

December 2015

The following General Terms and Conditions of Purchase shall apply to all transactions ("**Purchase Order**") between KSB Philippines, Inc. (as "**KSB**") and the supplier (as "**Supplier**").

## 1. General

1.1 All supplies and services shall be effected exclusively on the basis of these General Terms and Conditions of Purchase. Any deviations shall be subject to the express written approval of KSB. Any references by the Supplier to its own Terms and Conditions of Sale and Delivery are herewith expressly excluded.

1.2 These General Terms and Conditions of Purchase shall also apply to all future business with the Supplier, even if this is not expressly agreed again.

1.3 Quotations shall be without charge and subject to confirmation and, therefore, do not constitute an obligation of any kind on KSB. The Supplier shall include in its quotation only the required supplies or services detailed in KSB's inquiry.

1.4 Purchase orders, agreements and any modifications or amendments shall not be binding on KSB unless submitted or confirmed by KSB in writing.

## 2. Prices

2.1 The purchase price includes all costs for full and complete performance according to the Purchase Order ("**Purchase Price**"). KSB is not obliged to accept any increases for packaging, delivery, dispatching, invoicing, small-scale delivery, fuel, daily allowance or any other increases relating to the supplies / services or the Purchase Order.

2.2 The Supplier warrants that the Purchase Price charged for the supplies or services are the lowest price charged by the Supplier to buyers of a class similar to KSB purchasing in quantities and under circumstances comparable to those specified in the Purchase Order.

2.3 The Supplier shall be liable for all taxes, assessments, charges or other payments to the authorities levied, assessed or imposed on a party or third party in any country as a result of the sale, delivery or conveyance of the supplies / services (except for value added tax levied on the sale of the supplies / services, if any, which shall be added to the Purchase Price), and shall indemnify and hold KSB and its group companies harmless for and against any such taxes, assessments, charges or other payments to the authorities. Each party shall be responsible for its own tax obligations towards the authorities.

## 3. Delivery Time, Part Deliveries, Liquidated Damages

3.1 The Supplier shall comply with the agreed delivery dates or delivery periods. Compliance with the delivery date or delivery period shall be determined on the basis of the receipt of supplies / services at the point of reception or point of use specified by KSB. Supplies and services shall only be deemed as having been supplied in full and on time if they have the agreed characteristics and are supplied with the agreed guarantees. The Supplier can only invoke the defense of a failure on the part of KSB to provide necessary documents to be supplied by KSB if the Supplier fails to receive the documents within a reasonable period after sending KSB a written reminder.

3.2 Part deliveries or part services are only allowed subject to the prior written consent of KSB.

3.3 If the Supplier becomes aware that agreed deadlines cannot be met, the Supplier shall inform KSB in writing, stating the reasons for and the expected duration of the delay.

3.4 If delivery of the supplies / services, part thereof or its related documents are delayed from the agreed delivery time for a reason not attributable to KSB, the Supplier is obliged to pay KSB liquidated damages in the amount of one per cent (1%) of the Purchase Price for each week of delay up to a maximum amount of ten per cent (10%) of the Purchase Price. KSB is entitled to such liquidated damages regardless of whether the delay has resulted in damage or harm to KSB. KSB is entitled to set off the liquidated damages against any invoice or receivable (claim for damages or any other receivable) that the Supplier might have against the KSB. Payment of liquidated damages does not release the Seller from its responsibility to deliver the Commodity. All rights to claim compensation for actual damage caused by delay in addition to the above-mentioned liquidated damages shall be reserved.

## 4. Quality Assurance, Right to Inspect or Test and Notice of Defect

4.1 The Supplier warrants that all supplies and services supplied shall, where applicable:-

- (i) conform with the quantity, quality, specifications, description and any other particulars contained in the Purchase Order;
- (ii) conform with any sample, design criteria, drawing, description and specification furnished by KSB and other requirements described or referenced in the Purchase Order;
- (iii) be of satisfactory quality, merchantable and fit for any intended use expressly or impliedly made known to the Supplier and free from all defects, liens, encumbrances and other claims against title; and
- (iv) comply with the performance specifications in the Purchase Order.

