

# GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY – COMMERCIAL

## 1. Definitions

1.1. Unless otherwise indicated by the text or otherwise by the circumstances, these General Terms and Conditions of Sale and Delivery shall be subject to the following definitions:

"KVM-Genvex" shall refer to KVM-Genvex A/S, CVR no. 21387649.

"Buyer" shall refer to the company or the enterprise that has placed an order with KVM-Genvex.

"Product" shall refer to one or more products or services from KVM-Genvex.

"Sales and Delivery Terms" shall mean these Terms and Conditions of Sale and Delivery, including any appendices thereto.

## 2. Validity

2.1. Unless otherwise agreed, the Sales and Delivery Terms shall apply to all orders, order confirmations, sales and deliveries of Products from KVM-Genvex.

2.2. Whether the Buyer has referred to general terms and conditions of purchase or other standard terms used by the Buyer or not, the Buyer's general terms and conditions of purchase or other standard terms shall not be applicable to purchases of any Products from KVM-Genvex by the Buyer.

2.3. KVM-Genvex reserves the right to amend these Sales and Delivery Terms. The Sales and Delivery Terms applicable at any time are available at the KVM-Genvex website.

## 3. Offers, Orders and Acceptance

3.1. All offers by KVM-Genvex, including offers posted on the KVM-Genvex website, shall signify only an invitation to the Buyer to place an order with KVM-Genvex.

3.2. KVM-Genvex shall accept orders in writing only from the Buyer, and such orders, once placed, shall be binding for the Buyer for a period of 8 days.

3.3. A binding agreement shall be signed once the Buyer has received an order confirmation in writing from KVM-Genvex.

3.4. If KVM-Genvex submits an offer that does not contain an acceptance deadline, the offer shall lapse if it is not accepted by the Buyer within 30 days of the offer date.

**3.5. Where an order confirmation from KVM-Genvex deviates from the Buyer's order and the Buyer does not accept the deviation, the Buyer shall, within 8 days of the date of the order confirmation, give KVM-Genvex notice in writing thereof. In the absence of such notice, the order confirmation shall apply.**

3.6. Amendments or supplements to the original order are binding for KVM-Genvex only if KVM-Genvex has given the Buyer a confirmation in writing for them.

## 4. Product Information

4.1. Product information, including prices, drawings, specifications and the like as well as other details in catalogues, advertisements, promotional materials or elsewhere, including information posted on the KVM-Genvex website, is not legally binding and shall be regarded as being indicative only.

4.2. KVM-Genvex retains the title to all drawings and technical specifications that are made available to the Buyer, and these may therefore be used only for the operation and maintenance of Products delivered by KVM-Genvex. Such materials may not be copied, reproduced, communicated or otherwise handed over to unauthorised third parties. The materials shall be returned to KVM-Genvex after the end of the business engagement.

## 5. Prices and Payment Terms

5.1. Prices in offers, order confirmations and other references are stated in EUR exclusive of VAT, etc.

5.2. KVM-Genvex reserves the right to change the prices in price lists, brochures, websites, and the like without prior notice.

5.3. KVM-Genvex reserves the right to implement price changes up until the delivery date as a consequence of documented changes in currency exchange rates, customs duties, taxes, fees, charges, and the like as well as changes in prices charged by subcontractors to KVM-Genvex.

5.4. Payments shall be claimed by invoices and made within the payment deadline specified in the respective invoice.

5.5. If payment is made after the due date of the invoice, the Buyer shall pay interest on the amount due at the rate of 2.5 % per full or partial month.

KVM-Genvex is in addition entitled to charge a reminder fee of EUR 30.00 per reminder and a compensation amount in accordance with the provisions of the Danish Interest Act.

5.6. If payment is made after the due date, KVM-Genvex reserves the right to make future deliveries to the Buyer subject to cash payment or prepayment.

5.7. The Buyer is not entitled to issue counterclaims, if any, against KVM-Genvex and is not entitled to withhold any part of the purchase price of the Product on account of counterclaims of any kind.

5.8. Freight and handling fees shall always amount to a minimum of EUR 25.00 irrespective of invoice value.

## 6. Retention of Title

6.1. KVM-Genvex retains the title to the Product being sold until the purchase price, including interest and any expenses, has been paid in full. The Buyer is not entitled to enter into any transactions that would compromise KVM-Genvex' title to the goods.

## 7. Delivery Terms

7.1. Deliveries shall be made ex works (6 Sverigesvej, DK-6100 Haderslev) in accordance with Incoterms 2010.

7.2. The delivery time may be agreed to be a specific date or within a specific period of time. KVM-Genvex reserves the right to make changes to the delivery time if the Buyer fails to provide, within a reasonable period of time prior to the delivery time, all information or details that are necessary for the execution of the order.

