

GENERAL TERMS AND CONDITIONS FOR SUPPLY OF PULTREX GOODS

- (A) **PULTREX LIMITED**, a company incorporated and registered in England and Wales with company number 4694438 whose registered office is at 18-20 Riverside Avenue West, Lawford, Manningtree, Essex CO11 1UN, England (**Supplier**) carries on the business of manufacturing and selling the Products.
- (B) The Customer wishes to buy and the Supplier wishes to supply the Products on the terms and conditions set out in this agreement.

1. Definitions

ADR notice: has the meaning given in clause 18.1.

Affected Party: has the meaning given in clause 16.2.

Business Day: a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Confidential Information: any information of a confidential nature concerning the business, affairs, customers, clients or suppliers of the other party or of any member of its Group, including but not limited to information relating to a party's operations, processes, plans, product information, know-how, designs, trade secrets, software, market opportunities and customers.

Consumer Prices Index: the Consumer Prices Index (all items) (United Kingdom).

Delivery: completion of delivery of Products specified in an Order in accordance with clause 5.2 or clause 6.5(b).

Delivery Date: the date specified for delivery of Products specified in an Order in accordance with clause 3.2.

Delivery Location: means the delivery address specified in the Order.

Dispute: has the meaning given in clause 18.1.

Dispute Notice: has the meaning given in clause 18.1.

Force Majeure Event: has the meaning given in clause 16.1.

Group: in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information

(including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, any rights and all similar or equivalent rights or forms of protection that subsist or will subsist now or in the future in any part of the world.

Mandatory Policies: the Supplier's business policies including the KraussMaffei Group Core Values; Corporate and Social Responsibility Policy and Privacy Policy as amended by notification to the Customer from time to time.

Month: a calendar month.

Order: an order for Products submitted by the Customer in accordance with clause 3.

Order Confirmation: the written confirmation of acceptance of an Order by the Supplier in accordance with clause 3.3.

Order Number: the reference number to be applied to an Order by the Supplier in accordance with clause 3.4.

Products: the products set out in the Order.

Product Prices: the prices of the Products as determined in accordance with clause 8.1 and Product Price means the price of an individual Product as determined in accordance with that clause.

Representatives: has the meaning given in clause 13.2.

Specification: the specification of the Products set out in the Order.

VAT: value added tax or any equivalent tax chargeable in the UK or elsewhere.

year: 1 January to the following 31 December.

2. Supply of products

- 2.1 During the Term, the Supplier shall supply and the Customer shall purchase such quantities of Products as the Customer may order under clause 3 in accordance with the terms and conditions of this agreement.

3. Orders

- 3.1 Each Order shall be deemed to be a separate offer by the Customer to purchase Products on the terms of this agreement, which the Supplier shall be free to accept or decline at its absolute discretion.

- 3.2 Each Order shall:

- (a) be given in writing; and

GENERAL TERMS AND CONDITIONS FOR SUPPLY OF PULTREX GOODS

- (b) specify the type and quantity of Products ordered; and
- (c) specify the Delivery Date on which the Products specified in the Order are to be made ready for collection or delivered to the Delivery Location.
- 3.3 No Order shall be deemed to be accepted by the Supplier until it issues an Order Confirmation.
- 3.4 The Supplier shall assign an Order Number to each Order it accepts and notify those Order Numbers to the Customer together with the Delivery Date on which the Products specified in an Order will be ready for collection or delivery. Each party shall use the relevant Order Number in all subsequent correspondence relating to the Order.
- 3.5 The Customer may amend or cancel an Order on written notice to the Supplier no less than 30 days prior to the agreed Delivery Date. If the Customer amends or cancels an Order, it shall be liable to the Supplier for all costs incurred by the Supplier in fulfilling the Order up until the date of deemed receipt of the amendment or cancellation.
- 4. Product Quality and Testing**
- 4.1 The Products supplied to the Customer by the Supplier under this agreement shall:
- (a) conform to the Specification agreed between the customer and supplier in writing;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for the agreed purpose of the Supplier;
- (c) comply with all applicable statutory and regulatory requirements.
- 4.2 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the agreement.
- 4.3 The Supplier shall ensure that the Products are properly packed and secured in a manner to enable them to reach their destination in good condition.
- 4.4 The Supplier shall obtain and maintain in force for the Term all licences, permissions, authorisations, consents and permits needed to manufacture and supply the Products in accordance with the terms of this agreement.
- 4.5 The Supplier shall comply with all applicable laws, enactments, orders, regulations and other instruments relating to the manufacture, packing, packaging, marking, storage, handling, and delivery of the Products.
- 4.6 If the Customer requires the Supplier to undertake specific tests on the products prior to delivery or at the Customer's premises these will be charged at the prevailing rate charged by the Supplier at that time. If the Customer is not able to attend any such testing the testing will be carried out by the Supplier in their absence and the Supplier shall have no further liability to the Customer in relation to testing.
- 5. Delivery**
- 5.1 The Supplier shall place the goods at the disposal of the Customer at the named place of delivery on the date or within the period stipulated or, if no such place or time is stipulated, at the usual place and time for delivery of such goods.
- 5.2 Delivery is completed when the Supplier places the Order at the Customer's disposal at the Delivery Location.
- 5.3 Subject to clause 5.4, delays in the delivery of an Order shall **not** entitle the Customer to:
- (a) refuse to take delivery of the Order; or
- (b) claim damages.
- The Supplier shall have no liability for any failure or delay in delivering an Order to the extent that any failure or delay is caused by the Customer's failure to comply with its obligations under this agreement.
- 5.4 If a delay is longer than 30 Business Days the Customer is entitled to compensation of 0.1% of the value of the delayed part of the Order per week up to a maximum amount of 5% of the value of the delayed part of the total delivery.
- (a) If the Customer fails to take delivery of an Order on the Delivery Date, then, except where that failure or delay is caused by the Supplier's failure to comply with its obligations under this agreement:
- (b) delivery of the Order shall be deemed to have been completed at 9.00 am on the Delivery Date; and
- (c) the Supplier shall store the Order until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 5.5 Each delivery of Products shall be accompanied by a delivery note from the Supplier showing the Order Number, the date of the Order, the type and quantity of Products included in the Order, including the code numbers of the Products, and, in the case of Products being delivered by instalments, the outstanding balance of Products specified in an Order remaining to

