

**KITAGAWA-NORTHTECH INC.**  
**Terms & Conditions of Sale/Service**

Acceptance by the Customer of any quote or sale confirmation from KNI or service request by the Customer is expressly limited to these Terms & Conditions of Sale/Service (referred to herein as the "Terms & Conditions"). Acceptance of a quote or a sale confirmation, service request, or submission of a credit application referencing these Terms & Conditions (whether by express acceptance, issuance of a purchase order or other confirmation, or acceptance of the subject goods or services) shall constitute the acceptance by the Customer of these Terms & Conditions. The Customer requests that KITAGAWA-NORTHTECH INC. (referred to herein as "KNI") sells products, equipment, services, including repair services and/or parts, in consideration of which the Customer and KNI agree as follows:

**NO ORDERS OR SALE CONFIRMATIONS SHALL BE EFFECTIVE UNLESS APPROVED BY KNI AT ITS HEADQUARTERS IN SCHAUMBURG, ILLINOIS. NO ORDERS OR SALE CONFIRMATIONS SHALL BE ACCEPTED BY, OR BINDING UPON, KNI UNLESS SO APPROVED BY KNI IN ILLINOIS, BY WRITTEN OR ELECTRONIC CONFIRMATION.**

**Quotations**

1. Pricing is good for (60) days
2. New part# quoted (typically starting with "KUY") will be assigned a permanent # during design
3. See; "Delivery Dates" for additional terms; and
4. Unless otherwise stated, cost of hoses, fittings and brackets are not included in the quotes.
5. The total minimum order price is \$50.00

**Machine Drawings**

It is KNI's policy for Customers to supply their own machine drawings to KNI. At the request of the Customer, KNI may agree to attempt to acquire machine drawings from a third party. Unless otherwise agreed by KNI, any costs charged by the third party for such machine drawings will be paid by the Customer. In that case, and where KNI obtains such machine drawings from a third party, KNI will forward these machine drawings to Customer for Customer's review and approval. Failure of the Customer to object to any drawings sent by KNI within two (2) business days of receipt, shall constitute approval of the drawings by Customer - in which case, KNI may rely upon those machine drawings in its subsequent product manufacturing for Customer. The time necessary to acquire said drawings will not be included in the lead time quote from KNI but will be in addition to the quoted time.

**Customer Purchase Order**

All KNI sales are made pursuant to these Terms & Conditions and only to these Terms & Conditions. **These Terms & Conditions supersede the terms of any purchase order received by KNI from Customer. 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. Any response by KNI to any such purchase order, whether by document or by any action, shall be deemed a counteroffer on these Terms & Conditions, accepted by Customer when Customer accepts shipment of any of the products or equipment described herein.** Absence of a purchase order (i.e., 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 may not be included with product orders.

**Payment Terms**

The Customer shall pay, per the existing or applicable payment terms, the full amount of any outstanding balance shown on KNI's invoice. Special payment terms may apply if approved by KNI, in its discretion, upon receipt of the order, subject to Customer's credit rating and availability and type of services or items being purchased.

**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 safety devices recommended by KNI. KNI hereby expressly disclaims and excludes liability and 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 any manuals and instruction sheets furnished by KNI.

If the Customer fails to comply with the obligations set forth in these Terms & Conditions, 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 any KNI invoice or to comply with any other provisions of these Terms & Conditions and KNI elects to take legal action to collect or enforce it, the Customer shall pay all costs incurred by KNI including,

but not limited to, reasonable attorneys' fees, court costs or arbitration and arbitrator fees, deposition and transcript costs, sheriff's fees, special process server fees, expert witness fees, and bond costs.

### **Security Interest & Insurance**

The Customer hereby grants a security interest to KNI in all products or equipment purchased, as security for payment of the purchase price and collection costs, until the entire purchase price, and all such other related costs have 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 and maintain insurance covering all risk of loss, theft, or damage, for said products or equipment. In the event of any such loss, any insurance claim under said insurance shall be paid to and is hereby assigned to KNI in the amount of the unpaid balance owing to KNI.

