



## GENERAL TERMS & CONDITIONS OF DELIVERY

### 1. Application

**1.1** These General Terms & Conditions of Delivery (hereinafter referred to as “**Terms**”) shall apply to all contracts, including but not limited to future contracts, with entrepreneurs, legal persons under public law and special funds under public law (hereinafter referred to as “**Purchaser**”) on deliveries and other services, with the inclusion of contracts to produce a work, wage labour operations and the delivery of fungible and non-fungible things, by KNIPEX-Werk C. Gustav Putsch KG, Oberkamper Str. 13, 42349 Wuppertal (hereinafter referred to as “**KNIPEX**”). Any General Terms & Conditions of the Purchaser shall apply only if and to the extent that these are explicitly confirmed by KNIPEX in writing. In particular, any silence by KNIPEX regarding any differing terms and conditions shall not be considered as any acknowledgement or consent, not even for any future contracts. The Terms shall apply in lieu of any General Terms & Conditions of the Purchaser, even if any acceptance of order is provided for thereunder as unconditional acknowledgement of the Purchaser’s General Terms & Conditions. In cases of doubt, the German version of these Terms, retrievable at <https://www.knipex.de/allgemeine-geschäftsbedingungen-agb>, shall apply.

**1.2** Any individual agreements (e.g. master delivery contracts, quality assurance agreements) and/or any statements in any order confirmation shall take precedence over these Terms. In case of doubt, any commercial terms need to be interpreted in accordance with the Incoterms® 2020 issued by the International Chamber of Commerce (ICC) in Paris.

### 2. Contract Conclusion

**2.1** Offers by KNIPEX shall be non-binding; this shall also apply to any statements in any catalogues and the respective valid price list. Illustrations, statements of dimension and weight in printed matter, web offers and any other publications of KNIPEX shall prevail only approximately, unless exact conformity is required to ensure usability for the purpose provided for in the contract. They shall not be deemed to be guaranteed characteristics but descriptions or identifications of the product or service. Any deviations customary in the trade and any deviations which are the result of legal regulations or represent technical improvements, as well as any replacement of components by equivalent parts shall be deemed to be in accordance with the contract only to the extent that they have no negative impact on any usability for the purpose provided for in the contract.

**2.2** Any purchase order placed by the Purchaser for the goods shall be deemed to be a binding offer. Unless otherwise provided for in the purchase order, KNIPEX shall be entitled to accept such offer within four (4) weeks of receipt by KNIPEX.

**2.3** Order confirmations may be given either in writing or text form or by supply of the goods or notification of readiness for shipment (hereinafter referred to as “**Confirmation**”) to the Purchaser. Where notice of Confirmation is not given within the deadline for Confirmation set out in clause 2.2, the contract on the confirmed/delivered goods shall be deemed to have been accepted, unless the Purchaser objects within two weeks from receipt of the (belated) notice of Confirmation or, where the goods are supplied without any order confirmation being sent beforehand, accepts the goods and fails to object within two weeks after receipt. The same shall apply in case of any deviations in the order confirmation and/or delivery of goods, e.g. due to any packaging units used, compared to the purchase order.

**2.4** The Purchaser shall comply strictly with any and all nationally or internationally applicable import or export provisions, obtain the necessary approvals, where appropriate, and provide in due course any information and document required in the respective country of delivery for export, shipment or import. Any agreed Delivery Times (clause 4), where appropriate, shall become obsolete by any delays due to any export checks or approval procedures. In this case, KNIPEX and the Purchaser shall mutually agree on reasonable new deadlines. Where any necessary approvals are not granted within a period of 6 calendar weeks following the delay, the contract shall be deemed to not have been concluded with respect to the goods concerned. Where the Purchaser culpably violates this clause 2.4 sentence 1, the Purchaser shall, upon first demand, indemnify KNIPEX from any and all claim and reimburse KNIPEX for any damage asserted by any upstream suppliers or licensors of KNIPEX, third parties or state and/or international authorities or organisations towards KNIPEX. The same shall apply to any damage and expense incurred by KNIPEX.



### 3. Custom-Made Products

Where KNIPEX and the Purchaser enter into any contract on the delivery of goods and/or packaging (beyond series production) custom-made upon the Purchaser's individual needs (hereinafter referred to as "**Custom-Made Product**"), KNIPEX shall be entitled to retrospectively make changes to the scope of delivery, provided that the changes or deviations are reasonably acceptable for the Purchaser, taking into account the interests of KNIPEX. Custom-Made Products shall also include any serial products or any packaging that is to be specially marked at the Purchaser's request. According to technical requirements KNIPEX may determine any technical or design features that have not been expressly ordered or specified.

