

## **GENERAL STANDARD TERMS & CONDITIONS**

### **I. SCOPE OF THE GENERAL STANDARD TERMS AND CONDITIONS**

1. Our General Standard Terms and Conditions shall be part of all quotations and contracts relating to our deliveries and services, also as far as current and future business relationships are concerned.
2. Different agreements and other general standard terms and conditions shall only be binding if they have been expressly confirmed as binding by us in writing. Our General Standard Terms and Conditions shall be regarded as having been accepted at the latest when our supplies or services have been taken delivery of.
3. Unless otherwise agreed, the respective version of Incoterms in their currently valid version, along with the following supplementary regulations, shall apply to the interpretation of the trade terms.

### **II. QUOTATION/CONCLUSION OF CONTRACTS/CONTENTS OF CONTRACTS**

1. Quotations shall be without engagement unless they are expressly indicated as binding. Binding quotations must be accepted by the ordering party within a reasonable period of time. Oral or written orders shall be regarded as having been accepted when the written order confirmation is issued or the ordered goods are shipped within a reasonable period of time.
2. Documents being part of the quotation, such as pictures, drawings, details of weights and measures, service descriptions or other descriptions of properties, and other information on our products and services only are approximations, unless more specific details are stipulated in writing in the contract. Generally, as far as the condition of the goods is concerned, only the product description shall be regarded as having been agreed by us. Public statements, sales pitches or advertising by the manufacturer shall not represent additional contractual specifications of the goods' qualities. Taking into consideration the constant further development and improvement of our products, we reserve the right to deviations within reasonable limits.
3. We reserve the right of ownership and copyrights regarding cost estimates, drawings and other documents. The ordering party shall not make these accessible to third parties. The ordering party shall have the non-exclusive right to use standard software with the agreed features and in unmodified form on the agreed equipment. The ordering party may create a backup copy without express agreement.

### **III. SCOPE OF DELIVERY**

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#### **KMT GmbH**

Hohe Str. 4-6  
61231 Bad Nauheim | Germany  
Tel.: +49-6032-997-0  
Fax: +49-6032-997-270  
info@kmtwaterjet.com

Managing Director  
Alexis Hadzipapantoniou  
HRB 5829  
Local Court Friedberg  
VAT: DE 81 38 18 268

**Banking Account**  
Bank Of America  
Acct. No.: 20648019  
BIC: BOFADEFX  
IBAN: DE72 5001 0900 0020 6480 19

1. As far as the scope of delivery is concerned, our written order confirmation shall be decisive, in the case of a quotation from us that has a commitment period and is accepted in time, unless an order confirmation is issued in due time. Collateral agreements and modifications shall be subject to our confirmation in writing.
2. Details, plans and other information of the ordering party can be used fully as the basis for manufacture, delivery and service. However, they shall only be part of the contract pursuant to an express agreement in writing. This shall not entail the agreement of a specific quality. The ordering party alone shall be responsible for ensuring that its details are correct and we shall not be obliged to check them.
3. Partial deliveries shall be permitted.

#### **IV. PRICES AND TERMS OF PAYMENT**

1. Price lists and other general price details shall be without engagement.
2. The prices shall be ex works and exclude in particular packaging, loading, transportation, insurance, etc.; value-added tax at the rate applicable on the day of delivery shall be charged additionally
3. If deliveries and/or services are performed later than three months after confirmation of the order, we shall be authorised to calculate new prices if the list prices and/or material, labour and other costs have changed in the meantime. The quoted prices shall only apply to the individual order in question. Fixed prices shall require express agreement in writing.
4. Invoices shall be paid within 14 days of the date of billing, net cash without deduction of cash discounts, free our appointed payment office.
5. If the ordering party is in delay in paying, all unsettled accounts receivable, including those from other deliveries and services, shall be payable immediately without any deduction, even if they are not due yet or a respite has previously been granted on them. In the event of a delay, we shall be authorised to charge interest on arrears of 8 % above the applicable base interest rate. We expressly reserve the right to claim higher damages caused by a delay.
6. The ordering party can only offset claims that are not in dispute or have been ruled on finally and conclusively.

#### **V. DELIVERIES AND SERVICES**

1. All documents, necessary permits and approvals, in particular plans, to be supplied by the ordering party must be received in time and the agreed terms of payment and other obligations must be fulfilled by the ordering party so that delivery schedules can be adhered to. If these requirements are not met on time, the schedules shall be extended by a suitable period. This shall not apply if the supplier is responsible for the delay.