GENERAL TERMS AND CONDITIONS FOR SUPPLY OF PULTREX GOODS

- be delivered.
- 5.6 The disposal of any applicable packaging materials shall be at the Customer's expense.
- 6. Acceptance and defective products**
- 6.1 The Customer may reject any Products delivered to it that do not comply with clause 4.1, provided that:
- (a) notice of rejection is given to the Supplier:
 - (i) in the case of a defect that is apparent on normal visual inspection, within five Business Days of Delivery;
 - (ii) in the case of a latent defect, within five Business Days of the latent defect having become apparent provided that this is within 12 months of Delivery; and.
 - (b) none of the events listed in clause 6.3 apply.
- 6.2 If the Customer fails to give notice of rejection in accordance with clause 6.1, it shall be deemed to have accepted these Products.
- 6.3 The Supplier shall not be liable for a Products' failure to comply with the warranty set out in clause 4.1 in any of the following events:
- (a) the Customer makes any further use of those Products after giving notice in accordance with clause 6.1;
 - (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions for the storage, commissioning, installation, use and maintenance of the Products or (if there are none) good trade practice regarding the same;
 - (c) the defect arises as a result of the Supplier following any drawing, design or Specification supplied by the Customer;
 - (d) the Customer alters or repairs those Products without the written consent of the Supplier;
 - (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - (f) the Products differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 6.4 If the Customer rejects Products under clause 6.1 then the Supplier shall be required, at its option, to:
- (a) repair or replace the rejected Products; or
 - (b) repay the price of the rejected Products in full.
- Once the Supplier has complied with the Customer's request, it shall have no further liability to the Customer for the rejected Products' failure to comply with clause 4.1.
- 6.5 The parties acknowledge and agree that the Supplier shall not be liable for:
- (a) any disassembly or installation costs required to carry out remedial works;
 - (b) any costs associated with removal of the Products from any location other than the Delivery Location; or
 - (c) any costs undertaken in connection with remedial measures for the Customer's improper assertion of a defect.
- 6.6 The terms of this agreement shall apply to any repaired or replacement Products supplied by the Supplier.
- 7. Title and risk**
- 7.1 Risk in Products shall pass to the Customer on Delivery.
- 7.2 Title to Products shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Products and all other sums that are, or that become, due to the Supplier from the Customer for sales of Products.
- 7.3 Until title to Products has passed to the Customer, the Customer shall:
- (a) store those Products separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to those Products; and
 - (c) maintain those Products in satisfactory condition and keep them insured on the Supplier's behalf for their full price against all risks with an insurer that is reasonably acceptable to the Supplier. The Customer shall obtain an endorsement of the Supplier's interest in the Products on its insurance policy, subject to the insurer being willing to make the endorsement. On request the Customer shall allow the Supplier to inspect those Products and the insurance policy.
- 7.4 Subject to clause 7.5, the Customer may resell or use Products in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Products. However, if the Customer resells the Products before that time:
- (a) it does so as principal and not as the Supplier's