### **Delivery Dates**

All shipping dates, delivery dates and schedules are estimates only and may be revised from time to time by KNI 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 (i.e., Machine drawings, part drawings, signed approval drawings, etc.)
- 3.) Time necessary to set-up new accounts.
- 4.) Time in excess of the two (2) business days 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 by KNI upon receipt of the purchase order on subsequent business days.
- 6.) Lead Times are quoted in business days.
- 7.) Applicable supply chain and shipping delays or unavailability may delay shipping or delivery dates or make equipment or parts unavailable – in such instance KNI may delay or cancel orders upon notice to the Customer.

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

### **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.

Unless otherwise expressly agreed by KNI in writing, KNI is not responsible for the installation of the equipment. In cases where KNI agrees to provide supervision of the installation, KNI will provide a Service Technician for the purpose 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 will not exceed 1 to 2 days, unless otherwise agreed by KNI in writing.

Alternatively, where requested by Customer and agreed upon by KNI, in writing, KNI can provide a full-service installation. KNI's customary service charges shall apply in all cases. The customary service charge would include, without limitation: service rate, travel and per diem (where applicable).

### **KNI's Warranty**

A. **Limited Warranty**. KNI (referred to in this Limited Warranty as "Supplier") hereby warrants on behalf of itself and (unless otherwise specified by Supplier) all manufacturers of the Products:

- a) that all standard and custom products, including certain products manufactured by Kitagawa Corporation, (as well as other manufacturers) such as chucks, cylinders, and steady rests (the 'Products'), shall be free from all defects in material and workmanship at the time of delivery to the end-user purchaser (hereinafter, the 'Purchaser'). Subject to the exceptions set forth in sub-paragraphs b) and c) below, Supplier shall, for a period of twelve (12) months after delivery of the Products to Purchaser, repair or replace any defective Products. During the warranty period, any Products claimed to be defective shall be returned to Supplier at Purchaser's cost and expense for inspection and analysis. Any Products found to be defective by Supplier, will, at Supplier's exclusive option, be repaired or replaced at Supplier's expense or Supplier will reimburse Purchaser within thirty (30) days after the return and inspection and verification of the defect by Supplier.
- b) For any part or component that is deemed by Supplier to be a standard 'wear item,' or which regularly comes into contact with another part or component, or which is a gripping product, Supplier's obligation to repair or replace a defective Product, pursuant to its Limited Warranty, shall be limited to a period of 90 days after delivery of the Products to Purchaser.

c) In certain limited instances, and as defined by Supplier, where Purchaser can establish to Supplier's satisfaction, that the Products were not installed by Purchaser for up to sixty (60) days after delivery, Supplier's twelve (12)-month or ninety (90) day obligation to repair or replace a defective product, shall commence upon date of the Product's installation, but in no event shall the installation date be considered to have occurred more than sixty (60) days from the date of delivery.

**B. Limitations.** SUPPLIER'S WARRANTY HEREIN IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES OF SUPPLIER AND/OR THE MANUFACTURER OF THE PRODUCTS, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE CREATED UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, AND ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE. IN NO EVENT SHALL SUPPLIER, OR THE MANUFACTURER, BE LIABLE (AND PURCHASER SHALL NOT ASSERT ANY CLAIM) FOR SPECIAL, INCIDENTAL, COMPENSATORY, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS.

IN ADDITION, THIS WARRANTY SHALL NOT APPLY TO ANY PRODUCTS OR PORTIONS THEREOF WHICH HAVE BEEN SUBJECTED TO ABUSE, MISUSE, IMPROPER INSTALLATION, MOUNTING, MAINTENANCE OR OPERATION, ELECTRICAL FAILURE OR ABNORMAL CONDITIONS; OR TO PRODUCTS THAT HAVE BEEN TAMPERED WITH, ALTERED, MODIFIED, DAMAGED, REPAIRED OR REWORKED BY ANYONE NOT APPROVED BY SUPPLIER.

PURCHASER'S SOLE AND EXCLUSIVE REMEDIES UNDER THIS WARRANTY SHALL BE LIMITED, AT SUPPLIER'S EXCLUSIVE DISCRETION, TO: (1) REPLACEMENT OF ANY DEFECTIVE PRODUCTS OR PART THEREOF; OR (2) REPAIR OF ANY DEFECTIVE PRODUCTS OR PART THEREOF. IN NO EVENT SHALL SUPPLIER'S LIABILITY HEREUNDER OR OTHERWISE ARISING RELATIVE TO THE SALE OF THE PRODUCTS, INCLUDING BY OPERATION OF LAW, EXCEED IN ANY EVENT OR UNDER ANY THEORY OR CAUSE OF ACTION, THE PURCHASE PRICE PAID BY PURCHASER FOR THE DEFECTIVE PRODUCT(S).

