

# General Terms and Conditions of Sale and Delivery

for Kamstrup A/S – CVR No. 21 24 81 18

## 1.0 Definitions and Interpretations

- 1.1. As used herein: (a) "Contract" means the contract between Seller and Buyer for the supply of Products in accordance with these General Terms and Conditions of Sale and Delivery, including Seller's quotation (if any) and the Accepted Order, but excluding any terms and conditions contained or referenced in Buyer's purchase order or in any other document issued by Buyer which are additional to or conflict with Seller's order confirmation; (b) "Buyer" means the party identified in the Accepted Order as purchasing the Products; (c) "Accepted Order" means a purchase order which has been subject to Seller's acceptance or order confirmation, or for which Seller has sent an invoice for the sale of Products to the Buyer; (d) "Seller" means Kamstrup A/S; and (e) "Products" means Kamstrup's meters ("Meters") and/or other products (e.g. antennas, other accessories and spare parts, "Non-Meter Products"), and related services if any, sold by Seller to Buyer as identified in the Accepted Order.
- 1.2. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.3. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.4. A reference to "writing" or "written" includes email. 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.

## 2.0 Price, Quotation and Acceptance

- 2.1. All Seller's prices are in Euro (EUR) unless otherwise specified and shall be exclusive of VAT or other sales taxes. Unless otherwise specified, Seller's prices do not include storage or services related to Products (e.g. installation, travel, consultation, evaluation or maintenance).
- 2.2. Seller shall not be liable for any misprints, erroneous calculations or any other errors in its quotations.
- 2.3. A quotation for the Products given by Seller shall not constitute an offer. All quotations made by Seller are subject to acceptance within thirty (30) days of the

quotation date. Seller reserves the right to withdraw any quotation not yet accepted at any time within the time stipulated for acceptance.

- 2.4. The Buyer's order for the Products, which may be set out in its purchase order or otherwise by written acceptance of Seller'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.
- 2.5. Order acceptances or confirmations by Seller must be in writing to be valid. Upon written acceptance by Seller, the Contract shall come into existence.

## 3.0 Delivery, Shipments and Delay

- 3.1. Delivery is completed upon the arrival of the Product at the delivery location, ready for unloading. 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.
- 3.2. Buyer acknowledges and agrees that lead times may vary according to supply availability, logistical constraints, manufacturing problems and other factors. Therefore, all dates of delivery set forth in an Accepted Order or communicated by Seller are estimates and nonbinding unless Seller has stated in the written order confirmation issues pursuant to section 2.5 that time of delivery is not of the essence. Seller will use commercially reasonable efforts to ship the Products by the estimated supply date set forth in the Accepted Order.
- 3.3. Seller reserves the right to deliver in instalments. Each instalment shall be invoiced and paid separately in accordance with the applicable payment terms, irrespective of subsequent deliveries.
- 3.4. Delays in the delivery of any shipment or instalment of Products shall not discharge Buyer's obligation to accept and pay for that or any other shipment or instalment.
- 3.5. Buyer shall be entitled to cancel the Contract for the relevant delivery if Seller fails to deliver the Products within thirty (30) days of receiving Buyer's demand notice issued after the delivery date has passed. If a firm delivery date was agreed, the 30-day period constitutes a grace period; otherwise, it serves as a long-stop date. Buyer shall have no other remedies for delayed delivery.

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- 3.6. A handling fee of EUR 40.00 shall be charged in respect of all Accepted Orders below EUR 350.00.
- 3.7. If Buyer requests alteration or cancellation of customised Products:
  - 3.7.1. More than 30 working days prior to date of dispatch: Seller will apply a fee of EUR 150.00 per request or 10% of the order value, whichever is higher.
  - 3.7.2. 0-30 working days prior to date of dispatch: Alterations or cancellations are not permitted.

## 4.0 Packaging

- 4.1. All prices shall be exclusive of packaging.
- 4.2. Packaging debited to 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 Seller's written acceptance.

## 5.0 Terms of Payment

- 5.1. Seller 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 Seller 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 Seller's remedies under Clause 20.1.1, 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.
- 5.2. Seller reserves the right to suspend its performance of any obligations under the Contract, including but not limited to delivery of Products, until such time as the overdue payment is made in full or security satisfactory to Seller has been provided.
- 5.3. Buyer may not set off any amounts without Seller's prior consent.
- 5.4. The risk in the Products shall pass to the Buyer on completion of delivery in accordance with Clause 4.1.
- 5.5. Title to the Products shall pass to the Buyer at the point Seller 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 Seller'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 Seller immediately if it becomes subject to any of the events listed in Clauses 20.1.2 or 20.1.3.