7.3. If KVM-Genvex has undertaken in addition to arrange for shipping according to an explicit request from the Buyer, the Buyer becomes liable for the Product as in the case of a sale made ex works. KVM-Genvex shall not be liable for any damage caused to the Product during transport.

7.4. If KVM-Genvex undertakes, on the Buyer's behalf, to arrange for the transportation of the goods in accordance with the Buyer's express order and instructions, KVM-Genvex in no way guarantees that the transportation will be carried out at the lowest cost for the Buyer.

7.5. KVM-Genvex shall arrange for insurance only if expressly agreed with the Buyer. As a general rule, a standard insurance policy will be the only insurance secured unless other coverage is specified in the agreement.

## 8. Delay

8.1. If the delivery is not made by the agreed delivery time, the Buyer may claim delivery by notice in writing to KVM-Genvex and define a reasonable delivery deadline that may not be shorter than 6 weeks. Where KVM-Genvex does not complete the delivery within this extended deadline and such failure is unrelated to conditions that are the responsibility of the Buyer, the Buyer may, by notice in writing to KVM-Genvex, cancel the portion of the order that is delayed.

8.2. However, if successive deliveries have been agreed, the Buyer is not entitled to cancel the subsequent deliveries unless the Buyer documents that KVM-Genvex is unable to complete the subsequent deliveries by the agreed deadlines.

8.3. Under no circumstances may KVM-Genvex be held liable for operating losses, loss of time, loss of profit or any other indirect losses and repercussions as a result of a delayed delivery of Products to KVM-Genvex unless KVM-Genvex has acted with intent or gross negligence.

## 9. Failure to Collect Goods

9.1. Where the Buyer, after the delivery deadline, fails to collect the Product or provide instructions about shipping, KVM-Genvex is entitled to sell the Product on the Buyer's behalf at the best price possible.

9.2. Where the Buyer fails to collect the Product despite a request in writing, KVM-Genvex is entitled to sell the Product at the best possible price on the Buyer's behalf. This applies also to parts that are custom made in accordance with the Buyer's instructions.

9.3. Where KVM-Genvex incurs losses in connection with the Buyer's failure to collect the delivery, KVM-Genvex is entitled to compensation.

## 10. Complaints and Duty of Inspection

10.1. The Buyer shall examine the Product on receipt. Defects that are discovered or should have been discovered in connection with such an examination or that are discovered later on shall be brought to KVM-Genvex' attention in writing immediately and not later than 5 days after the defect has been or should have been discovered.

10.2. The Buyer may issue a complaint about the delivery within 12 months of the delivery date.

### 11. Defects

11.1. Faults in the Product resulting from defects in materials and/or production shall, at the discretion of KVM-Genvex, be rectified either by fixing the defect or by redelivering the Product provided that the Buyer has issued a proper and timely complaint respecting the fault in accordance with subsections 10.1 and 10.2. The Buyer may not claim any other defects and is therefore not entitled to claim compensation or reimbursement for losses and expenses that may have been incurred by the Buyer in connection with rectification or redelivery.

11.2. Defects arising from improper use, inadequate maintenance, improper installation, connection or operation, accident, lightning, voltage variation, incorrect operation, general electrical disturbances or repairs that are not carried out or initiated by KVM-Genvex shall not be covered by KVM-Genvex' liability for defects.

11.3. Where rectification or redelivery in accordance with subsection 11.1 does not take place within a reasonable period of time, the Buyer is entitled, subject to the common provisions of Danish law and these Sales and Delivery Terms, to have the repairs performed by a third party at KVM-Genvex' expense, on condition that the repair work is appropriate and reasonable and that KVM-Genvex has accepted and approved the work in writing. Where such repairs are performed by third parties, KVM-Genvex' liability shall be limited to the direct expenses incurred in connection with the repair of the Product, and KVM-Genvex' liability for repairs done by third parties may never exceed the purchase price of the Product.

11.4. A replacement or repair of Products shall give the Buyer a renewed 12 month's period to complaint about delivery. Subsequently, any replacement or repair shall then be subject to general statute of limitations provisions.

## 12. Product Liability

12.1. As for damage to property and personal injuries resulting from a defect in the Products delivered by KVM-Genvex (product liability), KVM-Genvex is liable only to the extent such liability is based on the mandatory provisions of the law. KVM-Genvex may not be held liable for any damage to the Buyer's property or other possessions intended for commercial use.

12.2. The Buyer shall indemnify KVM-Genvex for any claims for damages regarding product liability made against KVM-Genvex by third parties to the extent KVM-Genvex is not liable to the Buyer subject to these Sales and Delivery Terms.

12.3. Under no conditions shall KVM-Genvex be liable for any operating losses, loss of time, loss of profit or other indirect losses and repercussions caused by the delivery by KVM-Genvex of a defective Product to the Buyer unless the Buyer can document that KVM-Genvex has acted with intent or gross negligence.