4.2 The Supplier shall have a quality management system in place. The supplies / services shall be performed in accordance with the state of the art and in compliance with the latest applicable regulations.

4.3 KSB shall have the right to check contract performance and the quality assurance measures taken by the Supplier. For this purpose KSB shall have the right to visit the Supplier's production site during normal business hours following advance notification of the intended visit. KSB and the Supplier shall each bear their own costs incurred for this inspection.

4.4 If KSB's inspection and test plan stipulates that KSB witness certain inspections or tests, the Supplier shall give at least 10 days' notice of readiness for inspection / testing and fix the date of inspection / testing jointly with KSB. If the inspection or test does not take place on the agreed date for reasons within the Supplier's control, or if defects of the product make it necessary to repeat earlier or conduct new inspections / tests, KSB shall be entitled to recover from the Supplier the expenses incurred in this respect.

4.5 If the Supplier has to furnish material certificates and/or inspection / test certificates, the Supplier shall bear the cost thereof unless otherwise agreed. The material certificates and/or inspection and test certificates or an adequate interim certificate must be available at the time of delivery.

4.6 Inspections / testing and the presentation of relevant evidence or certificates shall not affect the contractual or legal rights of KSB to lodge claims based on defects.

4.7 Within ten days after delivery, KSB shall inspect the products for their identity, visible external damage, product identification /

marking, outer appearance and deviations from the ordered quantity only. KSB shall immediately notify the Supplier of any other defects as soon as they are discovered.

## 5. Shipping and Packaging

5.1 Dispatch shall be delivered duty paid (DDP as per INCOTERMS 2010), including packaging, to the named point of destination. Each consignment shall be accompanied by a delivery note and a packing slip. The Purchase Order number, Purchase Order item, order number and full details of the point of destination and recipient shall be indicated in all shipping documents and on the outside of the packaging.

5.2 If, in contrast to the above, the agreed shipping mode is EXW (ex-works) as per INCOTERMS 2010, the Supplier shall use the forwarding agent named in the Purchase Order. If KSB does not specify a particular forwarding agent or method of shipment, then the supplies shall be shipped at the lowest shipping cost in packaging appropriate for the method of shipment. Any additional expenses caused by the non-observance of shipping instructions or by an express delivery arranged to meet the agreed delivery date shall be borne by the Supplier. Shipments EXW (ex-works) are covered by KSB's transport insurance. Additional transport insurance cover taken out by the Supplier will not be reimbursed by KSB.

## 6. Transfer of Risk and Title

Risk and title to the item(s) supplied shall pass to KSB upon arrival of the supplies at the point of receipt, or, in the case of supplies comprising assembly or installation as well as in the case of work / services performed upon formal acceptance by KSB. The Supplier shall guarantee that there are no retentions of title or third-party rights to the supplies / services. The Supplier acknowledges that the supplies and/or services may be on sold to an end user by KSB and warrants that KSB will be able to supply the end user with good title.

## 7. Claims Based on Defects / Warranty

7.1 The Supplier shall be liable to ensure that the supplies and services are free from defects, have the agreed characteristics, are provided with the agreed guarantees, are suitable for the intended use, are in accordance with the state of the art, meet the generally accepted regulations issued by the authorities and trade associations with regard to technical safety and occupational health and safety, and meet the relevant legal requirements. If the subject-matter of the supply contract is a machine, device or system, the item(s) supplied shall meet the special safety regulations for machinery, devices and systems valid at the time of contract performance.

7.2 The warranty period shall be twenty four (24) months from the transfer of risk or Supplier's warranty period, whichever is longer. A new warranty period equal in length to the original warranty period shall be given on the same terms and conditions in respect of repaired or redelivered supplies / services or any part thereof.