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2. If failure to adhere to the schedules is attributable to force majeure, for example war, insurrection, strike, lockout or similar events, the schedules shall be extended by a reasonable period. If the deliveries and/or services or part of them cannot be performed on time at no fault of ours, we shall also be authorised to withdraw or partly withdraw from the contract as we deem appropriate.
3. If the supplier is in delay and the ordering party can provide evidence that it has incurred damage as a result of such delay, the ordering party may claim compensation in the amount of 0.5% for each completed week of the delay; the maximum claim, however, being 5 %, of the price for the part of the delivery that cannot be commissioned as intended due to the delay.
4. Claims for damages by the ordering party due to delay in delivery and damages in lieu of performance of the service which exceed those specified in No. 3 shall be excluded in all cases of delayed deliveries, also if a possible deadline set to the supplier has expired.. This shall not apply where liability is compulsory in cases of intent, gross negligence or injury to life, limb or health. The ordering party can only withdraw from the contract under statutory provisions if the supplier is responsible for the delay in delivery. The above provisions shall not entail a shift in the burden of proof to the detriment of the ordering party.
5. At the request of the supplier, the ordering party shall be obliged to declare within a reasonable period of time whether it withdraws from the contract due to the delay in delivery or insists on the delivery being performed.
6. If dispatch or delivery is delayed by the ordering party by more than one month after notification that the goods are ready for shipment, the ordering party can be charged for storage at 0.5 % of the price of the objects to be delivered for each commenced month, but at most a total of 5 %. The parties shall have the right to prove that higher or lower storage costs have been incurred.

## **VI. PASSAGE OF RISK AND TAKING OF DELIVERY**

1. Risk shall pass to the ordering party at the latest when the supplied parts are provided, even if partial deliveries are made or we have assumed other services, for example shipping expenses or assembly. At the request of the ordering party and at its expense, we shall insure the consignment against theft, and damage resulting from breakage, transportation, fire and water, as well as other insurable risks.
2. If shipment is delayed due to circumstances for which the ordering party is responsible, risk shall pass to the ordering party as of the day on which the goods are ready to be shipped. At the request and cost of the ordering party, we shall take out the insurance that the ordering party expressly has demanded on time with regard to this.

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3. The above provisions on the passage of risk shall also apply if work on the object delivered, in particular assembly or acceptance as agreed, is to be carried out at the plant of the ordering party. This shall not affect our obligation to complete the object delivered as stipulated by the conditions.

## **VII. INSTALLATION / ASSEMBLY**

Unless otherwise agreed in writing, the following provisions shall apply to installation and assembly:

1. The ordering party shall assume responsibility at its own cost for and provide the following on time:
  - a. All earthwork, construction work and other work not customary in this line of business, including the necessary specialists and helpers, building materials and tools;
  - b. The implements and materials required for assembly and commissioning, such as scaffolding, hoists and other equipment, fuels and lubricants;
  - c. Power and water at the place of use, including connections, heating and lighting;
  - d. Adequately large, suitable, dry and lockable rooms at the assembly site for storing machine parts, apparatuses, materials, tools, etc., and suitable work and recreation rooms, including sanitary facilities, in line with the circumstances, for assembly personnel. Generally spoken, the ordering party shall protect the possessions of the supplier and of the assembly personnel at the building site making use of all measures it also would resort to in order to protect its own possessions;
  - e. Protective clothing and safety devices required under the special circumstances at the assembly site.
2. Before the assembly work starts, the ordering party shall, without being requested to, provide the necessary details on the location of concealed electricity, gas and water lines or similar facilities, as well as the necessary static data.
3. Before installation or assembly can commence, the deliverables and objects required for the work to be started must be located at the installation or assembly site and all preliminary work before the start of construction must have reached a stage where installation or assembly can be started as agreed and carried out without interruption. Access roads and the location of installation or assembly must be levelled and cleared.
4. If installation, assembly or commissioning is delayed for reasons for which the supplier is not responsible, the ordering party shall bear the costs for waiting time and any additionally required journeys of the supplier or assembly personnel to a reasonable extent.

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5. The ordering party shall immediately confirm the time worked by assembly personnel to the supplier every week and the completion of installation, assembly or commissioning.
6. If the supplier demands acceptance of the delivery after it has been completed, the ordering party shall accept the delivery within two weeks. If the ordering party fails to do so, acceptance shall be regarded as having taken place. Delivery also is considered to have taken place if the delivery has been put into operation, e.g. after a possible completion of an agreed test phase.

