



KETTENWULF CANADA INC. TERMS AND CONDITIONS OF SALE

KettenWulf Canada Inc. ("**KettenWulf**") is offering for sale its products, equipment, gear and accessories (collectively and individually, the "**Product(s)**") identified herein, subject to the following terms and conditions (the "**Terms and Conditions**" or the "**Agreement**"). The Terms and Conditions set forth the legally binding terms with respect to the purchase of the Product(s). The Customer (as identified by purchasers of the Product(s) and/or services offered by KettenWulf) ("**Customer**"), in consideration of the mutual covenants, agreements and provisions set forth herein, hereby agrees that the purchase of the Product(s) offered by KettenWulf shall be subject to and in accordance with the following terms and conditions:

1. ORDERS FOR PRODUCT(S), APPLICABILITY

All Customer order(s) for Product(s) shall be subject to these Terms and Conditions and, if applicable, an authorized quotation issued by KettenWulf. Such order(s), if accepted by KettenWulf, shall have significance as a reference document only. The parties hereby agree that these Terms and Conditions shall govern and control the relationship between KettenWulf and the Customer, that these Terms and Conditions shall supersede the terms and conditions contained in a Customer-issued order, and that any deviation from these Terms and Conditions needs to be expressly agreed upon in writing by KettenWulf and the Customer. KettenWulf reserves the right to refuse orders in its sole discretion, or to accept such orders on a separate contract form, or to limit the types and amounts of the Product(s) ordered. Acceptance of or payment for any of the Products constitutes Customer's agreement to these Terms and Conditions and implies that the Customer renounces in full the application of its own general terms and conditions (of purchase), which are rejected by KettenWulf.

2. PRICES

Prices for the Product(s) shall be the then-current prices for such Product(s) in effect at the time of acceptance of an order by KettenWulf or in accordance with an authorized and valid KettenWulf quotation.

Prices are exclusive of all charges or levies of any nature including all federal, provincial, municipal or other governmental excise, sales, use, occupational or like taxes now in force or enacted in the future and, therefore, are subject to an increase in amount equal to any tax KettenWulf may be required to collect or pay upon the sale or delivery of Product(s) purchased. If a certificate of exemption or similar document is required in order to exempt the sale from sales or use tax liability, Customer will obtain and furnish evidence of such exemption at time of placement of order.

All prices are subject to adjustment on account of changes in specifications, quantities, shipment arrangements and the like or the inclusion of terms and conditions which had not been part of any valid price quotation issued by KettenWulf.

3. PAYMENT TERMS; REVOCATION OF CREDIT

Unless otherwise specified by KettenWulf in writing, payment terms shall be net thirty (30) days from date of invoice. In the case of late payments, KettenWulf shall be entitled to charge interest as follows: 2.5 % per annum or the legal statutory rate, whichever is higher, on all amounts due more than forty-five (45) days.

The obligation of KettenWulf to ship the Product(s) or otherwise perform hereunder shall be subject to the then-current credit terms and policies established by KettenWulf from time to time. Further, KettenWulf reserves the right at any time when, in its opinion and sole discretion, Customer's financial condition or other

circumstances warrants it, to revoke, alter or suspend any credit already extended, or to require full or partial payments in advance of any shipment or other performance, or to otherwise defer or decline to make shipments under this Agreement and the respective Customer order, and/or terminate this Agreement or any order accepted hereunder without liability to Customer except reimbursement for payments already made to the cancelled order.

