

## **Terms – Conditions of Sale**

The Customer requests that KITAGAWA NORTHTECH INC. (hereinafter referred to as "KNI") sell products, equipment, service and/or parts, in consideration of which the Customer and KNI agree as follows:

### **Quotations**

- Pricing is good for (60) days.
- New part number quoted (typically starting with "KUY") will be assigned a permanent number during design.
- See; "Delivery Dates" for additional terms.
- Unless otherwise stated, hoses, fittings and brackets are not provided.

### **Machine Drawings**

It is KNI's policy for customer's to supply machine drawings. At the request of the customer KNI can attempt to acquire machine drawings, but KNI will require the customer to approve the drawings for KNI to manufacture against. The time necessary to acquire said drawings will not be included in the lead time quote, but rather be in addition to.

### **Customer Purchase Order**

All KNI sales are made pursuant to these Terms & Conditions of Sale. These terms supersede the terms of any purchase order received by KNI. If KNI receives a purchase order that limits acceptance to its terms or states that KNI's acknowledgement, shipping of material, commencing work, or other act or failure to act constitutes acceptance of an offer on the terms of the Customer's purchase order, that provision shall have no force or effect. KNI's response to the purchase order by document or action shall be deemed a counter offer on these Terms & Conditions of Sale, accepted when Customer accepts shipment of any of the products or equipment described herein. Absence of a purchase order (ie. verbal purchase order) or purchase order number shall not constitute grounds for non-payment.

All purchase orders issued to KNI for service work including installation, are to be issued on a separate purchase order and not included along with product orders.

### **Payment Net 30 Days**

The Customer shall pay the full amount of any outstanding balance shown on KNI's invoice within thirty (30) days of the invoice date. Special payment terms may apply subject to credit rating and type of items being purchased. Special terms when applicable, are determined upon receipt of order.

### **Safety Devices**

Customer acknowledges that the use and operation of KNI'S products or equipment without the recommended safety devices may be hazardous and may constitute a threat to health and safety. KNI does not authorize and expressly disapproves the use and operation of its products or equipment without the recommended safety devices. KNI hereby expressly disclaims and excludes liability and

## **Terms – Conditions of Sale**

responsibility for all consequential damages and/or other losses, of whatever type, which may rise from operation of its products or equipment without the recommended safety devices.

The Customer further agrees only to allow its fully trained operators to operate the equipment. The Customer shall use and shall require its employees to use all safety devices, guards, and proper, safe operating procedures as set forth in manuals and instruction sheets furnished by KNI. If the Customer fails to comply with the obligations set forth in this Contract, the Customer agrees to indemnify and hold/save KNI harmless from all liability or obligation incurred by KNI arising from the operation of its products or equipment. Failure to follow the safety manuals, operating procedures and instruction sheets shall further result in Customer's waiver of all warranties.

### **Collection Costs – Applicable Law – Jurisdiction – Venue**

If the Customer fails to pay pursuant to the terms of this invoice and KNI elects to take legal action to collect it, the Customer shall pay all costs incurred by KNI including, but not limited to: reasonable attorneys' fees, court costs, deposition and transcript costs, sheriff's fees, special process server fees, expert witness fees, and bond costs. The laws of the State of Illinois shall govern this transaction. Jurisdiction and venue for hearing of any matter concerning this transaction shall be with the DuPage County Circuit Court exclusively.

### **Security Interest – Insurance**

The products or equipment purchased are hereby pledged to KNI as security until the entire purchase price has been paid.

While the products or equipment are in the possession of the Customer and until KNI is paid in full, the customer shall obtain/maintain insurance covering all risk of loss, theft, or damage for said products or equipment. In the event of any such loss the insurance claim by said insurance shall be paid to and are assigned to KNI in the amount of the unpaid balance.

