

## 1. Definitions

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- 1.1. **Buyer** means the person who buys or agrees to buy the Goods from the Seller.
- 1.2. **Conditions** means the Terms and Conditions of Sale set out in this document and any special terms and conditions agreed in writing by the Seller.
- 1.3. **Goods** means the articles which the Buyer agrees to buy from the Seller.
- 1.4. **Price** means the price for Goods excluding carriage packing value added tax and all customs and excise and other duties taxes levies or charges imposed by any third party ruling on the date of the Seller's invoice unless otherwise specified.
- 1.5. **Seller** means Kemtron Limited of 19-21 Finch Drive, Springwood Industrial Estate, Braintree, Essex, CM7 2SF, England.

## 2. Conditions applicable

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- 2.1. These conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions including any terms and conditions which the Buyer may purport to apply under any purchase order confirmation of order or similar document.
- 2.2. All orders for Goods shall be deemed to be an offer by the Buyer to purchase the goods pursuant to these Conditions.
- 2.3. Acceptance of delivery of the Goods shall be deemed to be conclusive evidence of the Buyer's acceptance of these conditions.
- 2.4. Any variation of these Conditions (*including any special terms and conditions agreed between the parties*) shall be inapplicable unless agreed in writing by the Seller.

## 3. The Price and payment

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- 3.1. The Price shall be the Seller's quoted price on its acknowledgement of order form for the time being in use.
- 3.2. The Seller shall be entitled to increase the Price in the event of any increase in the cost of any precious metals used in the manufacture of the Goods.
- 3.3. Where the Goods require clearance through local customs at port of entry the Buyer is responsible for supplying all necessary documentation and all charges incurred by the Seller howsoever arising as a result of failure to produce such documentation shall be payable by the Buyer prior to delivery.
- 3.4. Payment of the Price shall be due within thirty days of the date of the invoice and time for payment shall be of the essence.
- 3.5. We understand and will exercise our statutory right to claim interest and compensation for debt recovery costs under the late payment legislation if we are not paid according to agreed credit terms.

## 4. The Goods

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- 4.1. The Goods shall be manufactured and supplied in accordance with the description contained in the specification supplied by the Buyer or as contained in the Seller's current catalogue.
- 4.2. The Seller may from time to time make changes in the specification of the Goods which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality or fitness for purpose of the Goods.

## 5. Inspection and Tests

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- 5.1. At the request of the Buyer the Seller shall supply a Certificate of Conformity to the effect that the Goods correspond with their description.

## 6. Warranties and liability

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- 6.1. The Seller warrants that the Goods will at the time of delivery correspond to the description given in the Buyer's specification or as contained in the Seller's current catalogue.
- 6.2. All other warranties conditions or terms relating to fitness for purpose merchantability or condition of the Goods and whether implied by statute or common law or otherwise are excluded.
- 6.3. In the event of the Buyer representing the Goods to be defective due to faulty materials and/or workmanship only and such defects being accepted by the Seller the liability of the Seller shall be limited to crediting the cost of or replacing the Goods but no such liability shall arise unless notification of such defect is received in writing by the Seller within five working days of the date of the delivery of the Goods.
- 6.4. The Seller shall be under no liability to the Buyer for any defects of whatsoever nature occurring to the Goods after delivery.
- 6.5. The Seller shall not be responsible for damage injury or loss of any kind whatsoever to any property or persons or produce howsoever caused arising from the use of the Goods by the Buyer or by any other person notwithstanding that the Goods have been used in conformity with the recommendations of the Seller and the liability of the Seller shall be limited to replacement of the Goods.

