

**1. Ruling Conditions**

All contracts of sale or to provide services by The Company are subject to these Conditions to the exclusion of any and all printed terms and conditions of the Buyer which shall not form part of the Agreement. These Conditions cannot be varied, suspended or added to, except with the prior written consent of a Director of The Company.

**2. Price and Payment**

A, Except as may be otherwise agreed in writing, The Company may not vary the price of the goods by notice to the Buyer given not less than one month before delivery, if and to the extent that there is any increase in the price or cost of goods to The Company by reason of any foreign exchange fluctuations, currency regulations, alterations in duties or imports, variations in costs of raw materials or labour or utilities or transport or by reason of any cause (whether or not the same nature as the foregoing) beyond the control of The Company.

B, Prices (unless otherwise indicated in writing) include neither United Kingdom Value Added Tax nor any duties levied in the Buyer's country, nor costs or packing and / or carriage if any.

C, The Buyer shall pay for the goods net cash at the time of the delivery. The Company may from time to time agree that the Buyer may pay for the goods net cash 30 days from the date of invoice, but The Company reserves the right up to the time of delivery. All overdue accounts shall bear interest from day to day at the rate of four percent (4%) per annum above The Finance House base lending rate for the time being.

D, The Company also reserves the right to charge the buyer for costs incurred in respect of order processing and Products in the course of manufacture or ready for delivery on the date of such default, suspension, repudiation or termination.

**3. Delivery, Property and Risk**

Delivery shall in all cases take place FCA KPM UK unless stated otherwise by individual Incoterms.

Where Incoterms are set as FCA – the nominated location is KPMUK despatch. Goods shipped and or quoted on an FCA or Ex Works basis are exclusive of any shipping or packaging charges that may apply separately.

A, Any date or period for delivery or any rate of delivery stated in the Agreement is intended by The Company and accepted by the Buyer as being an estimate only, not giving rise to contractual obligations. The Buyer shall not be entitled to rescind the Agreement or reject any goods or claim damages on account of delay, unless The Company fails to make delivery within a reasonable time having regard to all circumstances. The Company shall not in event be liable for any special, consequential or indirect loss or damage (including but not limited to any loss in the way of profits or wages or overheads) suffered by the Buyer as a result of delay in or failure of delivery.

B, Delivery shall be deemed to be effective and risk in the goods shall pass when the goods are loaded on to the vehicle collecting them. Carriers shall be deemed to be the buyer's agent in handling the goods whether engaged by the buyer and or otherwise. Property in the goods shall pass when the goods have been paid for in full.

C, A charge at the rate of 1% per month of the contract value of goods stored will be made when the Buyer is unable or unwilling for any reason whatsoever to take or arrange suitable storage for more than 30 days after the agreed date for delivery. Goods stored shall be paid for as delivered The Company shall not be responsible for any loss, damage or deterioration while in storage.

D, All claims for non-delivery of any consignments shall be made in writing to The Company or any relevant carrier (a) in the case of goods sold as exports - within 30 days of the vessel or vehicle whose name appears on the bill of lading or despatch note arriving at the relevant port or place of destination and (b) in all other cases - within 14 days of the date of The Company's invoice.

E, All claims for short or inadequate delivery or for damage to or deterioration of goods in transit shall be made in writing to The Company and to any relevant carrier within three days after the Buyer's receipt of any consignment in question.

F, Any claim which is not made as required by paragraphs A and B above, and / or in respect of which The Company is not given adequate opportunity to reweigh, recount or inspect, as the case may be, shall be absolutely barred.

**4. Warranties**

A, The company warrants that the goods will be at the time of delivery be free from any defects due to faulty materials or bad workmanship.

B, In event of any breach by The Company of the above warranty The Company shall be in full satisfaction of all liability for such breach) at its option and expense either replace the goods proved so to have been defective or credit the Buyer with the price of such goods. This undertaking shall not apply, and The Company shall be under no obligation to the Buyer, unless (a) the goods were sold and purchased as being new and unused and (b) written notice of the alleged defect is received by The Company within eighteen months of despatch of the goods from the Company's works or twelve from the completion of manufacture of any equipment in which the goods are incorporated whichever shall be earlier and (c) the goods have not been used for any purpose other than that for which they were designed or stated in writing to be suitable, and (d) have not been altered modified or repaired except as may be agreed in writing by The Company and (e) the goods are returned carriage paid to The Company's works at the first reasonable opportunity and (f) the alleged defect applies to goods manufactured by The Company. The Company will use its best endeavours to procure that other manufacturers' goods or parts of goods comply with the terms of this undertaking.

C, All other conditions and warranties, whether incorporated expressly or implied by statute, or by custom of the trade or otherwise and whether as to quality, condition, performance, merchantability fitness for any purpose, or otherwise are expressly excluded and (subject to paragraphs A and B above) The Company shall be under no liability whatsoever in contract or in tort or in respect of any loss or damage whatsoever (with the exception of liability arising out of illness, personal injury or death) resulting from or arising out of the Agreement or the goods of any defect therein or the supply or use whether caused by The Company's negligence or otherwise.

**5. Inspection**

Any testing or inspection by the Buyer or his agent specified in the Agreement shall be carried out at The Company's works and be final there.

**6. Indemnity**

The Buyer shall indemnify The Company and The Company's employees against all costs, damages, expenses, penalties and losses incurred, as a result of or in connection with any breach by the Buyer of the terms of the Agreement

**7. Waivers**

The Company's rights and remedies shall not be prejudiced by any indulgences or forbearance to the Buyer. No waiver by The Company of any breach by The Buyer shall operate as a waiver of any subsequent breach.