### 4. Delivery Time

**4.1** Any deadlines or dates stated by KNIPEX for delivery of the goods (hereinafter referred to as "**Delivery Deadlines**") shall be considered as approximately, unless any fixed deadline or date has been expressly agreed to by KNIPEX. Where dispatch was agreed, any Delivery Deadlines, unless expressly stated or agreed otherwise, shall relate to the time of handover to the carrier, freight forwarder or any other third party engaged to perform transport.

**4.2** Any and all Delivery Deadlines shall commence (a) on the day the purchase price is received in full (including VAT and shipping costs), where delivery on advance payment has been agreed, or (b) on the day the purchase contract is concluded, where payment by cash on delivery or on account has been agreed. Moreover, any Delivery Deadlines shall apply only subject to all details of the respective purchase contract being clarified and all obligations of the Purchaser being met in good time, e.g. provision of all regulatory certifications or presentation of letters of credit.

**4.3** Where any non-compliance with Delivery Deadlines is due to

- force majeure (e.g. war, acts of terror, civil commotion, pandemics, strike, lockout),
- any attacks by third parties on any IT systems of KNIPEX that cannot be prevented despite all due care,
- any impediments for which KNIPEX is not responsible due to any German or other applicable national or international legal regulation, embargoes or other sanctions or
- due to any – untimely and/or improper – supply to KNIPEX, unless said supply is caused by fault of KNIPEX,

any agreed Delivery Deadlines shall be extended accordingly to an appropriate extent. KNIPEX shall advise the Purchaser of the beginning and end of any such circumstances as soon as possible.

**4.4** KNIPEX shall be entitled to deliver partial quantities if

- the partial quantity is sellable for the Purchaser in line with the purpose intended under the contract,
- delivery of the remaining ordered goods is secured and
- the Purchaser does not incur any significant additional effort and expense or any significant additional costs.

**4.5** Where any binding Delivery Deadlines cannot be complied with for any reason for which KNIPEX is not responsible, KNIPEX shall inform the Purchaser thereof without undue delay whilst advising the Purchaser of the anticipated new Delivery Deadline. If said reason still exists regarding the new Delivery Deadline either, KNIPEX shall be entitled to withdraw from the contract in whole or in part; payments or other contributions already rendered by the Purchaser shall be reimbursed without undue delay. Reasons for which KNIPEX is not responsible in sense of this clause 4.5 shall include but are not limited to cases specified in clause 4.3.

**4.6** If KNIPEX defaults on any Delivery Deadline, the Purchaser may demand compensation for the damage caused by default besides delivery in accordance with clauses 10.1 and 10.2. In case of ordinary negligence, however, said compensation shall be limited to an amount equal to 0.5% for each completed week of delay and a total maximum amount of 5% of the purchase price agreed for the



delayed delivery. The Purchaser's right to claim damages instead of delivery in accordance with clauses 10.1 and 10.2 shall remain unaffected.

## **5. Passing of Risk, Shipping Method, Default of Confirmation**

**5.1** The risk of accidental destruction and of accidental deterioration of the goods as well as the risk of delay for mail-order transactions, including for any deliveries free domicile, shall pass to the Purchaser with the goods being handed over to the haulier or freight forwarder, but no later than with the goods leaving the warehouse or works. In case of any delay in or failure of shipment for any reasons for which the Purchaser is responsible, the risk shall pass to the Purchaser from that day onwards on which the goods are ready for shipment and KNIPEX has advised the Purchaser thereof.

**5.2** The type of both packaging and transport shall be determined as KNIPEX reasonably sees fit.

**5.3** If the Purchaser is in default of acceptance of delivery or fails to perform any act of cooperation or any delivery is delayed for any other reasons for which the Purchaser is responsible, KNIPEX shall be entitled to demand compensation for damage suffered therefrom, including but not limited to extra expenditures (e.g. warehousing costs). KNIPEX shall be entitled to bill a lump-sum compensation in the amount of 1% of the invoice amount for each commenced month of delay. However, the proof of any higher damage by KNIPEX and the claims by law (in particular reimbursement of extra expenditures, reasonable compensation, termination) shall remain unaffected. The Purchaser may prove that KNIPEX has incurred no or significantly lower damage. The Purchaser must not refuse any receipt of deliveries due to any insignificant defects.

