

The terms and conditions below shall apply to all deliveries and orders unless otherwise agreed in writing and confirmed by KE Fibertec AS, hereinafter referred to as "KE".

**1**

The Customer's orders shall not be considered binding for KE until the Customer has received a written order confirmation.

The specified prices are net prices, ex works, excluding packaging and charges.

Security for the full amount can be demanded at any time, e.g. in the form of a bank guarantee.

**2**

KE's services cover only the parts specified in the order confirmation.

Any drawings, illustrations and technical data in catalogues etc. are for reference only and KE cannot be held liable for any errors or misinterpretations in this material.

The ownership of all drawings, descriptions, proposals, specifications, and the like, which come with bids or deliveries, shall remain KE's property just like any know-how, technical and production processes related to the design and manufacturing of KE's items shall belong to KE. These may not be used, copied, reproduced, surrendered or otherwise brought to the attention of third parties without KE's consent.

**3**

## Prices

All orders are registered at the prices applicable on the date of the order unless the order is subject to a binding offer. Prices are calculated ex works and apply in the currency and for the products and services stated in the order confirmation. The prices are exclusive of VAT and packaging and are based on the exchange rates and prices of materials, staff costs, transport costs and charges in force at the date of order confirmation.

If the prices of the offered or agreed delivery increase as a result of changes in cost prices, commodity prices, currency exchange rates, freight, customs duties, taxes, charges and the like, KE shall have the right to adjust the prices offered to and/or agreed with the Customer by the same percentage, including the entire amount of the increase. The foregoing shall apply regardless of whether the delivery is included in a price list used by KE. As regards deliveries included in one of the price lists used by KE, the price is determined based on the price list in force at the time of delivery. KE reserves the right to apply dispatch or readjustment fees for smaller deliveries.

If the Customer would like to make changes to the order/specifications, the Customer shall cover the thereto associated costs according to a statement from KE.

**4**

## Payment

Unless otherwise stated in the order confirmation, payment shall be net and made in cash on delivery.

If the payment deadline is exceeded, KE will charge interest on overdue payment amounting to 2% for each commenced month.

The purchase price is due for payment when the shipment is reported ready for delivery.

If the Customer fails to authorise the shipping, KE shall have the right to store and insure the service at the Customer's expense. Where the Customer, despite a written request to

collect the item, fails to do so within 30 days of the sending of such, KE shall have the right to sell the item on behalf of the Customer in the best possible way, or alternatively, if that is not possible, destroy the product, while the entire purchase sum plus costs incurred shall automatically fall due for payment immediately. If it has been agreed that the purchase price will be paid in instalments, KE may consider the entire purchase price due if an instalment is not paid on time. In case of partial deliveries, each delivery shall be paid. Overdue payment shall be regarded as material breach entitling KE to terminate all further deliveries as well as to claim all receivables for immediate payment, whether due or not. The Customer may not set off any counter claims unless authorised by KE.

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## Delivery

Delivery is made ex works in accordance with Incoterms 2010. Shipments are arranged by KE at the Customer's expense and risk. Insurance of the Customer's transport risk shall be arranged by KE if so agreed upon in writing.

The specified time of delivery is provided by KE to the best of KE's judgement in accordance with the conditions that existed at the time of contract formation. If the parties have agreed on a delivery date, delivery up to 1 week before or after the specified delivery date shall in all respects be regarded as a timely delivery.

KE may request postponement of the delivery if the Customer has requested changes to the order, in the event of force majeure, cf. item 9, as well as when the work on the delivery has to be suspended or is delayed because of official acts.

If the delivery is considerably delayed, the Customer can terminate the agreement by a written notice. If the delay concerns equipment manufactured according to the Customer's instructions, or if due to the nature of the equipment it is not normally kept in stock by KE, the agreement may only be terminated if the delay is more than 4 weeks and if it causes the Customer to basically fail to reach his objective in purchasing the equipment. Provided that the Customer can prove that the delay is due to errors or neglect on the part of KE, and that the Customer has suffered losses, the Customer shall be entitled to damages for the losses he has incurred. However, the damages cannot exceed 1% of the agreed payment per full week of delay and may amount to up to 10% of the agreed payment in total.

The Customer may not claim compensation for delay for coverage of the Customer's operating losses, loss of profits, day fines or other indirect loss.

If the Customer requests packaging, or if KE considers packaging to be necessary in order to ensure safe delivery, the Customer shall cover all related costs. The packaging cannot be returned. KE's storage provisions sent together with the order confirmation shall apply.

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## Defects

Upon delivery the Customer must immediately and not later than 3 days from the date of receiving the product inspect the goods as required for proper commercial use.

If the Customer wishes to invoke a defect, the Customer must notify KE thereof as soon as the defect is or should have been discovered, specifying what the defect is. If the Customer has or should have discovered the defect and the Customer has not filed a complaint, the Customer may not invoke the defect at a later time. Return of goods is accepted only after signing a prior written agreement.

