In the event of alteration or cancellation being requested by the Buyer in respect of customised products already in progress:
- 4.3.1. More than 30 working days prior to date of dispatch: Kamstrup will apply a fee of 150.00 EUR per alteration or 10% of the order value but minimum EUR 150.00 per cancellation request.
- 4.3.2. 0-30 working days prior to date of dispatch: No alteration or cancellation is possible.
- 4.4. The product may be subject to export controls and the delivery is therefore conditional upon the issuance of the required export authorisation. If Kamstrup has informed the Buyer that the product is subject to export control, and the Buyer wishes to export the products, it shall:
- 4.4.1. comply with all applicable export control laws;
- 4.4.2. inform Kamstrup of the jurisdiction and identity of the end customer and final destination; and
- 4.4.3. indemnify Kamstrup against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and professional costs and expenses) suffered or incurred by Kamstrup in connection with any alleged or actual breach of trade sanctions or export control laws relating to the Buyer's export of the products.

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## 5.0 Packaging

- 5.1. All prices shall be exclusive of packaging.
- 5.2. Packaging material debited to the Buyer shall be credited if returned in undamaged condition, within fourteen (14) days of Buyer's receipt. Any extension of the deadline for returning packaging material shall be subject to Kamstrup's written acceptance.

## 6.0 Terms of payment, risk and title

- 6.1. Kamstrup may invoice the Buyer for the products on or at any time after the completion of delivery. Time for payment shall be of the essence to the Contract. The Buyer shall make payment to Kamstrup on or before the agreed time for payment and in no case later than thirty (30) days from the correct invoice. In the event of late payment then, without limiting Kamstrup's remedies under Clause 18.1.1, the Buyer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment, at Westpac Banking Corporation's Indicative Lending Rate plus four per cent.
- 6.2. Where the Buyer disagrees with Kamstrup on the amount due, the Buyer shall notify Kamstrup without undue delay. Otherwise the amount invoiced shall be deemed accepted. In case of a good faith objection by the Buyer, any uncontested part of the invoiced amount shall be paid on the due date.
- 6.3. The Buyer may not set off any amounts without Kamstrup's prior consent.
- 6.4. The risk in the products shall pass to the Buyer on completion of delivery in accordance with Clause 4.1.
- 6.5. Title to the products shall pass to the Buyer at the point Kamstrup receives payment in full in cleared funds for the products, and not before. Following delivery and until title to the products has passed to the Buyer, the Buyer shall:
  - (i) store the products securely and separately from other items held by the Buyer and identify them clearly as Kamstrup's property;
  - (ii) maintain the products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; and
  - (iii) notify Kamstrup immediately if it becomes subject to any of the events listed in Clauses 18.1.2 or 18.1.3.

## 7.0 Time of delivery

- 7.1. Delivery is completed upon the arrival of the product at the delivery location, ready for unloading. All delivery times indicated shall be approximate only and, unless otherwise stated in the written order confirmation issued pursuant to Clause 3.5, the time of delivery is not of the essence.
- 7.2. Where Kamstrup fails to deliver products at the agreed time of delivery, the Buyer shall submit a written demand for delivery to Kamstrup.
- 7.3. The Buyer shall be entitled to cancel the contract for the relevant delivery if Kamstrup fails to deliver the products within thirty (30) days of the Buyer's demand. The Buyer shall not be entitled to any other remedies for breach in the event of the delayed delivery.

## 8.0 Duty to inspect and notify

- 8.1. The Buyer shall inspect the products immediately upon delivery to ensure:
  - 8.1.1. that the number of items received is as agreed;
  - 8.1.2. that the description on the packaging is as agreed; and
  - 8.1.3. that no visible damage has been caused to the products delivered and that the products delivered are not defective in any way.
- 8.2. The Buyer shall notify Kamstrup: (i) immediately, if the number of items received is different from the number agreed pursuant to Clause 8.1.1; and (ii) within seven (7) days of delivery, if they do not conform with 8.1.2 or 8.1.3. The Buyer shall also immediately notify the carrier of any damage in transit by making a corresponding note on the transport document. The Buyer shall not be entitled to make claims at a later date in respect of any defects which could have been found by inspection in accordance with Clause 8.1.
- 8.3. Without prejudice to Clause 8.1, the Buyer waives any right to claim for defects if the claim is not made as soon as possible after the Buyer has detected or could have detected such defect.