## **6. Prices and Terms of Payment**

**6.1** Unless otherwise agreed, the list prices of KNIPEX valid on the day of Confirmation shall apply. The prices are EXW Wuppertal, Germany (Incoterms® 2020), plus statutory VAT, as well as, for export deliveries, plus customs duties, charges and any similar public dues. Any agreed extra or special services, where appropriate, shall be billed additionally.

**6.2** Unless expressly agreed otherwise, any payments are to be effected in line with the payment terms stated on the invoice as of the date of the invoice, otherwise immediately net. KNIPEX must be able to dispose of the amount on the due date.

**6.3** Payments may be effected only by bank transfer or SEPA direct debiting procedure.

**6.4** In case of default of payment, the outstanding amounts shall be subject to 8% interest p. a. from the due date, with the assertion of any higher interest rates and further damage in case of default remaining unaffected.

**6.5** If it becomes apparent after conclusion of the contract that any payment claims of KNIPEX will be at risk due to any insufficient ability of the Purchaser to perform, or if any other circumstances arise, implying that the Purchaser's ability to perform will deteriorate considerably, KNIPEX may refuse supply according to § 321 German Civil Code. This shall also apply to the extent that the duty to perform (in particular payment of the purchase price) is not yet due.

**6.6** Any offsetting against any counterclaims of the Purchaser or any withholding of payments on account of any such claims shall be admissible only to the extent that the counterclaims are uncontested or have been finally and non-appealable established or result from the same order under which the delivery in question has been performed.

## **7. Retention of Title**

**7.1** Title to the goods delivered shall remain with KNIPEX until the purchase price (including VAT, shipping costs) has been paid in full (hereinafter referred to as "**Reserved Goods**").

**7.2** Moreover, title to the goods delivered shall remain with KNIPEX until any and all claims, in particular the respective balance claims due to KNIPEX as part of the business relationship (balance reservation), have been met (hereinafter likewise referred to as "**Reserved Goods**"). This shall also apply to any claims arising in future and any conditional claims, including if any payments are effected on any specifically designated claims. This balance reservation shall finally lapse with all claims still outstanding



at the time of payment and covered by this balance reservation have been settled. The balance reservation shall not apply, however, to any advance payment or cash transactions in terms of § 142 German Insolvency Code. Where requested by the Purchaser, KNIPEX shall at its own discretion release the Reserved Goods as well as the things or claims taking their place to the extent that their value exceeds the amount of the secured claims by more than 20%.

**7.3** The Reserved Goods must be neither pledged nor assigned as security to any third parties before the secured claims have been paid in full. In case of any attachments, seizures or any other dispositions or interventions by third parties, the Purchaser shall refer to the title of KNIPEX and shall inform KNIPEX thereof without delay to enable KNIPEX to enforce any titles. Where the third party is unable to reimburse KNIPEX for the court and out-of-court costs arising in this context, the Purchaser shall be liable towards KNIPEX for these.

**7.4** Until revoked and except for the cases set out in clause 7.3, the Purchaser shall be authorised to process and sell the Reserved Goods in proper business transactions.

**7.5** Any reworking and processing of the Reserved Goods shall be effected for KNIPEX as manufacturer in terms of § 950 German Civil Code, without incurring any obligation on KNIPEX. Where the Purchaser processes, combines or intermixes the Reserved Goods with any other goods, co-title to the new goods shall be in proportion of the invoice value of the Reserved Goods to the invoice value of the other goods used. In the event that the title of KNIPEX lapses by any combination or intermixture, the Purchaser shall already now transfer to KNIPEX the titles due to the Purchaser to the new stock or the thing to the extent of the invoice value of the Reserved Goods and shall keep them safe with the due care and diligence exercised by a prudent businessperson and free of charge for KNIPEX. Furthermore, the co-titles of KNIPEX shall also be deemed to be Reserved Goods in terms of clause 7.2.

**7.6** The claims arising from the sale of the respective Reserved Goods shall already now be assigned by the Purchaser to KNIPEX by way of security in full or in the amount of any co-title share of KNIPEX (see clause 7.5) together with any and all securities acquired by the Purchaser for the claims. KNIPEX hereby accepts the assignment. The same shall apply to any other claims that take the place of or arise otherwise regarding the Reserved Goods, such as insurance claims or claims from tort in case of loss or destruction. KNIPEX revocably authorises the Purchaser to collect in the Purchaser's own name the claims assigned to KNIPEX. This authorisation shall lapse when revoked by KNIPEX, such revocation being possible in case of any breach of contract, in particular any default of payment by the Purchaser.

**7.7** If KNIPEX lawfully withdraws from the contract in case of any breach of contract, in particular default of payment, by the Purchaser, KNIPEX shall be entitled to demand surrender of the Reserved Goods.

