



## **Conditions of Sale and Delivery of Kirchheiner EI-teknik ApS.**

**The following ordinary conditions of sale and delivery shall apply unless otherwise agreed by written agreement.**

### **1. Prices**

All prices are exclusive of value added tax and any government taxes and they are quoted subject to changes in public fees and charges, materials and payroll costs and currency and other business conditions.

In the case of goods sold installed, the installation will be performed within normal work hours. If the installation is to be performed outside normal work hours, the Purchaser shall in addition to the current standard fees also pay any additional expenses incurred in this connection such as wages, travelling expenses and any subsistence allowances in accordance with the rates in force from time to time.

If software is made available in connection with the equipment, the fee for such shall be deemed to be included in the price for the equipment unless a separate price for the software has been quoted.

### **2. Delivery and dispatch**

2.1. All goods are delivered ex warehouse. If goods are dispatched directly from a foreign supplier to the Purchaser, transport costs will be charged from the Danish border. Dispatch is at the Purchaser's risk. Kirchheiner does not arrange for transport insurance. No claims for damages as a consequence of non-delivery or late delivery caused by the transport operator can be made against Kirchheiner. For deliveries not exceeding DKK 500.00 exclusive of VAT, a service charge of DKK 50.00 will be added.

2.2. The Purchaser shall observe the export control rules in force according to Danish, European and American law if the goods are exported or reexported.

2.3. If the delivery includes installation, the following shall apply:

- The delivery incl. installation shall comprise the standard components necessary for performing the installation. The Purchaser shall arrange for the running of electrical wiring, water, compressed air and room cooling to the agreed extent before the installation is commenced.
- Any building or construction work and deliveries necessary for the installation, including postrepair work shall be undertaken at the Purchaser's own account and risk. Goods are delivered ex warehouse. The delivery shall be deemed to have been handed over to the Purchaser once the handing over meeting has been held. If the Purchaser does not call a handing over meeting to be held within four weeks after Kirchheiner has requested that such meeting be held, the delivery shall be deemed to have been taken over by the Purchaser as being in accordance with the contractual requirements.
- If the Purchaser cannot/will not accept delivery at the agreed delivery time, the risk shall pass at this time and the Purchaser shall at his own expense arrange for safe custody and any insurance necessary. If the delivery, in whole or in part, is put into service – including operational use – by the Purchaser before the handing over meeting has been held, the responsibility for the operation and maintenance of such parts shall pass to the Purchaser and in so far as the obligation to remedy defects is concerned, the delivery shall be regarded as having been handed over.

### **3. Complaints**



Complaints regarding deficiencies or other visible defects shall be made within eight days from receipt of the delivery. Otherwise, the Purchaser shall not have the right to make any claims on account of such defects.

#### **4. Payment and interest**

4.1. Payment shall be made 30 days after invoice date.

4.2. For orders of and in excess of DKK 100.000,00 payment shall be made as follows:

- 30% on the placing of the order
- 30% on start up at your address
- 30% on the handing over of the finished work
- 10% on the handing over of the documentation

The delivery falls due for payment on the agreed date or the date stated on the invoice.

***In the case of late payment, default interest will be charged.***

The Purchaser shall not be entitled to withhold payment on account of any counterclaims not recognised by Kirchheiner.

#### **5. Ownership reservations**

**Kirchheiner shall retain ownership of the delivery until the purchase price has been fully and completely paid in so far as such reservation is legally possible under present law.**

#### **6. Obligation to remedy defects**

6.1. Goods or software delivered, including programs, which within 12 months from delivery proves to be defective and if such defect is attributable to Kirchheiner shall if such goods or software is forwarded carriage paid to our address immediately after ascertainment of such defect be remedied. Kirchheiner shall at its discretion repair or replace the forwarded goods or refund the price paid for such goods. If the delivery cannot be forwarded, it shall be repaired at the site. Costs for travelling and accommodation in this connection shall be paid by the Purchaser. Except for the obligation to remedy the aforesaid defects, Kirchheiner shall not be liable for the Purchaser's losses due to such defects. Thus Kirchheiner shall not be liable for operating losses, loss of profits or other indirect losses.

#### **7. Product liability**

The Purchaser shall indemnify Kirchheiner to the extent that Kirchheiner is held liable to a third party for such damage and such loss for which Kirchheiner pursuant to the second and third paragraphs under this item is not liable to the Purchaser.

After the take-over Kirchheiner shall not be liable for damages caused by the delivery:

- a) to real and personal property occurring while the delivery is in the Purchaser's possession
- b) to products manufactured by the Purchaser or products in which such are included or damages to real and personal property caused by these products as a consequence of the delivery.

Kirchheiner shall under no circumstances be liable for any operating losses, loss of earnings or other financial consequences.

In the case of loss of or damage to data carriers, Kirchheiner's liability to pay damages shall not comprise costs for recreation of lost data.

Kirchheiner's liability for damage to property, including damage to real property, shall be limited to DKK 10 million.



The aforesaid limitation of Kirchheiner's liability shall not apply in the case of gross negligence on the part of Kirchheiner.

If a third party claims that one of the parties is liable in accordance with this item, this party shall notify the other party of such claim.

Kirchheiner and the Purchaser shall be mutually obligated to let themselves to be sued at the court trying the claim for damages made against one of the parties in connection with a damage or loss caused by the delivery.

## **8. Changes**

Product data in offers, prospectuses and drawings etc. are only directional and shall not be binding on Kirchheiner.

## **9. Ownership**

9.1. Drawings, descriptions, models etc. provided free of charge in connection with the offer shall remain the property of Kirchheiner. Such material may not in any way be abused or passed on to any third parties and shall be returned to Kirchheiner if the offer is not accepted.

9.2. If Kirchheiner delivers software, including programs and know-how, Kirchheiner shall retain all rights to its ideas and to the material prepared by Kirchheiner. The Purchaser shall only be entitled to use the material prepared by Kirchheiner to the extent agreed or presumed, and the material may not be passed on to any third parties unless so agreed with Kirchheiner.

## **10. Choice of law**

Any dispute arising out of or in connection with this agreement shall be subject to Danish law and at Kirchheiner's discretion be subject to either the rules of Danish courts of arbitration (Regler for behandling af sager for Den almindelige Voldgiftsret i Danmark) or to the jurisdiction of the Maritime and Commercial Court in Copenhagen.

October 2004