4. SHIPMENT

All Products furnished hereunder shall be shipped ex works (EXW) (Incoterms 2010) KettenWulf Betriebs GmbH production plant, Kueckelheim, Germany, or Hangzhou Wulf Chain Co.,Ltd. production plant, Hangzhou, China, or such other location, all as determined by KettenWulf, whereupon the risk of loss, title in the Product(s) and responsibility for all transportation expenses shall pass to the Customer upon delivery to the carrier. Subject to KettenWulf's right to stop shipment of Products already in transit, such carrier shall thereafter be deemed to be acting for Customer regardless of the carrier used or the freight terms. Shipment will be made "best way," either prepaid or collect, as requested by Customer. If Customer requests prepaid shipment, actual charges incurred shall be billed by, and shall be due and payable to, KettenWulf in accordance with KettenWulf's regular payment terms. KettenWulf will not assume any liability in connection with such shipment, nor shall any carrier be its agent.

All shipping dates quoted or otherwise agreed to by KettenWulf are estimates only. KettenWulf will use its reasonable efforts to meet scheduled dates, but assumes no liability for failure to do so. In the event that an order remains in KettenWulf's warehouse for more than fourteen (14) days, KettenWulf has the right at its sole discretion to either: (i) deliver product to Customer and invoice Customer, or (ii) charge a restocking fee of 25% of the invoiced price and sell the Product(s) to third parties. Any extension beyond the fourteen (14) day period specified herein shall require the express written consent of KettenWulf.

5. SECURITY INTEREST

5.1 If the sale of Products is made on credit to a Customer in a province other than Quebec, to secure the full payment and performance by Customer of its liabilities and obligations to KettenWulf, KettenWulf reserves and Customer hereby grants to KettenWulf a purchase money security interest in (a) all Products sold to Customer, (b) all new goods manufactured by Customer into which the Products are integrated, and (c) any and all proceeds, debts, accounts, receivables, and claims from the resale of the Products which may be received by or due or owing to Customer from any third party. If the sale of Products is made to a Customer in Quebec, Customer hereby hypothecates in KettenWulf's favour, the Products described in the Agreement ("**Hypothecated Property**"), for an amount equal to the purchase price of the Hypothecated Property, plus an additional sum equal to twenty (20%) percent of the amount of the hypothec for purposes of guaranteeing the payment of interest and incidental charges that are not already guaranteed by the amount of the hypothec. The hypothec is granted to secure payment of the balance of the purchase price of the Hypothecated Property and all other obligations of Customer to KettenWulf hereunder and pursuant to the Agreement.

5.2 Customer shall be in default under the Agreement, and the security interest or hypothec created hereunder shall become enforceable if: (a) Customer fails to pay the balance of the invoice value when due; (b) Customer is in default of any other obligation arising from this Agreement and fails to remedy such default within seven (7) calendar days following a written notice by KettenWulf; (c) Customer enters into any composition or similar general arrangement (formal or informal) with its creditors or is unable to pay its debts, is subject to a procedure of judicial reorganisation or bankruptcy, has a receiver or administrator appointed in respect of its undertaking, assets or income or any part thereof, has passed a resolution for its liquidation, or a request is filed or an order is made by any court for its liquidation or for its administration; (d) Customer threatens, appears to or ceases to carry on its business or substantially changes the nature of its business, all as determined by KettenWulf in its sole discretion; (e) a prior notice is given by a creditor purporting to hold or holding a prior interest or by a hypothecary creditor of its intention to exercise its purported or prior interest or

hypothecary rights or any other security interest, or if such right or security interest is exercised or if a secured creditor takes possession or appoints a receiver with respect to any part of the Products (or Hypothecated Property) sold; or (f) an execution is filed against Customer or a seizure is brought against the Products (or Hypothecated Property) sold and should it not be quashed within ten (10) calendar days thereafter. Customer acknowledges that this document may be filed with the appropriate authorities as a financing statement and/or hypothec and agrees to execute and deliver such documents as KettenWulf may request in order to perfect its security interest or hypothec.

6. FORCE MAJEURE

KettenWulf shall not be responsible for delays or non-performance directly or indirectly caused by governmental regulations or requirements, acts of God, unavailability of materials, work stoppages, slowdowns, boycotts or other causes beyond KettenWulf's reasonable control. In the event of delay due to any such cause, time for delivery shall be extended for a period of time equal to the duration of the delay, and Customer shall not be entitled to refuse delivery or otherwise be relieved of any obligations hereunder, or have any claims against KettenWulf.