## 6.0 Claims

- 6.1. Buyer shall inspect the Products immediately upon delivery to ensure:
  - 6.1.1. that the number of items received is as agreed;
  - 6.1.2. that the description on the packaging is as agreed; and

- 6.1.3. that no visible damage has been caused to the Products delivered and that the Products delivered are not defective in any way.
- 6.2. Buyer shall notify Seller (a) immediately if the number of items received is different from the number agreed, and (b) within seven (7) days of the receipt of the Products delivered if they do not conform with 6.1.2 or 6.1.3. Buyer shall also immediately notify the carrier of any damage in transit by making a corresponding note on the transport document. 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 6.1.
- 6.3. Buyer waives any right it may have to reject or revoke acceptance of the Products after three (3) days following delivery, without prejudice to its right to notify defects under Clauses 6.1 and 6.2.

## 7.0 Sales And Product Information

- 7.1. Quotations, drawings, descriptive material and similar documents shall not be copied, reproduced or made available to any third party without the Seller's prior written consent.
- 7.2. Seller shall retain all intellectual property rights in quotations, drawings, descriptive material and similar documents submitted to Buyer prior to, during and after the conclusion or expiry of the Contract.
- 7.3. All representations or references on Seller's website, in sales brochures, technical data sheets and quotations as to size, weight, technical specifications, price and other details of the Products are approximate and non-binding on Seller unless expressly included in an Accepted Order. Such references do not constitute warranties.

## 8.0 Warranty

- 8.1. Seller 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..
- 8.2. If any defect is found within the warranty period and duly notified to Seller, Buyer shall return the defective Products to Seller DDP Incoterms® 2020. Upon the Buyer returning the defective Products to Seller, Seller shall, following its own investigation of the claimed defect and at its sole discretion either: (i) repair the Products returned, (ii) refund the price or (iii) make a replacement delivery provided that the defects found in the Products are covered by the warranty. Seller shall assume ownership of any parts replaced. The cost of returning Products repaired or replaced under the warranty shall be borne by Seller. However, if the defect resulted from any of the cases mentioned in Clause 8.4, Seller 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, Buyer will bear the return costs in respect of the repaired or replaced Products.
- 8.3. Buyer shall be entitled to terminate the Contract and demand crediting of the price of the defective Product

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only if Seller fails to remedy a defect in accordance with Clause 8.2 within a reasonable period of time but not less than thirty (30) days. Buyer shall not be entitled to any other remedies for breach of warranty.

- 8.4. Seller warranties shall not apply in any of the following cases:
- 8.4.1. Products that are defective or damaged by negligence or accident or by other circumstances beyond Seller's reasonable control;
- 8.4.2. 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 Seller, or in the absence of such documentation, generally accepted industry practice);
- 8.4.3. 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);
- 8.4.4. Products where any serial number or security seal has been interfered with;
- 8.4.5. normal wear and tear;
- 8.4.6. Products that are experimental, developmental, prototype, or pilot;
- 8.4.7. the discontinuation of network/communication services (including by loss of concession, dissolution, bankruptcy, or cessation 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 the Contract;
- 8.4.8. any disruption or degradation in Product performance due to vulnerabilities or deficiencies in networks to which the Product is connected; or any defect or damage arising directly or indirectly from cyber-related incidents, including without limitation hacking, malware, viruses, ransomware, data breaches, unauthorized access, or any other form of cyber-attack or digital interference (collectively, "Cyber-Related Incidents") or
- 8.4.9. Products which have been used after discovery of the defect.
- 8.5. 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.

## 9.0 Return of Goods

- 9.1. Products may only be returned within 30 days from the date of delivery after separate agreement with Seller and subject to the following terms:
- 9.1.1. Minimum sales value of returned Products: EUR 350.00. Return is not accepted below this amount.
- 9.1.2. Configured Products cannot be returned.

- 9.1.3. Non-configured Products: a credit note shall be issued for 50% of the invoice amount.
- 9.1.4. Products that Seller has purchased from third parties specifically for Buyer cannot be returned.