## **8. Industrial Property Rights**

**8.1** KNIPEX reserves title and/or copyright to all offers and cost estimates submitted by KNIPEX as well as to all drawings, illustrations, calculations, leaflets, catalogues, samples, models and other documents and aids provided to the Purchaser. The Purchaser must not make these objects or their contents accessible to any third parties, make them public, use or reproduce or allow any third party to use or reproduce them without explicit consent by KNIPEX. Where requested by KNIPEX, the Purchaser must return these objects and information in full and has to destroy any copies made of them, where appropriate, once the Purchaser no longer needs them in proper business transactions or if no contract is concluded following any negotiations.

**8.2** Any right by the Purchaser to use the name of KNIPEX or any KNIPEX product designations for any web domains shall exist besides the legal regulations only where and to the extent that KNIPEX expressly grants the Purchaser any such right by written declaration.

**8.3** Unless expressly agreed otherwise, KNIPEX shall merely be obliged to perform delivery of the goods in the country of the place of delivery without infringing any industrial property rights and/or copyrights of third parties (hereinafter referred to as "IPR").

**8.4** The Purchaser shall advise KNIPEX in writing without undue delay if any claims are asserted against the Purchaser on account of any infringement of IPR to the goods delivered by KNIPEX. In case that any IPR of third parties is infringed by the goods delivered due to any circumstance for which the



Purchaser is not responsible, KNIPEX shall, at its own option and expense, modify or exchange the goods delivered such that any rights of third parties will no longer be infringed, but the goods delivered continue to fulfil the functions contractually agreed, or shall get the Purchaser the right of use by entering into a licence agreement with the third party. If KNIPEX fails to do so within a reasonable period, the Purchaser shall be entitled to withdraw from the contract or to reduce the purchase price appropriately. Any damage claims of the Purchaser shall be subject to the restrictions of clause 10.

## **9. Warranty, Defects**

**9.1** Subject to this clause 9, warranty (including but not limited to incorrect and short delivery as well as improper assembly/installation or inadequate instructions) shall be governed by applicable law. In any case, the legal regulations regarding reimbursement of expenses in case of final delivery of any newly manufactured goods to a consumer (supplier recourse under §§ 478, 445a, 445b or §§ 445c, 327(5), 327u of the German Civil Code) shall remain unaffected, unless any equivalent compensation has been agreed, e.g. as part of any quality assurance agreement.

**9.2** Basis of the liability of KNIPEX for defects shall, first of all, be the agreement reached on the quality and the presupposed use of the goods (including accessories and instructions). A quality agreement in this sense shall be deemed to be all product descriptions and manufacturer's specifications which are the subject-matter of any individual contract or had been announced publicly by KNIPEX (in particular in catalogues or on the Internet on the KNIPEX website) at the time the contract is concluded. To the extent that any specific quality had not been assured or separately agreed in any materials distributed or other publications made by KNIPEX, it needs to be assessed pursuant to the legal regulation whether any defect exists or not (§ 434(3) of the German Civil Code). KNIPEX shall not be liable for any (public) statements by any third parties in this respect.

**9.3** For any goods with digital elements or any other digital contents, KNIPEX shall owe any provision and, where appropriate, any updating of the digital contents only to the extent that this follows explicitly from any quality agreement under clause 9.2. KNIPEX shall not be liable for any (public) statements by any third parties in this respect either.

**9.4** The limitation period for all claims for defects, including damages claims, shall be one year from delivery. This shall not apply to the extent that any longer periods prescribed by mandatory law apply, e.g. in cases of any injury to life, body or health, any breach of duty by KNIPEX by wilful intent or gross negligence, any fraudulently concealed defect or any non-compliance with any quality guarantee. The legal provisions on suspension of expiry, suspension and recommencement of the periods shall remain unaffected.

**9.5** Any assertion of claims for defects by the Purchaser shall be subject to the Purchaser having complied with the Purchaser's legal duties to inspect and to claim defects (§§ 377, 381 of the German Commercial Code). If any defect becomes evident at the time of delivery or inspection or at any later point in time, KNIPEX needs to be advised thereof in writing without delay. This shall also apply to any goods intended to be built in, attached or installed, even if the defect arising from the breach of any of these duties became apparent only after the corresponding processing; in this case, the Purchaser shall not have any claims to reimbursement of corresponding costs. Where any shortages are established, gross and net weight of the shipment need to be determined and copies of the delivery notes and freight documents need to be sent, otherwise KNIPEX will not be able to handle the process.