## 9.0 Warranty

- 9.1. Kamstrup warrants that on delivery, and for a period of twenty-four (24) months, unless an extended warranty has been agreed upon, thereafter, the products shall be free from material defects in material and workmanship.
- 9.2. If any defect is found within the warranty period and duly notified to Kamstrup, the Buyer shall return the defective products to Kamstrup "Delivered Duty Paid" (DDP) (Incoterms® 2020) basis.
- 9.3. Upon the Buyer returning the defective products to Kamstrup, Kamstrup shall, following its own investigation of the claimed defect and at its sole discretion, either: (i) repair the products; (ii) refund the price; or (iii) deliver replacement products, provided that the defects found in the products are covered by the warranty. Kamstrup shall assume ownership of any parts replaced. The cost of returning products repaired or replaced under the warranty shall be borne by Kamstrup. However, if the defect resulted from any of the cases mentioned in Clause 9.5, Kamstrup shall be entitled to charge its usual rates for repaired or replaced products, plus a reasonable fee for work performed in investigating the claimed defect. In such a case, the Buyer will bear the return costs in respect of the repaired or replaced products.
- 9.4. The Buyer shall be entitled to terminate the Contract and demand crediting of the price of the defective product only if Kamstrup fails to remedy a defect in accordance with Clause 9.3(i), (ii), or (iii) within a reasonable period of time but not less than thirty (30) days. The Buyer shall not be entitled to any other remedies for breach of the warranty.
- 9.5. All Kamstrup warranties shall not apply in any of the following cases:

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- 9.5.1. products that are defective or damaged by negligence or accident or by other circumstances beyond Kamstrup's reasonable control;
- 9.5.2. products that have been improperly stored, commissioned, installed, used, repaired, maintained or altered by Buyer or a third party (including without limitation otherwise than in accordance with any instructions, manuals, specifications or other documentation provided by Kamstrup, or in the absence of such documentation, generally accepted industrial practice);
- 9.5.3. products which have been used (a) with water which contains levels of foreign matter, including without limitation, dirt, sand, minerals, debris, deposits, biofilms, chemical substances or other impurities which interfere with or degrade the product; or (b) in other unusual environmental conditions (including submersion in dirt or water);
- 9.5.4. products where any serial number or security seal has been interfered with;
- 9.5.5. normal wear and tear;
- 9.5.6. products that are experimental, developmental, prototype, or pilot;
- 9.5.7. the discontinuation of third-party network/communication services (including by loss of concession, dissolution, bankruptcy, or cease of business), or the phase-out or replacement of the networks and/or communication technologies supporting the products if such changes render the product unable to function as represented at the time of entering into this contract; or
- 9.5.8. products which have been used after discovery of the defect.
- 9.6. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 10.0 Return of goods**
- 10.1. Goods can only be returned within thirty (30) days from the date of delivery.
- 10.1.1. Minimum sales value of returned goods: 350 EUR. Return is not accepted below this amount.
- 10.1.2. Configured meters/products cannot be returned.
- 10.1.3. Non-configured products (e.g. antennas and other accessories): a credit note shall be issued for the invoice amount reduced by fifty (50) percent.
- 10.1.4. Products that Kamstrup has purchased from third parties specially for Buyer cannot be returned.
- 11.0 Liability, including product liability**
- 11.1. Kamstrup shall not be liable, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any indirect, special, or consequential loss arising under or in connection with the Contract.
- 11.2. Subject to Clause 11.3, Kamstrup's total liability towards the Buyer in respect of all losses or damages arising or in connection with this contract whether in contract, tort (including negligence), breach of statutory duty, product liability or otherwise, shall be limited to the price of the products mentioned in the applicable order confirmation.
- 11.3. Nothing in these Conditions limits any liability which cannot legally be limited, including any liability for death or personal injury caused by negligence, or for fraud or fraudulent misrepresentation.
- 12.0 Intellectual Property**
- 12.1. Kamstrup reserves all right, title and interest under applicable intellectual property laws in Intellectual Property in connection with the products. "Intellectual Property" means all intellectual property and/or proprietary rights, including without limitation all rights in quotations, drawings, descriptive material and similar documents, inventions, patents, patent applications, domain names, and know how, for any product, process, method, machine, manufacture, design, composition of matter, or any new or useful improvement thereof, as well as copyrights, trademark, trade dress and service mark rights, logos and all rights in trade secrets, computer software, data and databases, and mask works.
- 12.2. Buyer is not authorized to make any changes, additions, improvements, alterations, or modifications of any kind to the products. Kamstrup shall have and retain full right, title, and interest in any changes, additions, improvements, alterations, or modifications of any kind (whether or not authorized), to the products made by Buyer.
- 12.3. The name and logo "Kamstrup" is protected by trademark. No trademark license or right to use the name or logo is allowed unless agreed with Kamstrup.
- 12.4. The Buyer shall not, without the consent of Kamstrup, copy, reproduce or make available to any third party any Intellectual Property owned by Kamstrup.
- 13.0 Data processing**
- 13.1. Kamstrup processes personal data of the Customer's clients in connection with the performance of the services.
- 13.2. Kamstrup and the Customer shall comply with all applicable data protection laws and regulations and enter into a data processing agreement where this is legally required.
- Kamstrup shall maintain an information security program including reasonable administrative, technical and physical measures designed to secure and protect the confidentiality, integrity and availability of all confidential information while in Kamstrup's possession against unauthorized, unlawful or accidental access, disclosure, transfer, destruction, loss or alteration.
- 13.3. Upon the Customer's request, Kamstrup shall provide the Customer with sufficient information to enable the Customer to ensure that relevant security measures for the data processing above have been implemented.
- 14.0 Environmentally correct waste management**
- 14.1. In addition to any local applicable law, the Buyer must dispose of end-of-life products in an environmentally correct way, either by returning the products to Kamstrup or its nominated affiliate (only if so agreed) or by handing

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them over to the nearest certified disposal facility. End-of-life products can be returned to Kamstrup free of charge. However, the Buyer must arrange and pay the costs for transporting them (including the processing of hazardous goods, if necessary). If the Buyer does not return the products to Kamstrup, the Buyer is obliged to dispose of the products at its own expense.