## **VIII. WARRANTY AND NOTICE OF DEFECTS**

The supplier shall be liable for defects as follows:

1. All parts or services that exhibit a defect within the period of limitation – without regard to the length of operation – shall be repaired, delivered again or performed again free of charge at the discretion of the supplier, provided the cause of the defect already existed at the time of passage of risk.
2. Warranty claims for defects shall become time-barred in twelve months. This shall not apply if the law in accordance with § 438 Paragraph 1 No. 2 (edifices and objects for edifices), § 479 Paragraph 1 (right of recourse) and § 634 a Paragraph 1 No. 2 (defects in construction work) of the German Civil Code (BGB) prescribes longer periods of time and in cases of injury to life, limb or health, breach of duty by the supplier through intent or gross negligence and malicious silence with regard to a defect. The statutory regulations on expiry suspension interruption and restarting of the deadlines shall remain unaffected.
3. The ordering party shall notify the supplier of defects immediately in writing. Complaints about obvious defects must be reported at the latest within ten days of receipt of the goods. However, we shall not waive the plea of delay as a result of negotiations on the complaint. Damaged consignments shall be accepted from the haulage contractor or shipping agent only after the damage has been ascertained.
4. Warranty claims shall not exist if the goods deviate only insignificantly from the agreed quality, if their usefulness is impaired only insignificantly, if they have suffered natural wear and tear or damage that has occurred after the passage of risk due to incorrect or negligent handling, excessive stressing, unsuitable operating resources, faulty construction work, unsuitable subsoil or due to special external influences that are not assumed under the contract, as well as in the event of non-reproducible software errors. If modifications or repairs are carried out incorrectly by the ordering party or third parties, no warranty claims shall exist for these or the resulting consequences.
5. If complaints are justified or acknowledged by us, the goods can be repaired or replaced at our discretion. If subsequent remedy fails, the ordering party can demand reduction in payment (diminution) or rescission of the contract (withdrawal) at its discretion. However, the ordering party shall not have the right to withdraw from the contract in the case of a minor breach of contract, particularly in the case of only slight defects. If the ordering party wishes to withdraw from the contract due to a defect after subsequent remedy has failed,

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it shall not be entitled to any additional claims for damages due to the defect. If the ordering party decides in favour of damages after subsequent remedy has failed, the goods shall remain with the ordering party, provided that this can reasonably be expected of it. Damages shall be limited to the difference between the purchase price of an object that is free of defects and the value of a defective object.

6. If notice of defects is given, payments by the ordering party can only be withheld to a reasonable extent in relation to the defects that have occurred. The ordering party can only withhold payments if a notice of defects is issued and if this notice is justified beyond doubt. If a notice of defects has been issued wrongly, the supplier shall be authorised to claim restitution of the expenses it has incurred from the ordering party.
7. Claims of the ordering party due to expenses required for the purpose of subsequent remedy, in particular transportation, travel, labour and material costs, shall be excluded if the expenses are higher because the object delivered has been subsequently moved to a location other than the business establishment of the ordering party, unless such a move complies with its intended use.
8. Rights of recourse of the ordering party against the supplier in accordance with § 478 BGB (recourse of the entrepreneur) shall only exist insofar as the ordering party has not concluded any agreements above and beyond the statutory warranty claims with its purchaser. In addition, No. 7 shall apply accordingly to the scope of the right of recourse of the ordering party against the supplier in accordance with § 478 Paragraph 2 BGB.
9. If use of the object delivered results in an infringement of industrial property rights or domestic copyrights, the supplier shall, at its own costs, obtain the right for the ordering party to continue using such object or modify the object delivered in a way that is acceptable for the ordering party so as to ensure that the infringement of the property rights no longer exists. If this is not possible at economically reasonable conditions or in a reasonable period of time, the ordering party shall be authorised to withdraw from the contract. Under the above circumstances, the supplier also shall also have a right to withdraw from the contract. In addition, the supplier shall indemnify the ordering party against claims that are not in dispute or have been ruled on finally and conclusively and that are asserted by the owner of the proprietary rights in question.
10. The above obligations of the supplier shall be definitive as regards the infringement of property rights or copyrights. They shall only exist if:
  - a. the ordering party informs the supplier immediately when infringements of property rights or copyrights are claimed;
  - b. the ordering party assists the supplier to a reasonable extent in repelling the claims or enables the supplier to carry out the modification measures in accordance with the above provisions;
  - c. the supplier has the right to undertake all measures to repel claims, including settling them out of court;

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- d. the deficiency in title is not due to an instruction of the ordering party, and
- e. the infringement of the right was not caused by the ordering party modifying the delivered object on its own authority or using it in a way that is not in compliance with the contract.