**8. Confidentiality**

The Agreement and all specifications, drawings, materials, document and information issued by The Company in connection with the Agreement are confidential and their use and disclosure must be strictly confined to the Buyer himself and his employees properly engaged therewith. All specifications, drawings, materials and documents supplied at any time by, or on behalf of The Company, and the copyright therein

remains the exclusive property of The Company. No reproduction of such material in whole, or in part, by any means shall be permitted without prior written approval of The Company. The completion, suspension or termination of the Agreement shall not affect the continuing operation of this condition.

**9. Proper Law and Arbitration**

The construction, validity and performance of the Agreement shall be governed by English Law. All disputes arising out of or in connection with the Agreement shall be referred to and settled by a single arbitrator, to be nominated by agreement. If no such agreement is reached within fourteen (14) days after a written request, then the arbitrator shall be appointed by the president for the time being of the Institute of Arbitrators at the request of the person first applying in writing to him. The provisions of the Arbitration Acts and any statutory modifications or re-enactment thereof for the time being in force shall apply. The arbitration shall be conducted in London and in the English language. The decision of the arbitrator shall be final and binding and the arbitrator shall be entitled to make any such order as to the costs of and incidental to the reference to arbitration as he may consider just.

**10. Retention of Title**

The risk in the goods shall pass from the seller to the buyer upon delivery of such goods to the buyer. However, notwithstanding delivery and the passing of risk in the goods, title and property in the goods, including full legal and beneficial ownership, shall not pass to the buyer until the seller has received in cash, or cleared funds payment in full, for all goods delivered to the buyer under this and all other contracts between the seller and the buyer for which payment of the full price of the goods thereunder has not been paid. Payment of the full price of the goods shall include the amount of any interest or other sum payable under the terms of this and all other contracts between the seller and the buyer under which the goods were delivered.

**11. Buyer's Supply**

All drawings, designs, specifications and other information together with such goods, services assistance as may be agreed to be provided by the Buyer in connection with the Agreement shall be furnished to The Company in such forms and by such dates as will enable The Company to perform its obligations under the Agreement and in default thereof (with prejudice to any other rights accruing to The Company) the time for performance of The Company's obligations shall be extended accordingly.

**12. Force Majeure**

If either party is prevented, hindered or delayed from in performing any of its obligations of the Agreement by reason of Act of God, fire, flood, accident, explosion, breakdown or failure of plant or machinery, war, riot, civil disturbance, strike, labour dispute, acts, orders or regulations of Government, failure (whether partial or total) or shortage in any of The Company's or its suppliers' existing or contemplating sources of material (including parts and components) or labour or transport (whether or not such failure or shortage be existing or apprehended by The Company), or failure of any supplier or subcontractor of The Company to perform any contract with The Company, or by reason of any cause (whether or not of the same nature as the foregoing) beyond its control, it shall be under no liability to the other in respect of such obligation but the time for performing the same shall be extended until the operation of the causes preventing, hindering or delaying such performance has ceased.

**12. General Data Protection Regulations 2018**

The Company may share data with the Buyer in respect of its employees, including but not limited to names and contact details including email addresses, necessary for the purposes of legitimate interests pursued by the Company where that necessity has not been overridden by the interests, rights or freedoms of the employees concerned. The data will be shared for a period of time until the Agreement has been fulfilled.

The Buyer may use this data only under the written instructions of the Company (unless required by law to act without such instructions). The Buyer must ensure that people processing the data are subject to a duty of confidence. The Buyer must take appropriate measures to ensure the security of processing. The Buyer must only engage a sub-processor with the prior consent of the Company and a written contract. The Buyer must assist the Company in providing subject access and allowing data subjects to exercise their rights under the General Data Protection Regulations. The Buyer must assist the Company in meeting its General Data Protection Regulations obligations in relation to the security of processing, the notification of personal data breaches and data protection impact assessments. The Buyer must delete or return all personal data to the Company as requested at the end of the duration of the Agreement. The Buyer must submit to audits and inspections, provide the Company with whatever information it needs to ensure that they are both meeting their General Data Protection Regulations Article 28 obligations, and tell the Company immediately if it is asked to do something infringing the General Data Protection Regulations or other data protection law of the EU or a member state. Nothing within these terms and conditions relieves the Buyer of its own direct responsibilities and liabilities under the General Data Protection Regulations.

**13. Termination**

The company shall be entitled (without prejudice to its other right) either (a) to terminate wholly or in part the Agreement or any or every other contract with Buyer, or (b) to suspend any further deliveries under the Agreement or any or every such contract, in any of the following events:

- If any debt due and payable to the Buyer in The Company is unpaid
- If the Buyer has wrongfully failed to take delivery of any goods under the Agreement or any other contract as aforesaid or has wrongfully failed to provide any drawings, information or assistance necessary for the purposes of fulfilling The Company's obligations under the Agreement.
- If the Buyer becomes insolvent, or being a body corporate has a receiver appointed, or passes a resolution for winding up, or a Court makes an Order to that effect or being an individual or makes any composition or arrangement with his or their creditors or has a Receiving Order made against him or them.

Kawasaki Precision Machinery (UK) Ltd shall not in any circumstances whatsoever be liable for any consequential or indirect loss or damage.