7.3 If KSB lodges a claim based on a defect, KSB shall have the right to demand, at its discretion, that the defect be rectified or the defective part be replaced, and to have the costs incurred for rectification or replacement reimbursed by the Supplier.

7.4 If the Supplier fails to immediately start with the remedial work or to supply goods free from defects after having been asked by KSB to subsequently fulfil its contractual obligations, KSB shall have the right in urgent cases, including but not limited to danger to life and limb, health hazards or extensive consequential damage, at its option, to carry out the repair itself, to have it carried out or to procure a substitute part elsewhere at the risk and expense of the Supplier. If subsequent contract performance within a reasonable period of time is not feasible, unsuccessful or cannot reasonably be expected, KSB shall have the right to demand withdrawal from the contract or a purchase price reduction as provided by law. In

addition, KSB reserves the right to claim damages as provided by law.

7.5 In dealing with the subsequent fulfilment of its contractual commitments, the Supplier shall make every effort to complete the task in accordance with KSB's interests. The Supplier's liability for defects shall also cover the cost of preliminary work incurred by KSB as a result of processing the items supplied before discovering the defect, as well as the cost incurred for identifying any defect(s).

## 8. Insurance and Liability, Including Product Liability

8.1 The Supplier shall take out and maintain, at its expense, adequate liability insurance cover for damage within its own or its agents' sphere of responsibility. Evidence of the amount insured for each damage event shall be provided at KSB's request. The Supplier's contractual or legal liability – on whatever legal grounds – shall in no way be affected by the scope and amount of insurance cover.

8.2 The Supplier shall indemnify and hold harmless KSB from and against any and all third-party claims based on extra-contractual product liability if and to the extent that the damage has been caused by a defect of the contractual products delivered by the Supplier or its sub-supplier(s). If and to the extent that the cause of damage falls within the sphere of responsibility of the Supplier or one of its sub-suppliers, the burden of proof shall be on the Supplier. All expenses and costs, including the cost of a precautionary recall action, shall be for account of the Supplier.

## 9. Withdrawal from the Contract

9.1 KSB reserves the right to withdraw from this contract in whole or in part if the Supplier ceases its payments or becomes insolvent and is in default with regard to its contractual performance hereunder. KSB shall also have the right to withdraw from the contract without the conditions for a delay in performance prevailing, if it is of vital importance for KSB to be able to rely on performance by the Supplier prior to the performance due date for reasons of long-term further commitments in connection with the ordered goods, and if it would, therefore, be unreasonable for KSB to have to wait until the delay in contract performance becomes fact.

9.2 KSB shall be entitled to cancel the Purchase Order in respect of all or part only of the supplies or services by giving notice to the Supplier at any time prior to delivery, in which event KSB shall pay a fair and reasonable sum for and accept delivery of all finished supplies manufactured by the Supplier and services properly rendered at the date of cancellation.

## 10. Patterns, Tools, Documents and Confidentiality

10.1 The Supplier shall supply any drawings, plans, calculations or any other documents to be provided to KSB hereunder in the agreed number of copies in due time so that the contractual periods of time provided for fulfilment of the contract can be met.

10.2 KSB's release of any of the said documents shall in no way affect the Supplier's scope of responsibilities.

10.3 Patterns, samples, tools and other manufacturing means and materials, as well as drawings, plans, calculations and any other documents directly or indirectly placed at the Supplier's disposal by KSB or created by the Supplier on behalf and for account of KSB, are and shall remain the exclusive property of KSB. The Supplier shall only use these manufacturing means and documents for the purpose of fulfilling this contract and shall not disclose them to any third party without the prior written consent of KSB.

