

# Sales and delivery terms

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All contracts with KE Fibertec AS ("the Company") shall be governed exclusively by the following General Terms of Sale and Delivery, unless the Company, through its duly authorized representative, has expressly agreed in writing to amend or modify these terms. Under no circumstances shall the Company's silence upon receipt from the Customer of any terms or conditions inconsistent herewith be construed as acceptance of same. Any additional or different terms in the Customer's order or confirmation shall not be binding upon the Company, and the Company hereby expressly denies their applicability. By contracting with the Company, the Customer hereby agrees to be bound by these General Terms of Sale and Delivery.

2

No oral agreement shall be considered binding upon the Company until it has been reduced in writing and expressly stated by Company to be binding upon the Company. No offer by the Company shall be binding upon the Company, unless so specified by the Company in writing, or until the Customer has accepted the offer and the Company has confirmed the Customer's acceptance. No order shall be binding upon the Company unless it has been expressly accepted by the Company in writing or the Company has effected delivery pursuant to the order.

3

All illustrations, indications of dimension, weight and performance are approximate only and not binding upon the Company. No information given in product brochures, advertisements, price lists etc., shall be considered anything other than a general description of the Company's products and shall in no event be considered a guaranty or warranty of any special quality or characteristic of the merchandise.

## DELIVERY

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Unless otherwise agreed to in writing, all prices are quoted ex works according to Incoterms 1990 of the manufacturer. Unless otherwise expressly agreed to in writing, the company will arrange the transportation to the place of delivery and prepay and add the freightcost on the customer's invoice. Unless otherwise expressly agreed to in writing, the Company shall not be responsible for customs duties, excise, sales, or value added taxes, hand-ling charges, assembly and installation costs. If such charges

are by the terms of sale included in the price, any increase in rates becoming effective after the date thereof shall be for the account of the Customer. The Customer shall also be liable for all fees, charges or other costs required to conform the merchandise to local legal and practical requirements.

5

The Customer agrees that if, pursuant to agreement, delivery is made more than four (4) months after the date of the order confirmation, the Company's prices, which are valid on the date of delivery, shall be applied.

6

All delivery dates and delivery periods are approximate and non binding unless otherwise guaranteed in writing by the Company, and subject to the satisfactory performance of the Customer of all of its contractual obligations, including, but not limited to, the timely delivery by the Customer of all necessary documents, the clarification of all technical details and the Customer's compliance with all payment terms.

7

The Company reserves the right to make delivery in installments. All such installments shall be separately invoiced and paid for when due, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve the Customer of his obligation to accept delivery of any other installments.

8

The Company shall not be liable for any delays in delivery or any failure to deliver due to causes beyond the Company's control, including, but not limited to acts of God, force majeure, war, mobilization, civil commotion, riots, embargoes, domestic or foreign governmental regulations or orders, fires, floods, strikes, lockouts or other labor difficulties, machinery breakdowns and other unforeseeable interruptions in operations and manufacturing, shortages of raw materials, delays of carriers or suppliers, or shortages of or inability to obtain shipping space or transportation. In such circumstances, unless otherwise agreed, the time for delivery shall be deemed extended for a period of ninety (90) days. If delivery is not made within such extended period, the contract shall be deemed cancelled by mutual consent without liability to either party.

9

In no event shall the Company, as a consequence of any default in delivery, be responsible

for the cost of replacement, lost profits, injury to good will or any other special or consequential damages.

10

All risk passes to the Customer at the time and place of delivery, which shall occur when the merchandise is ready for shipment ex works of the manufacturer, even if the Company agrees to arrange for transportation beyond the place of delivery. In such case, the Customer remains responsible for providing adequate insurance on the merchandise.

## PAYMENT

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Unless otherwise agreed to, payment shall be made at time of delivery and receipt of the invoice. Payments are to be made by means of wire transfers or check and shall be deemed made only when the funds have been irreversibly credited to the Company's account.

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All payments are first used to settle the oldest invoices and parts thereof, which are due for payment and any interest, which has accrued thereon.

13

If by the terms of sale, credit is extended to the Customer, the Company reserves the right to revoke credit if the Customer fails to make payment when such is due, for any of the Company's merchandise that has previously been delivered, or, if in the judgment of the Company, there has been a material adverse change in the Customer's financial condition, the Company shall thereupon have the right, at its sole discretion, to either cancel the agreement with the Customer, or to demand payment or other assurance which it deems adequate before shipment of any further merchandise.

14

Interest will be charged on all past due accounts at the Company's prevailing rates, not in excess of rates permitted by law.