## Design warranty on technical operation

KE provides a 1-year design warranty on the technical operation of the system (pulsations, pressure loss and air velocity in the occupied zone) provided that this has been specifically stated in the order confirmation. The design warranty covers the first full year of operation with heating and, if relevant, cooling requirements. There has to be a complete adjustment and balancing report describing the current operating conditions and demonstrating the defect in KE's design.

The adjustment and balancing report shall be prepared by an authorized adjusting and balancing company or by a consulting engineer. In all cases, KE reserves the right to perform measurements on the ventilation system on its own before accepting a design warranty claim.

## Liability for defective performance

If defects are found in KE's delivery in relation to what has been stated in the order confirmation, KE's liability for defective performance will apply for a period of 12 months from the start-up date, but no longer than 18 months from date of invoice.

The scope of KE's liability for defective performance is as follows:

- Within the above period KE undertakes to rectify all defects in the delivered goods by repair or replacement as KE deems fit.
- KE's obligation to remedy defects is subject to the customer being able to prove that the delivered goods are defective and is able to document that the goods have been stored, installed and put into operation properly and in compliance with the mounting instruction and "Nice to know" leaflet found in the carton.
- KE's obligation becomes void if components that have not been manufactured or approved by KE are used in connection with KE's delivered goods. This obligation does not apply in case of unsuitable and/or improper use of the delivered goods, including deviations relating to the agreed specifications.
- KE's obligations include only salaries and materials that are directly associated with the remedying of defects. All other costs relating to a defect, including transport, standoff pay, subsistence allowances, accommodation and costs for disposal of or destruction of defective parts shall be of no concern to KE. The Customer shall bear all the expenses for dismantling, return and shipping, refitting and start-up etc.
- All work is performed in accordance with the Customer's design material, description and drawings. The Customer shall ensure that the delivery is sufficient and/or adequate for solving the Customer's problem in relation to capacity as well as in every other respect. The Customer warrants that all information and claims made by the Customer are accurate and complete, and that the drawings etc. delivered by KE are approved by the Customer and used in accordance with the information given.
- The order is executed in accordance with the information in the Customer's order and any other information received from the Customer regarding the service ordered. KE assumes no liability for errors or omissions in the service, due to the content of information received from the Customer.
- KE assumes no project, design, capacity, planning or structural liability for errors and/or defects related to the use or non-use of the produced items.
- KE's liability shall only extend to defects occurring under the working conditions outlined in the agreement, provided that the delivery has been used correctly. KE's liability does not cover defects caused by material supplied by the Customer, structures prescribed/specified by the



Customer, improperly conducted preparatory work on the Customer's part and circumstances occurring after the takeover, including defects resulting from inadequate maintenance or incorrect treatment on the Customer's part, changes in the delivery made by the Customer without KE's written consent, incorrect repairs by the Customer and normal wear and deterioration.

KE has no responsibility for defects other than the above. This shall apply to each and every operating loss the defects might cause, including loss of profit and other financial consequential losses. This limitation in KE's liability does not apply if KE is guilty of gross negligence.

Apart from what is mentioned above, KE disclaims any and all liability for the delivered products, which is why the Customer cannot cancel the order, demand a proportional discount or compensation, or fully or partially withhold the purchase price.

KE offers three different guarantee schemes, which can supplement the above conditions. To the extent the Customer is covered by one of the three schemes, this is specified in "KE Fibertec Warranty Conditions".

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### Product liability

KE is liable and/or shall pay product liability in accordance with the provisions of Danish law on product liability, and KE cannot be held liable on any other basis. KE's liability is limited to a total of DKK 5,000,000 for all product damage and/or product liability per calendar year.

Serial damage, i.e. damage on different items but with one and the same cause, shall be regarded as one damage, and KE's liability shall be limited to a total of DKK 5,000,000 per year for each product damage and/or product liability per calendar year.

The Customer shall keep KE indemnified to the extent KE is held liable or faces claims for damages to third parties for such damage and loss for which KE, cf. the foregoing limitation of liability, is not liable to the Customer, or which exceeds the prescribed maximum amount.

KE shall not be liable for any operating losses, lost earnings or any other indirect losses.

If third parties present any claims for compensation to one of the parties pursuant to this item, the party in question shall inform the other party immediately. KE and the Customer are mutually obliged to let themselves be sued at the same court of justice or arbitration court which processes compensation claims against one of them owing to a damage that is said to have been caused by the delivery.

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### Limitation of liability

For claims relating to the fulfilment or non-fulfilment of KE's obligations under this agreement, the Customer is entitled to compensation for direct losses with the following limitations:

KE's liability is limited to direct damages/losses, and regardless of the cause and the nature of the claim it shall be limited to the invoice amount for the service, which has caused the damage/loss or which has caused or is directly connected with the claim. The liability may not exceed DKK 100,000 per damage per year.