## 10.0 Liability, Including Product Liability

- 10.1. Notwithstanding any other provision in the Contract, Seller shall not be liable (whether such liability is based on contract, indemnity, warranty, tort or otherwise) for any operating loss, loss of use, loss of profits or revenues, loss of time, work stoppages, loss of data, loss of goodwill, losses caused by delays in deliveries (except where Seller has agreed in writing to a firm delivery date), losses incurred under contracts with third parties, or any indirect, incidental or consequential loss arising out of breach of contract.
- 10.2. Subject to clause 10.3, Seller's total liability towards 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 Accepted Order.
- 10.3. Nothing in the Contract 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.
- 10.4. .

## 11.0 Intellectual Property

- 11.1. Intellectual Property Rights means any rights, title and interest in patents, trademarks, service marks, trade and business names, (including also the Kamstrup logo, internet domain names, registered web addresses, web pages, website, and URLs,) rights in design, utility models, copyright, database rights, software, processes, methods, 'look and feel' (e.g. colour scheme or layout), know-how (including trade secrets and confidential information) and any other similar right (including all applications, rights to apply for, renew, extend, or claim priority) related to the Products and services delivered by Seller, in each case whether registered or unregistered, existing now or in the future worldwide ("Intellectual Property Rights").
- 11.2. Seller owns, or has the full right to use, register and sub-license the Intellectual Property Rights.
- 11.3. Except as otherwise set out in these General Terms and Conditions, Buyer has no rights in, or title to, or interest in the Intellectual Property Rights.
- 11.4. Buyer may use the Intellectual Property Rights solely in accordance with the terms of the Contract between Seller and Buyer.
- 11.5. Buyer shall not: (a) disassemble, decompile, or reverse engineer the Products; (b) do, omit to do or permit to be done, any act that will or may: weaken, damage or be detrimental to the Intellectual Property Rights and the reputation or goodwill associated with them or Seller; or that may invalidate or jeopardise any registration of the Intellectual Property Rights; (c) challenge Seller's rights to the Intellectual Property Rights; or (d) apply for or obtain

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any registration of the Intellectual Property Rights for any goods or services nor any trade or service mark which consists of, comprises, or is confusingly similar to, the Intellectual Property Rights.

- 11.6. If Buyer establishes or acquires by operation of law or otherwise any rights to the Intellectual Property Rights, or any part thereof, it hereby transfers and assigns such rights, to the extent transferable, to Seller (or to another member of the Kamstrup Group, as directed by Seller) free of charge. For non-transferable rights, Buyer grants Seller an exclusive, irrevocable, royalty-free, worldwide license to use, exploit, and sublicense such rights.

## 12.0 Product Compliance and Waste Management

- 12.1. Products are configured for use in the country in which they are delivered by Seller and according to specific requirements. If used elsewhere, they may not comply with applicable laws and regulations and may not function according to specifications. Seller assumes no liability for non-compliance and performance issues arising from such use. Buyer agrees to indemnify and hold Seller and its affiliates harmless from all liabilities, claims, damages, losses, penalties, costs and expenses (including reasonable attorney fees and legal costs) resulting from or arising in connection with any non-compliance with applicable laws, regulations, and standards required for the sale and use of the Products in a country other than where they are delivered.
- 12.2. In addition to complying with any local applicable law, Buyer must dispose of end-of-life Products in an environmentally correct way, either by returning upon appointment the Products to Seller or a Seller appointed third party or by handing them over to the nearest certified disposal facility. End-of-life Products can be returned to Seller free of charge. However, Buyer must arrange and pay the costs for transporting them (including the processing of hazardous goods, if necessary). If Buyer does not return the Products to Seller, Buyer is obliged to dispose of the Products at its own expense. Buyer agrees to indemnify and hold Seller harmless from all liabilities, claims, damages, losses, penalties, costs and expenses (including reasonable attorney fees and legal costs) resulting from or arising in connection with Buyer's failure to dispose of end-of-life Products in an environmentally compliant manner.

## 13.0 Reservations for Changes

- 13.1. Seller reserves the right, at any time, to alter, change, or modify the Products without notification to Buyer, provided that the alteration, change or modification does not adversely affect the price, quality or substantial function of the Products. This includes any amendments or changes required in order to maintain compliance with applicable statutory or regulatory requirements.