7. LIMITED WARRANTY

All Products offered by KettenWulf are warranted to be free from defects in workmanship and materials for a period of twelve (12) months from the date of installation but no longer than 18 months from the date of shipment, based on KettenWulf's records (the "**Warranty Period**"). During the Warranty Period, KettenWulf will repair or replace any Product(s) or part(s) thereof which prove to be defective in material and workmanship, subject to the terms, conditions and exclusions set out in this section 7.

Warranty Terms

7.1 Enforcement of Warranty

Notice

Customer shall notify KettenWulf in writing of any defects in the Product(s) that Customer has detected and requires to be corrected under this Warranty. Such notice shall be made without delay, but in any case within ten (10) days of discovery and during the Warranty Period. The notice shall contain a description of the defect and a description of the probable cause of it if available. Failure to provide such notice within the aforesaid timeframe will result in the final acceptance of the Products by Customer.

Remedy

If, after KettenWulf has conducted appropriate tests and inspections as determined by KettenWulf at its sole discretion, the Product(s) or a part thereof is found to have defects that fall within this Warranty, exclusive remedy shall be made, at the sole option and discretion of KettenWulf, by either repairing the defects or faults or by supplying the respective correct Product or part of the Product to the Customer. Either KettenWulf or Customer or a third party selected by KettenWulf shall perform repairs, at KettenWulf's sole discretion. Any Products or parts thereof that have been repaired or replaced pursuant to this section 7 shall be under warranty for the remainder of the original Warranty Period.

7.2 Precondition for Warranty Handling

This Warranty is given on the condition precedent that the Product(s) is in all respects erected, operated, handled, serviced and maintained properly and in accordance with KettenWulf's product documentation and/or instructions and is running under normal operating conditions on new sprockets as determined by KettenWulf.

Exclusions

Excluded from the Warranty are, and KettenWulf shall have no responsibility for, damages of any kind as a result of one of the following events: the repair and replacement of the Product(s) or any part thereof due to normal wear and tear, vandalism, accidents, negligence, or damage otherwise caused without any fault of KettenWulf; repairs, alterations or adjustments to the Product(s) performed or originated by Customer or any third party without KettenWulf's prior written consent; unsuitable raw or working materials having been used when operating the Product(s); unreasonable use, misuse, abuse, accident, alteration, modification, reengineering, neglect, lack of maintenance, or improper installation of the Product(s), or use after the Product(s) is significantly worn; and, damage incurred during the shipping process. The Warranty described herein applies only to Products manufactured by KettenWulf.

Report of Date of Installation

Customer shall notify KettenWulf in writing of the exact date of installation of the Product(s) within ten (10) days following final installation. This obligation shall constitute another condition precedent for this Warranty.

7.3 Defective Part(s)

Defective Part(s) and their Return

At KettenWulf's request, defective part(s) replaced in accordance with this Warranty shall be placed at the disposal for inspection and analysis of KettenWulf's service personnel. Any defective part(s) shall not be returned without authorization of KettenWulf; instead, KettenWulf will determine at its sole discretion whether the defective part(s) will be returned to KettenWulf or disposed of.

Transportation

Customer shall bear the cost and risk of transport of defective Product(s) or any part thereof to KettenWulf's facility, while KettenWulf shall bear the cost and risk of transport of repaired or replacement Product(s) or any part thereof to the port of destination. KettenWulf will pay for the ocean/ground freight using the same method of transportation and port of destination as for the original shipment. KettenWulf will not be responsible for additional duties charged for bringing a shipment of "warranted item" into any country and KettenWulf will not refund duties already paid by Customer for the defective Product(s) or any part thereof.