### **Delivery Dates**

All shipping dates, delivery dates and schedules are estimates only and may be revised from time to time after an order is entered. Shipping dates, delivery dates and schedules are subject to:

- 1.) Prior workload and scheduling.
- 2.) Arrival date of purchase order, deposit (as required) and all customer provided items (ie. machine drawings, part drawings, signed approval drawings).
- 3.) Time necessary to set-up new accounts.
- 4.) Time in excess of the (1) business day provided for customer drawing approval will potentially delay the delivery.
- 5.) Quoted lead time is binding only for immediate acceptance (same business day). Delivery time will be determined upon receipt of the purchase order on subsequent business days.
- 6.) Lead times are quoted in business days.

In the event the products or equipment described herein are, for any reason, unavailable or not shipped or delivered when estimated, KNI shall not be liable for any damages caused thereby to the Customer. The

## Terms – Conditions of Sale

Customer hereby waives any liability upon KNI for any direct, special, or consequential damages that the Customer may suffer, unless provided in writing.

### Delivery – Customer's Duty to Inspect

Customer agrees to inspect all products and equipment immediately upon delivery to verify: (a) that the quantities described in the accompanying delivery ticket are the quantities delivered and (b) there are no visible defects. The customer also agrees to examine all delivery tickets and invoices upon receipt.

### Equipment Installation – Commissioning

The Customer will assume full responsibility for uncrating, permanently locating the equipment and making all connections required to test and/or operate the equipment.

KNI is not responsible for the installation of the equipment where supervision of the installation is requested. KNI can provide a Service Technician for the purposes of supervising installation of KNI equipment, commissioning of KNI equipment, and training of customer's operators and maintenance people. Initial start-up assistance and operator training for customers is 1 to 2 days.

KNI will additionally provide a full service installation where requested. KNI's customary service charges shall apply in all cases. The customary service charge would include; service rate, travel and per diem (where applicable).

### Kitagawa's Warranty

KNI warrants all chucks and cylinders it represents to be free from defects in workmanship and material under normal usage by the original purchaser for a period of twelve (12) months (90 days for custom engineered items) from date of shipment or 2,000 operating hours, whichever occurs first.

**THE CUSTOMER ACCEPTS THIS WARRANTY IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, SUCH AS BUT NOT LIMITED TO: THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR OF MERCHANTABILITY OR OTHERWISE.**

No guaranty of process is possible due to many outside factors beyond the scope of workholding. Machining conditions will need to be adjusted per application.

The warranty on purchased components is limited to the respective manufacturer's warranty. The manufacturer's obligations under its warranty are limited to the purchase price of the equipment, part or parts, and in no event shall the manufacturer be liable for any losses and/or damages of any nature sustained by the Customer in excess of the purchase price.

**THE WARRANTY OF KITAGAWA ON ALL PURCHASED COMPONENTS SHALL BE THE SAME AS AND LIMITED TO THE MANUFACTURER'S WARRANTY WHICH THE CUSTOMER ACCEPTS IN LIEU OF ANY AND**

## Terms – Conditions of Sale

**ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, SUCH AS BUT NOT LIMITED TO: THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR OF THE MERCHANTABILITY OR OTHERWISE. KITAGAWA NOT BEING THE MANUFACTURER OF THE COMPONENTS, NOR THE MANUFACTURER'S AGENT, MAKES NO WARRANTY AGAINST PATENT OR LATENT DEFECTS IN THE COMPONENTS, WORKMANSHIP OR CAPACITY OF THESE COMPONENTS, NOR WARRANTY THAT THE COMPONENTS WILL SATISFY THE REQUIREMENTS OF ANY LAW, RULE, SPECIFICATION OR CONTRACT.**

The Customer agrees that KNI will not be responsible for any direct, special, consequential or resulting damage the Customer may suffer. The Customer further agrees in the event any liability is imposed on KNI, said liability shall not exceed the purchase price for the products or equipment manufactured by KNI or components purchased and resold by KNI, Customer agrees to indemnify and/or hold harmless, KNI from any liability exceeding said purchase price.

KNI's warranty is void if its supplied products or equipment are; modified, altered, or damaged from improper maintenance or usage, or incorrect mounting or installation, excessive temperature, abrasive or chemical action, or other abuse.