## 13. Force Majeure

13.1. KVM-Genvex disclaims any liability for the non-fulfilment of an order arising from force majeure circumstances such as natural disasters, war and mobilisation, rebellion, riots, strike, lockout, any other form of industrial action, intervention by a public authority/government, import or export restrictions, fire, damage to the KVM-Genvex production plant, missing or incomplete deliveries by subcontractors, etc. or from any other condition that is beyond the control of KVM-Genvex.

13.2. Where fault-free or on-time delivery is prevented temporarily because of one or more of the above circumstances, the delivery time shall be extended by a period that corresponds to the duration of the respective obstacle. Missing or delayed deliveries of materials from subcontractors shall be regarded as a force majeure event that extends the delivery time specified by KVM-Genvex. If the obstacle prevents a delivery from taking place or makes a delivery possible only with disproportionately large expenses, KVM-Genvex reserves the right to cancel the respective order.

#### 14. Product Returns

14.1. Products from KVM-Genvex may be returned only to the extent KVM-Genvex gives prior consent in writing and only when the packaging is unbroken and undamaged.

14.2. The expenses arising from returns shall be covered by the Buyer.

14.3. The returned Products shall be credited at the invoice value with a deduction of 20 %.

14.4. The right of return in accordance with subsection 14.1 applies for 3 months from the delivery date.

#### 15. Warranty

15.1. KVM-Genvex offers a warranty period for all products of 2 years from the documented date of delivery. The warranty covers material, manufacturing, and design defects. It is the obligation of the individual Buyer to tighten and eliminate small leaks in screw couplings that have resulted from vibrations during transportation.

15.2. Where repairs are conducted on site, KVM-Genvex shall deliver new replacement parts, but shall not cover the installation costs.

15.3. The provisions of subsections 15.1 and 15.2 shall apply only if the following conditions are met:

- The fitter has contacted KVM-Genvex prior to the commencement of the repairs or replacement, and an agreement in writing has been reached as to the scope of the repairs.

- The fitter has stated the product's serial number when KVM-Genvex was contacted.

- The fitter has sent a copy of the purchase invoice or installation invoice as well as the defective product part to KVM-Genvex within 10 days of the replacement/repair.

15.4. The warranty does not cover:

- Regular service and maintenance work.

- Compensation or expenses related to something other than the above noted circumstances or to personal injuries caused by possible defects in the Product.

- Replacement of ordinary wear parts necessitated by natural wear and tear.

- If the Product has been used at a temperature, voltage or pressure different from the specifications on the rating plate.

- If the damage arose from frost, lighting, dry boiling or is the result of limescale or excess pressure.

- If the Product has undergone repairs or other interventions apart from connection to the mains in accordance with the regulations, and the repair or intervention is the cause of the damage.

- Calcification of the heat exchanger and high-output tank inasmuch as scale is often a result of incorrect setup or use of the Product.

- Damage caused by seeping water and concealed water installations.

- Damage caused during transportation. The carrier shall be given notice of such damage.

- Increased or additional expenses related to repairs or replacements conducted during the

weekend, on statutory holidays, or outside normal working hours.

- Damage arising from inadequate maintenance or service of the Product.

- If the Product has been positioned in such a way as to impede immediate servicing. Where the Product is difficult to access, KVM-Genvex disclaims any liability for any extra expenses that may be incurred as a result.

- If the Product is not installed in accordance with the applicable provisions, cf. the instructions for installation and use of the respective Product.

15.5. The warranty terms applicable at any time are available at the KVM-Genvex website.

#### 16. Export

16.1. The Buyer is responsible for ensuring that the purchased Product may legally be used in the Buyer's home country and for the purposes intended by the Buyer, including obtaining any required approval of the Products by public authorities or individuals for import and use.

16.2. The Buyer shall be solely responsible for any and all costs related to letters of credit and for expenses related to externally verified documentation.

#### 17. Partial Invalidity

17.1. Should one or more of the provisions of these Sales and Delivery Terms be declared invalid or illegal or prove inapplicable, there shall be no impact on the validity, legality and applicability of the other provisions.

#### 18. Assignment of Rights and Obligations

18.1. KVM-Genvex is entitled, without the Buyer's consent, to assign to third parties all of its rights and obligations with regard to the fulfilment of an order.

#### 19. Governing Law and Venue

19.1. All disputes between KVM-Genvex and the Buyer that may arise in connection with these Sales and Delivery Terms, including disputes related to the existence or validity of an agreement or the interpretation of these Sales and Delivery Terms, shall be settled according to Danish law. However, the provisions of Danish international private law and the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be disregarded.

19.2. All disputes that may arise in connection with the business relationship between the parties, as governed by these General Terms and Conditions of Sale and Delivery and that cannot be settled amicably shall be settled by arbitration at the Danish Institute of Arbitration in accordance with the regulations of the Institute applicable at the time the arbitration proceedings are initiated.

Last updated: June 2023