7.4 Payments due from Customer

Monies Due

Any monies due to be paid by Customer to KettenWulf shall be paid in full, and KettenWulf shall credit Customer for any warranty claims separately, if necessary.

Deductions

Should Customer make any deductions from amounts due to be paid by Customer, KettenWulf, Inc. shall be discharged from the performance of its obligations under this Warranty until Customer has paid KettenWulf such deduction in full.

7.5 Collections

Should the need arise to employ professional collection agents and/or attorneys to effect payment of any monies due from Customer under any portion of this Agreement, all such costs incidental to collection, including court costs, reasonable attorney fees, through any appeal necessary, will be borne by Customer.

7.6 Other Exclusions

THE WARRANTIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES WHETHER STATUTORY, EXPRESSED OR IMPLIED, AND THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE AND ALL OTHER WARRANTIES



ARISING FROM THE COURSE OF DEALING OR USAGE OF TRADE ARE HEREBY EXCLUDED TO THE MAXIMUM EXTENT ALLOWED BY LAW. THE REMEDIES PROVIDED HEREIN ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR ANY FAILURE BY KETTENWULF TO COMPLY WITH ITS WARRANTY OBLIGATIONS. CORRECTION OF THE NONCONFORMITIES IN THE MANNER AND FOR THE PERIOD OF TIME PROVIDED HEREIN SHALL CONSTITUTE COMPLETE FULFILLMENT OF KETTENWULF'S OBLIGATIONS REGARDING DEFECTIVE PRODUCT(S), WHETHER THE CLAIMS BY CUSTOMER ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

8. INTELLECTUAL PROPERTY

8.1 KettenWulf may discontinue, without liability, delivery of Product(s) if, in its opinion and sole discretion, their use constitutes, or may create the risk of, patent, copyright, trademark or trade secret infringement.

8.2 KettenWulf makes no warranty against patent, copyright, mask work, trademark or trade secret or other infringement by Product(s) if designed to Customer's specifications, or if used in combination with non-KettenWulf supplied equipment or devices, and if a claim, suit or action is based thereon, Customer shall defend, indemnify and hold harmless KettenWulf therefrom.

9. LIMITATIONS OF LIABILITY; EXCLUSIVE REMEDY

9.1 The remedies set forth in section 7 of this Agreement are exclusive. In the event that KettenWulf is held liable for any damages in connection with a breach of any warranty given by KettenWulf, such liability shall not exceed the value of the Products purchased pursuant to the order to which the liability pertains.

9.2 KettenWulf shall not be liable under this Agreement, whether in contract, in tort (including negligence), under any warranty, or otherwise, for any special, indirect, incidental, consequential or liquidated damages, including but not limited to loss of profit or revenues, loss of savings, or damage to third parties, even if KettenWulf has been advised of the possibility of any such damages.

9.3 Nothing in these Terms and Conditions excludes or limits KettenWulf's liability for gross negligence, wilful misconduct, fraud, or death or personal injury caused by KettenWulf.

10. CANCELLATION OR POSTPONEMENT BY CUSTOMER

Orders accepted by KettenWulf cannot be canceled or shipments postponed except by written notice to KettenWulf. In the event that Customer cancels or postpones an order(s) or any part thereof, KettenWulf's standard cancellation or postponement charges will apply.

11. DEFAULT

In the event an act of default under section 5.2 above occurs, KettenWulf shall have the right to and may elect any or all of the following remedies, which shall be cumulative and not exclusive:

- (i) declare the particular order out of which the default arises to be immediately terminated, without compensation to the Customer;
- (ii) declare, at its option, all charges incurred but unpaid relative to the order to be immediately due and payable;
- (iii) terminate this Agreement at any time, with immediate effect, without prior notice and without compensation to the Customer, and reserving the right to claim compensation for all costs, interests, and damages it has incurred;
- (iv) exercise any or all remedies specified in this Agreement or any supplemental agreement associated

- herewith; and
(iv) pursue each and every remedy available at law or in equity.