**C. Warranty Claims Process.** Warranty claims made to Supplier will be resolved primarily via telephone. If Supplier is requested to make a service call to resolve a warranty claim, a purchase order for payment by Purchaser will be required to cover the cost of the service call, the service engineer's travel expenses and a *per diem* cost. If Supplier, in its sole and exclusive discretion, determines the alleged issue is not a valid claim under this Limited Warranty, then the cost of such service charge will be charged against the purchase order and will be invoiced and due and payable accordingly. If found to be a valid claim, the purchase order will be returned, and no charge for the warranty repair service charge will be made to the Purchaser.

Scheduling of warranty work is to be upon mutual agreement between the Purchaser and Supplier, but Purchaser should expect at least a 72 business-hour, advanced scheduling period.

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

#### **Repair Services - Limited Warranty**

KNI hereby warrants that all Repairs it provides to customers shall be performed in a good and workmanlike manner in accordance with accepted trade practices. This Repair Service Warranty shall be effective for ninety (90) days from the substantial completion of KNI's work, except there is no warranty of any kind on existing parts or components supplied by Customer. This Repair Service Warranty does not cover ordinary wear and tear on any parts, regardless of whether such parts are supplied by KNI. Customer shall notify KNI within twenty-four (24) hours of discovery of any concern with repaired goods. KNI shall, at its option, either attempt to correct any defective repair, or refund the repair charge to the Customer. Failure of Customer to notify KNI as set forth herein, shall void any and all warranties. In any event, the Limitations set forth above in KNI's Products Limited Warranty shall apply to this Repair Service Warranty. THIS IS THE ONLY WARRANTY PROVIDED BY KNI TO CUSTOMERS FOR REPAIRS PERFORMED BY KNI. NO WARRANTIES SHALL APPLY IF KNI IS NOT PAID IN FULL FOR ALL REPAIR SERVICES IT PERFORMS, INCLUDING THE COSTS OF ALL PARTS SUPPLIED.

#### **Overdue Accounts**

NON-PAYMENT - Customers are billed per the existing or applicable terms. Accounts that have invoices past due will be placed on credit hold. Frequent delinquencies by the Customer will result in a "COD Only" status for that account, requiring payment in full at or before goods are delivered or services rendered.

#### **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 therewith. 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 IN THE LIMITED WARRANTY SHOWN ABOVE.

**Return Material Authorization**

If Customer wishes to return an item(s) to KNI, Customer must contact and receive approval for that return from a KNI representative within 30 days of initial receipt of that item by Customer. An RMA Number and Return Material Authorization Form (provided by KNI) must accompany the returned item(s). This RMA number must appear on all paperwork. Any item returned without an RMA Number may be refused. All returned items are subject to a restocking charge. No credit will be issued for items returned 90 or more days after shipment. Restocking fees, the greater of 20% of the sale price, or \$50.00, will be required. 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 KNI Operations personnel.

**Freight Terms**

Freight terms are Ex Works.

**Entire Agreement**

The parties agree that the KNI Quote, Sales Order Acknowledgement and Invoice , and these Terms & Conditions, when taken together, are the entire agreement and that no oral representation or agreement has been made which would modify this agreement or be 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. If a conflict exists between, the Quote, the Sales Order Acknowledgement, or Invoice and the Terms & Conditions, the Terms and Conditions shall apply.

**Controlling Law and Consent to Jurisdiction and Venue and Arbitration**

All sales of Products and services by KNI shall be deemed to have been made in and governed by the substantive laws of the State of Illinois, without regard to any choice-of-law provisions. Any claims relating to the sale of Products, or the services performed by KNI shall be asserted only in the state or federal Courts located in Cook County, Illinois, and all Customers and Purchasers of Products and services consent to the jurisdiction and venue of said Courts. Any controversy or claim arising out of or relating to the sale of Products, or the repair services performed by KNI or governed by these Terms and Conditions, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitration shall be held in Cook County, Illinois.