## 14.0 Force Majeure

- 14.1. Seller shall not be liable for any delay or non-performance of its obligations where such delay or non-performance is attributable to circumstances beyond Seller's control, including but not limited to industrial disputes (including global and local strikes and/or lockouts), fires, wars, uprisings, civil unrest, acts of terrorism, epidemics, natural disasters, extreme weather conditions, currency restrictions, Cyber-Related Incidents, import or export restrictions, breakdowns or disruptions in telecommunication, discontinuation of network/communication services (including by loss of concession, dissolution, bankruptcy, or cessation 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 subsupplier's performance vis-à-vis Seller. 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.
- 14.2. If, between the date of Seller's quotation (or, if none, the order confirmation) and the date of Product delivery, there is an aggregate increase exceeding 10% in the Seller's cost of any raw material, component, transportation, duties, taxes, or any combination thereof (relative to the cost at the time of the quotation or, if none, the order confirmation) or if changes in laws, regulations, tariffs, or other governmental requirements result in such an increase, the full amount of such increased costs shall be automatically and unilaterally added to the price payable by Buyer. Seller reserves the right to adjust the price accordingly or require Buyer to pay these additional costs as a condition for delivery. Any delay in payment of such costs entitles Seller to suspend or cancel delivery without liability. Buyer assumes all risks associated with such cost increases, and Seller has no obligation to absorb or mitigate these costs.

## 15.0 Data processing

- 15.1. Seller processes personal data of the Customer's clients in connection with the performance of the services.
- 15.2. Seller 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. Seller 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 Seller's possession against unauthorized, unlawful or accidental access, disclosure, transfer, destruction, loss or alteration.
- 15.3. Upon the Customer's request, Seller 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.

## 16.0 Confidentiality

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- 16.1. Both parties undertake to keep confidential any and all  
16.2. 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 Seller'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.
- 16.3. 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.
- 17.0 Assignment**
- 17.1. 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.
- 17.2. Notwithstanding the above provision, Seller 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 Seller shall remain liable for its sub-supplier's acts and omission as for its own acts and omissions.
- 18.0 Amendments**
- 18.1. 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.
- 19.0 Compliance with Law**
- 19.1. 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.
- 20.0 Termination**
- 20.1. Without prejudice to any other rights it may have, Seller may terminate the Contract immediately:
- 20.1.1. if payment has not been received more than fourteen (14) days after the due date; or
- 20.1.2. the Buyer ceases or threatens to cease carrying on all or a substantial part of its business; or
- 20.1.3. the Buyer suffers an Insolvency Event.
- 20.2. "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.
- 21.0 Disputes**
- 21.1. 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).
- 21.2. 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.
- 21.3. 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.
- 22.0 Export Control and Sanctions**
- 22.1. Products may be subject to export controls and the delivery is conditional upon obtaining required export authorizations. If Seller informs Buyer that a Product is export-controlled, Buyer must comply with all applicable export control laws for any export.
- 22.2. Each Party represents and warrants that it is not subject to any sanctions or trade restrictions imposed by the United Nations (UN), the European Union (EU), the United States (US), or any other applicable jurisdiction. If either Party becomes subject to such sanctions or restrictions, preventing performance of the Contract, the other Party shall have the right to terminate the Contract immediately upon written notice, without liability or obligation for such termination. Buyer shall not knowingly transfer, export, or re-export Products, directly or indirectly, to any country, entity or individual that is under sanctions or embargo by the UN, EU, US or any other relevant international regulatory body.
- 22.3. In compliance with Council Regulation (EU) No 833/2014 and Council Regulation (EU) No 765/2006, Buyer shall not sell, export, or re-export, directly or indirectly, any Products covered under Article 12g or Article 8g of these Regulations to the Russian Federation or Belarus, or for use therein. Buyer shall use best efforts to prevent any third parties downstream, including resellers, from circumventing these restrictions and shall maintain adequate monitoring mechanisms to ensure compliance.
- 22.4. Seller may suspend or terminate any agreement with Buyer without notice and claim damages if Buyer

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breaches any representation or undertaking under clauses 16.1–16.4.

## **23.0 General**

### **23.1. Notices:**

23.1.1. 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.

23.1.2. 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.

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

### **23.2. Entire Contract:**

23.2.1. 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.

23.2.2. 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.

23.3. 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.

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

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