11. The warranty claims can only be assigned with our prior consent in writing.

## **IX. OTHER CLAIMS FOR DAMAGES**

1. Claims for damages and reimbursement of expenses by the ordering party, regardless of the legal grounds, in particular due to the breach of duties from the obligatory relationship and unlawful act, shall be excluded.
2. This shall not apply in cases of compulsory liability, for example under the Produkthaftungsgesetz (German Product Liability Law), in cases of intent or gross negligence, in cases of injury to life, limb or health or of violation of cardinal contractual obligations. However, damages for the violation of cardinal contractual obligations shall be limited to foreseeable damage that is typical of the contract, unless it is caused by intent or gross negligence or there is liability due to injury to life, limb or health. The above provisions shall not entail a shift in the burden of proof to the detriment of the ordering party.
3. If the ordering party is entitled to claim damages under this provision, such claims shall become time-barred upon expiry of the period of limitation for claims for defects under Section VIII., 2. The statutory limitation rules shall apply to claims for damages under the Produkthaftungsgesetz.

## **X. RESERVATION OF OWNERSHIP**

We reserve ownership of the supplied object until all claims from the supply contract have been paid in full. We shall be authorised to take back the purchased item if the ordering party acts in breach of the contract.

1. The ordering party shall treat the goods with due care as long as ownership of them has not passed to it. In particular, it shall be obliged to insure them adequately at their reinstatement value at its own cost. If maintenance or inspection works need to be done, the ordering party shall carry this out in time at its own cost. As long as ownership of the goods has not passed to the ordering party, it shall inform us immediately in writing if the supplied object has been attached or is exposed to other encroachments by third parties. If the third party is not able to reimburse us for the court and out-of-court expenses of legal action in accordance with § 771 ZPO (German Code of Civil Procedure), the ordering party shall be liable for the loss we incur.

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2. The ordering party shall be authorised to resell the conditional commodities in the regular course of business. The claims of the purchaser from resale of conditional commodities are hereby assigned to us by the ordering party in the amount of the total invoice amount (including value-added tax) agreed with us. This assignment shall apply regardless of whether the object of sale has been resold unprocessed or after having been processed. The ordering party shall remain authorised to collect the claim also after the assignment. Our authorization to collect the claim ourselves shall remain unaffected by this. However, we shall not collect the claim as long as the ordering party fulfils its payment obligations from the collected proceeds, is not in delay in payment and in particular no petition for instigation of insolvency proceedings has been filed or payment has been discontinued.
3. Any working on, processing or remodelling of the goods by the ordering party shall always be done in our name and on behalf of us. In such case, the expectant right of the ordering party to the object of sale shall continue in the remodelled object. If the object of sale is processed with other objects that do not belong to us, we shall acquire co-ownership of the new object in the ratio of the objective value of our object of sale to the other processed objects at the time of processing. The same shall apply in cases of mixing. If mixing is carried out in such a way that the object of the ordering party is to be regarded as the main object, it is agreed that the ordering party shall assign co-ownership to us on a pro-rata basis and shall safeguard the resultant sole ownership or co-ownership on our behalf. As security for our claim against the ordering party, the ordering party shall also assign us claims that accrue to it against a third party from the linking of conditional commodities with real estate. We hereby accept this assignment at this point.
4. We undertake to release the security to which we are entitled at the request of the ordering party insofar as its value exceeds the claims to be secured by more than 20 %.

## **XI. PLACE OF JURISDICTION/MISCELLANEOUS**

1. In addition to the above General Standard Terms and Conditions, the terms and conditions 188 A according to the VDMA (German Machinery and Plant Manufacturers Association), the BGB (German Civil Code) and the HGB (German Commercial Code) shall apply in the above order.
2. German substantive law shall apply to the legal relationships in connection with this contract, excluding the United Nations Convention on Contracts for the International Sales of Goods (CISG).
3. Place of performance for deliveries, services and payments as well as sole place of jurisdiction, including legal actions where only documents or bills of exchange are admitted as evidence, shall be Bad Nauheim if the ordering party is entered in the Commercial Register, is a legal entity under public law or is a public-law special asset, for both parties and for all current and future claims from the business relationship.

If a provision is or becomes invalid, this shall not affect the validity of the other provisions. This shall not apply if upholding the contract would represent unreasonable hardship for one party.

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