15

In no event may the Customer withhold payment for any shipment or installment thereof by way of offset, recoupment or counterclaim against the Company.



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If the merchandise is situated in the United States before the purchase price has been fully paid, the Company shall retain a purchase money security interest (as defined in the applicable State version of Section 9 107 of the Uniform Commercial Code) in the merchandise until such time as the purchase price, inclusive of interest, costs, etc., shall have been fully paid.

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The Customer, as debtor, shall, if requested by the Company, execute appropriate security agreements, Financing Statements, as well as other documents presented by the Company to perfect his security interests in the merchandise, and pay the cost of their drafting and filing. Upon any default by the Customer as debtor, all of the Customer's obligations under the relevant security agreement shall become immediately due and payable in full without notice or demand, and the Company, as the secured party, shall in addition to the rights granted under the security agreement, have all the rights, remedies and privileges accorded a secured party under the applicable State version of the Uniform Commercial Code.

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THE COMPANY WARRANTS THAT ALL MERCHANDISE WILL CONFORM TO CONTRACT SPECIFICATIONS. ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, UNLESS SPECIFICALLY CONTRACTED FOR, ARE EXCLUDED, AND THE SOLE LIABILITY OF THE COMPANY SHALL BE IN ITS SOLE DISCRETION, AND WITHIN A REASONABLE PERIOD OF TIME, TO REMEDY ANY SUCH DEFECT OR TO REPLACE ANY NON CONFORMING MERCHANDISE. THE COMPANY SHALL UNDER NO CIRCUMSTANCES BE LIABLE FOR ANY LOSS OR DAMAGE, DIRECTLY OR INDIRECTLY, ARISING FROM THE USE OF THE COMPANY'S PRODUCTS OR FOR THE COST OF REPLACEMENT, LOST PROFITS, INJURY TO GOOD WILL OR ANY OTHER SPECIAL OR CONSEQUENTIAL DAMAGES.

## COMPLAINTS

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All claims regarding any manifest defect shall be deemed waived unless made in writing delivered to the Company within eight (8) days after receipt of the merchandise by the Customer. The

Company shall thereupon be afforded a reasonable opportunity to inspect the merchandise.

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The Company must immediately be notified with respect to any defects that become evident after delivery, and the Customer agrees that in such case he bears the burden of proving that the defect did not arise due to any fault of the Customer.

21

In no event will this Warranty be extended beyond six (6) months after delivery. In the event that the Customer fails to take delivery on the delivery date, this Warranty will commence running on the date the merchandise was ready to be picked up by the Customer.

22

Under no circumstances will the Company accept merchandise that has been returned without the Company's written consent.

23

Textile duct systems manufactured by KE Fibertec are custom manufactured to the specifications provided by the customer. For this reason, all sales are final, and returns for credit are not acceptable. Cancelled orders are subject to a cancellation fee as follows:

### BASIC & STANDARD COLORS

- Orders cancelled 0-5 working days after date of KE-order confirmation are subject to cancellation fees equal to 10% of order value.
- Orders cancelled up to 5 working days prior to scheduled shipping date are subject to cancellation fees equal to 50% of order value.
- Orders cancelled less than 5 working days prior to scheduled shipping date are subject to cancellation fees of 100% of order value.

### SPECIAL COLORS

- Orders cancelled up to 5 working days prior to scheduled shipping date are subject to cancellation fees equal to 50% of order value.
- Orders cancelled less than 5 working days prior to scheduled shipping date are subject to cancellation fees of 100% of order value.

## APPLICABLE LAW AND LEGAL VENUE

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These General Terms of Sale and Delivery shall be governed by and construed according to the laws of the Kingdom of Denmark. All controversies and claims arising out of or relating to these General Terms of Delivery and Sale, shall be settled solely by arbitration in Copenhagen, Denmark, in accordance with the rules of the Danish Institute of Arbitration (Det Danske Voldgiftsinstitut) then obtaining and judgement upon the award may be entered by any court having jurisdiction thereof. Notwithstanding the Company may, at its option, enforce its rights as a secured party pursuant to the applicable provisions of the Uniform Commercial code in any court in the United States that the Company may deem appropriate.

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No waiver of breach of any of these General Terms of Sale and Delivery shall be construed to be a waiver of any succeeding breach of the same or of any other provision herein.

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The provisions hereof are severable. The invalidity or illegality of any one or more provisions herein shall not render these General Terms of Sale and Delivery invalid or void and all other provisions herein shall be fully effective and binding.

rev. 01/2009