**9.6** In case of delivery of defective goods, KNIPEX may first choose within a reasonable deadline whether subsequent improvement or replacement delivery will be performed; the Purchaser may reject any type of remedy chosen by KNIPEX that is unreasonable for the Purchaser in an individual case. The right of KNIPEX to refuse remedy according to German Civil Code shall remain unaffected.

**9.7** The Purchaser shall give KNIPEX the time and opportunity required to perform remedial work. In case of a defect, the Purchaser shall keep the goods ready for inspection. Where requested by KNIPEX, the Purchaser shall send the defective goods to KNIPEX free of any transport cost. KNIPEX will reimburse the costs of the least expensive shipping method where the notice of defects is justified.

**9.8** If any reasonable deadline to be set by the Purchaser for remedial work expired or is dispensable pursuant to the legal regulations, the Purchaser may withdraw from the contract or reduce the purchase





price pursuant to the legal provisions. No right of withdrawal shall exist, however, in case of any insignificant defect.

**9.9** In case of any defects, any claims of the Purchaser for damages or reimbursement of cost shall be governed by clause 10 below and shall otherwise be excluded.

## **10. Liability for Damages**

**10.1** KNIPEX shall be liable for damages on account of any breach of contractual and non-contractual duties, including for any executives and any other persons used to perform an obligation, only in case of intent or gross negligence. Moreover, any liability by KNIPEX in case of slight negligence shall be limited to foreseeable damages typical for the contract. Other than that, any liability, including for any indirect damage or consequential damage shall be excluded.

**10.2** The above limitations shall not apply in case of any culpable violation of material contractual duties. The above limitations shall further not apply in case of any culpably caused damage to life, body or health, or in case and to the extent that KNIPEX has accepted any guarantee for the quality of the delivered goods or in any cases of mandatory liability, e.g. under the German Product Liability Act.

**10.3** KNIPEX shall bear reasonable expenses in connection with remedy of defects, in particular reasonable in proportion to the purchase price of the goods, but in no case more than 100% of the purchase price. KNIPEX shall bear any further expenses, e.g. sorting costs, only in accordance with clauses 10.1 and 10.2 above. This shall apply without prejudice to any mandatory legal regulations.

## **11. Return Shipments**

**11.1** KNIPEX shall not be obliged to accept return shipments of any non-defective goods, unless this has been expressly agreed with the Purchaser beforehand or KNIPEX has given its prior consent.

**11.2** Where any goods are taken back in line with clause 11.1 above, the Purchaser shall receive a credit note for any resaleable goods in their original packaging in the amount of 80% of the calculated (net) price. Any costs for any refurbishment and repackaging shall be additionally deducted from the credit note amount based on the expenses incurred. The credit note may be offset only against deliveries of new goods. Any isolated tools may basically not be taken back for reasons of safety.

## **12. Code of Conduct and Act on Corporate Due Diligence Obligations in Supply Chains**

**12.1** KNIPEX has adopted a comprehensive Code of Conduct. Accordingly KNIPEX is obliged, among others, to ensure ecological and social responsibility. The Code of Conduct shall be provided to the Purchaser upon request. Any codes of conduct published (irrespective of how and where) or directly sent to KNIPEX by the Purchaser are not binding to KNIPEX, unless this has been separately agreed to in writing. Any silence by KNIPEX regarding any code of conduct of the Purchaser or third parties shall not be regarded as its acknowledgement or acceptance either.

**12.2** Beginning of 2024 KNIPEX is obliged to comply with the Act on Corporate Due Diligence Obligations in Supply Chains. Any individual requests of the Purchaser for information or adherence to that end shall hence not be required and will not be responded to by KNIPEX.

## **13. Place of Performance, Place of Jurisdiction and Applicable Law**

Place of performance, including but not limited to any duties of the Purchaser, shall be Wuppertal. Place of jurisdiction for all disputes arising out of or in connection with any and all contractual relationship between the Purchaser and KNIPEX shall be Wuppertal. At its own discretion KNIPEX may also sue the Purchaser at its registered seat. All legal relationships between KNIPEX and the Purchaser shall be governed by German law to the exclusion of any conflict of laws principle and to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

## **14. Miscellaneous**

Unless otherwise agreed, any legally relevant statements and notices by the Purchaser in relation to the contractual relationship (e.g. setting of deadlines, notice of defects, withdrawal or reduction) need to be made or given in writing in terms of § 126 of the German Civil Code. Any legal formal requirements and any further proofs, in particular in case of any doubts as to the declarant's legitimation, shall remain unaffected.



(Effective: 12/2022)