10.4 The Supplier shall return to KSB or, at KSB's request, destroy all

patterns, samples, tools and any other manufacturing means or materials placed at the Supplier's disposal or fabricated by him according to KSB's special instructions, as well as all drawings, plans, calculations and any other documentation, including all copies and samples made. The Supplier shall have no right of retention.

#### 10.5

The Supplier shall keep confidential and otherwise protect from disclosure confidential information and any other knowledge about production and/or business processes at KSB acquired in the course of the contract's performance or gained in connection therewith, and to observe the copyright of KSB.

## 11. Invoice and Payment

#### 11.1

Invoices shall be submitted to KSB in two original copies. They shall include the KSB Purchase Order number, Purchase Order item and job number as well as all the information required for VAT purposes.

#### 11.2

KSB shall be entitled to reject invoices not complying with the above requirements.

#### 11.3

Payment terms shall be counted from the date of receipt by KSB of the invoice complying with the above requirements or, if payment is to be made on account, from the date entered as the receiving date.

#### 11.4

Payment shall be made subject to our inspection of the supplies or services supplied hereunder to establish whether they are free from defects, including but not limited to defects in respect of accuracy, quantity supplied and adequacy for the intended use as stipulated in the contract.

#### 11.5

The fact that payments are made shall neither be interpreted as acceptance by KSB of any conditions and prices, nor shall it affect KSB's right to lodge claims based on defects.

#### 11.6

Any entitlement of KSB to invoice correction shall be barred by the statute of limitations after ten years from the date of invoice.

## 12. Infringement of Industrial Property Rights

The Supplier shall ensure that KSB does not infringe on the industrial property rights of third parties by using the supplies and services supplied hereunder. The Supplier shall indemnify and hold harmless KSB from and against any and all claims involving the infringement or alleged infringement of industrial property rights. Licence fees, expenses or costs incurred by KSB for avoiding or eliminating any infringement on an industrial property right shall be for account of the Supplier.

## 13. Right of Retention, Set-off and Assignment

#### 13.1

KSB shall be entitled to offset payments and to exercise its right to refuse performance on the grounds of counter-claims, even if these originate from a different legal transaction. The Supplier herewith agrees that KSB's right to offset payments and to exercise its right to refuse performance shall also apply, if the counter-claim has been lodged by one of the KSB Group companies. KSB shall, on request, send the Supplier a list of all companies that are part of the KSB Group.

#### 13.2

The Supplier shall not be entitled to assign its contractual claims, neither in whole nor in part, to third parties without the prior written consent of KSB.

## 14. Sub-suppliers

The Supplier agrees not to transfer all or part of the performance of the purchase order to third parties without the prior written

consent of KSB.

## 15. Advertising

The Supplier shall disclose the existing business relations with KSB only with KSB's prior written consent.

## 16. Compliance

#### 16.1

As laid down in its Code of Conduct and Corporate Guidelines on Prevention of Corruption, KSB and its employees are committed to professional and honest behaviour, which includes compliance with legal requirements and ethical standards. KSB expects similar behaviour from its Suppliers and other business partners. In the event of violations of statutory provisions by the Supplier, especially those involving corrupt or fraudulent acts, KSB shall be entitled to terminate the contract immediately and without notice. The right to claim damages is reserved.

#### 16.2

The Supplier agrees to comply with the relevant statutory regulations for dealing with employees, environmental protection and occupational health and safety, and when carrying out its activities to continuously reduce the adverse effects on human health and the environment.

## 17. Applicable Law and Place of Jurisdiction

#### 17.1

The contractual relationship shall be governed exclusively by the laws of Republic of the Philippines.

#### 17.2

The place of jurisdiction for any disputes arising out of or in connection with this contractual relationship shall be Manila, the Philippines. KSB shall further be entitled, at its option, to bring charges against the Supplier at the company's domicile or at the domicile of one of its branch offices.

#### 17.3

Save for KSB group of companies, the parties do not intend that any term of the Purchase Order should be enforceable, by any person who is not a party to the Purchase Order.