There are no warranties that extend beyond the description contained under this Contract, expressed or implied.

**NO REPRESENTATIVE, AGENT, OR EMPLOYEE OF KNI HAS THE AUTHORITY TO MODIFY THE TERMS OF THIS WARRANTY.**

### Warranty Work

Warranty 'claims' made to KNI will be resolved primarily via phone. If KNI is requested to make a service call to resolve a warranty 'claim', a purchase order will be required to cover the cost of service call, travel expenses and per diem. If it is determined *not to be a valid claim* then the purchase order will be invoiced accordingly. If it is found to be a *valid claim*, the purchase order will be returned and not processed.

Scheduling of warranty work is to be upon mutual agreement between the Customer and KNI.

When warranty work is to be performed along with non-warranty work, KNI will pro-rate the various charges as the situation warrants.

### Overdue Accounts

Non-Payment: Customers are billed on a net 30 day basis unless special terms apply. Accounts that have invoices due past 60 days will be placed on credit hold. Frequent delinquencies by the customer will result in a COD only status for that account.

## Terms – Conditions of Sale

### Designs

All designs used in the processing of an order are the property and ownership of KNI unless agreed to beforehand in writing by all parties.

### Technical Advice and Assistance

From time to time, KNI may furnish to Customer, as an accommodation, certain technical advice or assistance regarding the operation and maintenance of the products, equipment and/or parts sold under this Agreement (hereinafter, "Technical Advice"). Recognizing that KNI has no control over many variables present in Customer's production facilities, including, without limitation, temperature, humidity, machine condition, gauging, cutting conditions, tooling, part material, machine program and the like, Customer agrees that KNI shall have no obligation or liability for the Technical Advice given or results obtained in connection there with. Rather, all Technical Advice shall be at Customer's sole risk and Customer hereby releases and forever discharges KNI and its subsidiaries and affiliates and their respective officers, directors, shareholders, members, employees, agents, successors and assigns (the "Released Parties") from and against any and all causes of action, claims, demands, judgments, losses or expenses (including actual attorneys' fees and costs of litigation) of every kind or character, whether known or unknown, which Customer has or may have in the future against the Released Parties arising out of or in any manner relating to the Technical Advice, except to the extent of KNI's recklessness or willful misconduct. KNI HEREBY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES REGARDING ANY TECHNICAL ADVICE FURNISHED BY KNI TO CUSTOMER, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OF FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES APPLICABLE TO THE PRODUCTS, EQUIPMENT OR PARTS SOLD UNDER THIS AGREEMENT WHICH EXTEND BEYOND THOSE SET FORTH ABOVE.

### Return Goods Authorization

All items being returned must be approved by a KNI representative within 30 days after receipt. An RGA Number must accompany the returned item. This number must appear on all paperwork. Any item returned without an RGA Number may be refused. All items are subject to a restocking charge. No credit will be issued for items returned 90 days after shipment. Restocking fees up to 20% will apply. Custom made items are non-returnable.

### Cancellation Charges

Order cancellations of in process custom (non-standard) items are subject to a charge equal to the total out-of-pocket expenses to date of order cancellation acknowledgement by KNI, plus a reasonable allowance for profit. Finished custom items are non-cancellable. All Engineering time consumed prior to cancellation (in writing) of a purchase order will be invoiced at KNI's published rate. The rate is published on the document 'Service Rates' maintained by Operations.

### Freight Terms

Freight terms are Ex Works.

## **Terms – Conditions of Sale**

### **Guaranteed Delivery Rate (Promotional Offer)**

Quality problems or resulting rework by KNI Supplied product will not be calculated into the Guaranteed on time rate promotional offer (ie. 10% day penalty up to maximum of 5 days, 50%).

### **Entire Agreement**

The parties agree that this is the entire agreement and that no oral representation or agreement has been made which would modify this agreement or is there a condition precedent or subsequent to the enforcement of this agreement and that this agreement may not be modified except by a writing signed by each of the parties.