## 7. Delivery of the Goods

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- 7.1. Goods ordered by the Buyer will be delivered or shipped by the Seller as soon as practicable after the Buyer's order has been accepted by the Seller.
- 7.2. Delivery of the Goods shall be made to the Buyer's address at the Buyer's expense and the Buyer shall make all arrangements necessary to take delivery of the Goods provided they are tendered for delivery on a working day between the hours of 9:00 a.m. and 5:30 p.m.
- 7.3. No claim for damage in transit or shortage of delivery of the Goods will be accepted by the Seller unless notification of such damage or non delivery is given to the carrier and the Company within three days of receipt of the Goods and the packing and contents are held by the Buyer for inspection by the Company and the carrier.
- 7.4. In the case of non delivery of the Goods the Buyer shall give notice in writing to the Seller and the carrier (*if any*) with fourteen days of the receipt of an invoice for the Goods.

## 8. Acceptance of the Goods

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- 8.1. The Buyer shall be deemed to have accepted the Goods five working days after delivery to the Buyer.
- 8.2. After acceptance the Buyer shall not be entitled to reject any of the Goods which are not in accordance with the contract.

## 9. Title and risk

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- 9.1. The Goods shall be at the Buyer's risk as from the delivery.
- 9.2. In spite of delivery having been made property in the Goods shall not pass from the Seller until:
  - 9.2.1 The Buyer shall have paid the price plus VAT in full.
  - 9.2.2 No other sums whatsoever shall be due from the Buyer to the Seller.
- 9.3. Until the property in the Goods passes to the Buyer in accordance with clause 9.2 the Buyer shall hold the Goods and each of them on a fiduciary basis as bailee for the Seller.
- 9.4. The Buyer shall store the Goods (*at no cost to the Seller*) separately from all other Goods in its possession and marked in such a way that they are clearly identified as the Seller's property.
- 9.5. Until such time as property in the Goods passes from the Seller the Buyer shall upon request deliver up such of the Goods as have not ceased to be in existence or re-sold to the Seller. If the Buyer fails to do so the Seller may enter upon any premises owned occupied or controlled by the Buyer where the Goods are situated and re-possess the Goods.

## 10. Force majeure

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- 10.1. The Seller shall not be liable to the Buyer in respect of any claim for breach of contract loss or damage to the Goods or delay in delivery of the Goods if such claim arises as a result of force majeure or any other act or occurrence beyond the reasonable control of the Seller including any act of God or government war insurrection embargoes labour disputes strikes illness flood fire tempest currency control or civil commotion.

## 11. Remedies of Buyers

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- 11.1. Where the Buyer rejects any goods then the Buyer shall have no further rights whatever in respect of supply to the Buyer of such Goods or the failure by the Seller to supply Goods which conform to the contract of sale.
- 11.2. Where the Buyer accepts or has been deemed to have accepted any Goods then the Seller shall have no liability whatever to the Buyer in respect of those Goods.
- 11.3. The Seller shall not be liable to the Buyer for late delivery or short delivery of the Goods.

## 12. Insolvency or other default of Buyer

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- 12.1. If the Buyer fails to make payment for the Goods in accordance with this Contract of Sale or commits any other breach of this Contract of Sale or if any distress or execution shall be levied upon any of the Buyer's Goods or if the Buyer offers to make any arrangement with its creditors or commits an act of bankruptcy or if any petition in bankruptcy is presented against the Buyer or the Buyer is unable to pay its debts as they fall due or if being a limited company any resolution or petition to wind up the Buyer (*other than for the purpose of amalgamation or reconstruction without insolvency*) shall be passed or presented or if a receiver administrator administrative receiver or manager shall be appointed over the whole or any part of the Buyer's business or assets or if the Buyer shall suffer any analogous proceedings under foreign law all sums outstanding in respect of the Goods shall become payable immediately. The Seller may in its absolute discretion and without prejudice to any other rights which it may have:
  - 12.1.1 Suspend all future deliveries of Goods to the Buyer and/or terminate the Contract without liability on its part and/or,
  - 12.1.2 Exercise any of its rights pursuant to clause 9.

**13. Proper law of contract**

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- 13.1. This Contract is subject to the Law of England and Wales.
- 13.2. All disputes arising out of this Contract shall be subject to the exclusive jurisdiction of the courts of England and Wales.