12. GOVERNING LAW

This Agreement and any order accepted hereunder shall be governed by and interpreted, construed and enforced in accordance with the laws of the Province of Ontario, without regard to choice of law rules. The application of the 1980 UN Convention on Contracts for the International Sale of Goods, as amended from time to time, is expressly excluded.

13. ARBITRATION AND VENUE

Except as provided herein, the parties agree to submit any disputes relating to this Agreement and the purchase of Product(s) for final resolution and determination to arbitration. The proceedings shall proceed in accordance with the provisions of the *Arbitration Act, 1991* (Ontario), be held in Toronto, Ontario, be in English, and any award shall be enforceable in any court of competent jurisdiction according to the laws of the Province of Ontario and the United Nations Convention for the Enforcement and Recognition of Arbitral Awards unless the nature of the dispute is suitable to injunctive relief thereby affording a party the right to pursue redress in court without proceeding to arbitration. Any dispute arising under this Agreement that cannot be arbitrated as provided herein shall be brought only in a court of competent jurisdiction in Toronto, Ontario, with the parties waiving any defense of venue or personal jurisdiction.

14. CONFIDENTIALITY

Customer shall not, without KettenWulf's prior written consent, reveal to any person or otherwise announce the existence or content of its Agreement with KettenWulf, except where necessary for the execution of the Agreement. Customer further acknowledges that in the course of the performance of its Agreement it may have access to confidential or proprietary information of KettenWulf. Such confidential information will remain the sole and exclusive property of KettenWulf and will not be used by Customer for any purpose other than the discharge of Customer's obligations vis-à-vis KettenWulf. No further use of such confidential information will be made by Customer after termination of the Agreement.

15. ASSIGNMENT

Customer shall not delegate any duties or assign any rights or claims under this Agreement without KettenWulf's prior written consent, and any such attempted delegation or assignment shall be void and constitute an act of default subject to section 11.

16. COMPLIANCE WITH LAWS

Customer, this Agreement and all Product(s) purchased hereunder are subject to all applicable laws, regulations, orders or other restrictions that may now or hereafter be imposed by any applicable government or other regulatory body, including but not limited to all regulations relating to the sale, export, re-export or redistribution of equipment.

17. GENERAL

17.1 If any of the provisions of this Agreement are found invalid or unenforceable under any applicable statute or rule of law, such provisions are, to that extent, deemed omitted, but this Agreement and the remainder of its provisions shall otherwise remain in effect.

17.2 No provision of this Agreement shall be deemed waived, amended or modified by either party, unless such waiver, amendment or modification is in writing and signed by both parties.

17.3 The waiver of one default under this Agreement shall not be deemed a waiver of subsequent or similar defaults.

17.4 Each order under this Agreement shall be treated as a separate contract and default by either party arising out of a particular order shall not constitute or be deemed to constitute a default of any other order or this Agreement itself.

17.5 The parties hereto have expressly requested that these Terms and Conditions and all related documents be drafted in English. *Les parties aux présentes ont expressément requis que les présentes modalités et conditions générales de vente ainsi que tous les documents qui s'y rattachent soient rédigés en anglais.*

THESE TERMS AND CONDITIONS SHALL SUPERSEDE AND TAKE PRECEDENCE OVER ALL PROPOSALS, CUSTOMER PURCHASE ORDERS OR ANY OTHER WRITTEN OR ORAL COMMUNICATIONS BETWEEN THE PARTIES, EXCEPT AS OTHERWISE PROVIDED HEREIN. RECEIPT BY THE CUSTOMER OF PRODUCT(S) HEREUNDER SHALL BE DEEMED CONCLUSIVE EVIDENCE OF CUSTOMER'S AGREEMENT THAT THE PURCHASE, USE AND POSSESSION OF PRODUCT(S) ARE GOVERNED EXCLUSIVELY BY THESE TERMS AND CONDITIONS.

January 2017