## 15.0 Confidentiality

- 15.1. Both parties undertake to keep confidential any and all information exchanged by the parties which is either indicated as confidential or, due to its nature, should be kept confidential, including but not limited to Kamstrup's drawings and specifications, and information about prices and quantities with the exception of those instances where the disclosure of such information is necessary in order for the party to fulfil its obligations under the Contract.
- 15.2. The confidentiality obligation of the parties shall continue to apply after the termination of the Contract. It shall not apply to the extent that the information exchanged is or subsequently becomes publicly available, unless such public availability is the result of a breach of the Contract.

## 16.0 Assignment

- 16.1. Neither party shall assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights or obligations under the Contract without the prior written approval of the other party.
- 16.2. Notwithstanding the above provision, Kamstrup shall have the right, at any time, to assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without the Customer's approval, provided that Kamstrup shall remain liable for its sub-supplier's acts and omission as for its own acts and omissions.

## 17.0 Amendments

- 17.1. Any amendments or additions to the Contract, including the appendices to the Contract, shall only be valid if made in writing and signed by both parties.

## 18.0 Termination

- 18.1. Without prejudice to any other rights it may have, Kamstrup may terminate the contract immediately:
- 18.1.1. if payment has not been received more than fourteen (14) days after the due date; or
- 18.1.2. the Buyer ceases or threatens to cease carrying on all or a substantial part of its business; or
- 18.1.3. the Buyer suffers an Insolvency Event.
- 18.2. "Insolvency Event" means, for a person, being in liquidation or provisional liquidation or under administration, having a controller (as defined in the Corporations Act 2001 (Cth)) or analogous person appointed to it or any of its property, being taken under section 459F(1) of the Corporations Act to have failed to

comply with a statutory demand, being unable to pay its debts or otherwise insolvent or taking any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the Corporations Act), entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event.

## 19.0 Force majeure

- 19.1. Kamstrup shall not be liable for any delay or non-performance of its obligations where such delay or non-performance is attributable to circumstances beyond Kamstrup's control, including industrial disputes (including global and local strikes and/or lockouts), fires, wars, mobilization, riots, uprisings, civil unrest, acts of terrorism, epidemics, natural disasters, currency restrictions, computer viruses, worms etc., supplier failure, product shortages due to allocation, import or export restrictions, breakdowns or disruptions in telecommunication, discontinuation of third-party network/communication services (including by loss of concession, dissolution, bankruptcy, or cease of business), or sunsets or replacements of networks and/or communication technologies, acts of government, inability to source components affecting the industry as a whole, as well as any similar conditions affecting a sub-supplier's performance vis-à-vis Kamstrup. If the effects of the relevant event continue for a period of more than three consecutive months, then either party shall be entitled to terminate the contract.
- 19.2. If the price to Kamstrup of any raw materials, component or transport solution (or a combination of these) increases by more than 10% from the date of Kamstrup's quotation/order confirmation up to the date of delivery of the products, then Kamstrup shall be entitled to add such increase to the price to be paid by the Buyer for the products.

## 20.0 Disputes

- 20.1. Any dispute, controversy or claim arising out of, relating to or in connection with this contract, including any question regarding its existence, validity or termination, shall be resolved by mediation in accordance with the ACICA Mediation Rules. The mediation shall take place in Sydney, Australia and be administered by the Australian Centre for International Commercial Arbitration (ACICA).
- 20.2. If the dispute has not been settled pursuant to the said Rules within 60 days following the written invitation to mediate or within such other period as the parties may agree in writing, the dispute shall be resolved by arbitration in accordance with the ACICA Expedited Arbitration Rules. The seat of arbitration shall be Sydney, Australia. The language of the arbitration shall be English.
- 20.3. The governing law of the Contract shall be the substantive law of New South Wales. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

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## 21.0 Compliance with Law

21.1. Each party shall, throughout the term of the Contract, comply with all applicable laws, statutes, regulations from time to time in force, including those relating to health and safety, anti-bribery and anti-corruption, anti-slavery and human trafficking, data protection and privacy, and environmental stewardship.

remedy shall preclude or restrict the further exercise of that or any other right or remedy.

22.5. A person who is not a party to the Contract shall not have any rights under or in connection with it.

## 22.0 General

### 22.1. Notices:

22.1.1. Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this Clause, and shall be delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier, fax or email.

22.1.2. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 22.1.1; if sent by prepaid first class post or recorded delivery, at 9.00 am on the second business day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one business day after transmission.

22.1.3. The provisions of this Clause shall not apply to the service of any proceedings or other documents in any legal action.

### 22.2. Entire Contract:

22.2.1. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

22.2.2. Each party acknowledges that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

22.3. If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

22.4. A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or