Serial damage, i.e. damage on different items but with the same cause, shall be regarded as one damage, and KE's liability shall be limited to a total of DKK 100,000 per year.

KE is under no circumstances liable to the Customer for lost profits, lost savings or other indirect losses or consequential damages resulting from the use or non-use of the sold

goods, regardless of whether KE has been informed about the possibility of such claims.

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### Force Majeure

KE shall not be liable for inadequate or delayed performance of agreements when it is due to force majeure, acts of war, disturbances, civil commotion, government interventions or interventions by public authorities, fire, strike (even if it only affects KE), lockout, ban on export and/or import, inadequate or defective subcontractor deliveries, lack of work force, fuel or any other circumstance beyond KE's control which can delay or prevent the production and delivery of the sold goods.

If a defect-free or timely delivery is temporarily hindered by one or several of the circumstances above, the delivery shall be postponed by a period corresponding to the duration of the impediment plus a reasonable period that would allow the situation to get back to normal. Delivery by the thus postponed deadline shall be regarded as timely in all respects. If the hindrance to the delivery can be expected to last more than 8 weeks, both KE and the Customer shall have the right to cancel the agreement without this to be regarded as negligence.

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### Order cancellation Standard products

If KE approves a full or partial cancellation of an order for a standard product that is not manufactured in accordance with the Customer's instructions, the Customer shall pay the following cancellation amount:

- For orders cancelled within 5 working days following the dispatch of the order confirmation, the Customer pays 10% of the order amount.
- For orders cancelled more than 10 working days before scheduled dispatch to the Customer, the Customer shall pay 50% of the order amount.
- For orders cancelled within 10 working days before scheduled dispatch to the Customer, the Customer shall pay 100% of the order amount.

### Special products

If KE approves a full or partial cancellation of an order for a special product that is specifically manufactured in accordance with the Customer's instructions, the Customer shall pay the following cancellation amount:

- For orders cancelled prior to the start of production, the Customer pays 50% of the order amount.
- For orders cancelled after the start of production, the Customer pays 100% of the order amount.

If KE approves a full or partial modification of the order after the manufacturing process has begun, the Customer is liable to pay the expenses associated with the modification.

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### Ownership

With the limitations that follow from mandatory legal provisions, KE reserves the right to ownership of the sold item until the entire purchase price and the sale-related delivery, shipping and insurance costs KE has paid on the Customer's behalf are paid by the Customer, or the agreed security is made available. Until this is done, the Customer does not have the right to resell the object of the sale, or otherwise dispose of the product in a manner that is in conflict with KE's retention of title.

In case the object of the sale is processed or converted, but does not lose its distinctive features or identity, the title shall be retained so as to cover the converted or processed item at the value the object of sale used to have before conversion or processing.

When the Customer has paid or made available the agreed security for all amounts due, and ownership of the object of the sale has passed to the Customer, KE shall confirm this at the Customer's request.

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### Information, construction drawings, instruction material, certificates

KE reserves the right to make changes to its products without notice provided that these changes do not reduce the value of the purchased product. This shall also apply to already ordered products. KE undertakes to send instructions together with all products in order to ensure proper installation, storage and maintenance. Any attestations, approvals and certificates that do not constitute a regulatory requirement shall be paid for by the Customer.

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### Handling of personal data

KE is a Data Controller. Therefore, the collection and handling of personal data take place in compliance with the General Data Protection Regulation, and KE only collects and stores the personal data that is necessary to ensure a professional and proper treatment of the Customer, e.g. contact information.

KE applies supporting IT systems supplied by third parties who act as data processors. In this capacity third parties are subject to an obligation of secrecy of all processed information.

KE may not disclose any personal data to third parties without the consent of the Customer.

The data subject/the Customer is entitled to be given access to the personal data processed by KE and in certain cases to have his/her personal data rectified, erased, or returned. The data subject can read more about his/her rights at <https://www.ke-fibertec.com/en/about-ke-fibertec/cookies/>.

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### Applicable law and venue

Any dispute between the parties, which cannot be resolved amicably shall be settled according to Danish law, either by arbitration or by the Court in Kolding as KE deems fit.

In the event KE chooses a dispute to be resolved by arbitration, the Court of Arbitration shall be determined in accordance with "Rules of Simplified Arbitration by the Danish Institute of Arbitration".

The court of arbitration shall be appointed by the Danish Institute of Arbitration in accordance with the above rules.

The court of arbitration shall consist of one arbitrator with a degree in law. The arbitrator shall be appointed by the Danish Institute of Arbitration. The parties may jointly propose an arbitrator not later than upon expiry of the deadline for the defendant's response.

The place of arbitration is agreed to be Vejlen.

Danish private international law referring to foreign law, as well as the Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