GENERAL TERMS AND CONDITIONS FOR SUPPLY OF PULTREX GOODS

- agent; and
- (b) title to those Products shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 7.5 If before title to Products passes to the Customer the Supplier reasonably believes the Customer to be at risk of being unable to perform its contractual obligations due to a deterioration in its financial circumstances, then, without limiting any other right or remedy the Supplier may have:
- (a) the Customer's right to resell Products or use them in the ordinary course of its business ceases immediately; and
- (b) the Supplier may at any time:
- (i) require the Customer to deliver up all Products in its possession that have not been resold, or irrevocably incorporated into another product; and
- (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the relevant Products are stored to recover them.
- 8. Product prices**
- 8.1 The Product Prices shall be the prices set out in the Order.
- 8.2 The Product Prices are exclusive of amounts in respect of VAT. The Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier any additional amounts in respect of VAT as are chargeable on a supply of Products.
- 8.3 The Product Prices are inclusive of the costs of packaging. Unless otherwise agreed the costs of insurance and carriage of the Products shall be separately invoiced to the Customer.
- 9. Terms of payment**
- 9.1 The Supplier shall be entitled to invoice the Customer for each Order on or at any time after it provides an Order Confirmation. Each invoice shall quote the relevant Order Numbers.
- 9.2 Unless otherwise agreed in the relevant Order Confirmation the Customer shall pay the supplier the Order value within 30 days of the Delivery Date.
- 9.3 The Customer shall pay all amounts in clause 9.2 in full and in cleared funds. Payment shall be made to the bank account nominated in writing by the Supplier and in the stated currency.
- 9.4 If a party fails to make any payment due to the other under this agreement by the due date for payment, then, without limiting the other party's remedies under clause 15.1, the defaulting party shall pay interest on the overdue amount at the rate of 4% a year above the Bank of England base rate from time to time. This interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. In relation to payments disputed in good faith, interest under this clause 9.2 is payable only after the dispute is resolved, on sums found or agreed to be due, from the due date until payment.
- 9.5 If the Customer disputes any invoice or other statement of monies due, the Customer shall immediately notify the Supplier in writing. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. The Supplier shall provide all evidence as may be reasonably necessary to verify the disputed invoice or request for payment. If the parties have not resolved the dispute within 30 days of the Customer giving notice to the Supplier, the dispute shall be resolved in accordance with clause 18. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date as set out in clause 9.1.
- 9.6 The Supplier may at any time, without notice to the Customer, set off any liability of the Customer to it against any liability it has to the Customer, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this agreement, provided that any such liability is undisputed. Any exercise by the Supplier of its rights under this clause 9.6 shall not limit or affect any other rights or remedies available to it under this agreement or otherwise.
- 10. Compliance with laws and policies**
- 10.1 In performing its obligations under the agreement, the Customer shall and shall procure that each member of its Group comply with:
- (a) all applicable laws, statutes, regulations and codes from time to time in force; and
- (b) the Mandatory Policies.
- 10.2 The Supplier may terminate the agreement with immediate effect by giving written notice to the Customer if the Customer commits a breach of clause 10.1.

GENERAL TERMS AND CONDITIONS FOR SUPPLY OF PULTREX GOODS

11. Limitation of liability

11.1 This clause 11 sets out the entire financial liability of the parties (including any liability for the acts or omissions of their respective employees, agents and subcontractors) to each other for:

- (a) any breach of this agreement however arising;
- (b) any use made or resale of the Products by the Customer, or of any product incorporating any of the Products; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this agreement.

11.2 Nothing in this agreement shall limit or exclude the liability of either party for:

- (a) death or personal injury resulting from negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- (d) breach of section 2 of the Consumer Protection Act 1987; or
- (e) breach by the Customer of clause 14.

11.3 Without prejudice to clause 11.2, neither party shall under any circumstances whatever be liable to the other, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any:

- (a) loss of profit;
- (b) loss of goodwill;
- (c) loss of business;
- (d) loss of business opportunity;
- (e) loss of anticipated saving;
- (f) loss or corruption of data or information; or
- (g) special, indirect or consequential damage.

suffered by the other party that arises under or in connection with this agreement.

11.4 Without prejudice to clause 11.2 or clause 11.3, the Supplier's total liability arising under or in connection with this agreement, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall in all circumstances be limited to the lesser of the Order Value or £10,000.

11.5 In relation to the Supplier's liability under clause 11.4

the limitation period for any claim brought by the Customer shall be two years after the point in time the claim originated and the Customer became aware of the circumstances giving rise to the claim. Regardless of the Customer's awareness the claim shall expire three years after the event which caused the damage.

12. Assignment and other dealings

12.1 The Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without the prior written consent of the other party.

12.2 The Supplier may assign or subcontract any or all of its rights and obligations under this agreement to a member of its Group.

13. Confidentiality

13.1 Each party undertakes that it shall not at any time during this agreement and for a period of two years after termination disclose to any person any Confidential Information, except as permitted by clause 13.2.

13.2 Each party may disclose the other party's Confidential Information:

- (a) to its employees, officers, agents, advisers, consultants or subcontractors (**Representatives**) who need to know this information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement, provided that the disclosing party takes all reasonable steps to ensure that its Representatives comply with the confidentiality obligations contained in this clause 13 as though they were a party to this agreement. The disclosing party shall be responsible for its Representatives' compliance with the confidentiality obligations set out in this clause 13; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13.3 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this agreement are granted to the other party or to be implied from this agreement. In particular, no licence is hereby granted directly or indirectly under any patent, invention, discovery, copyright or other intellectual property right held, made, obtained or licensable by either party now or in

GENERAL TERMS AND CONDITIONS FOR SUPPLY OF PULTRIX GOODS

the future.

14. Compliance with applicable Laws and Export

14.1 The Customer shall comply with all applicable laws and regulations including but not limited to any export provisions in the jurisdictions in which the Company operates.

14.2 The Customer shall obtain all necessary authorisations, approvals, licences and permits as may be required for the use or export of the Products.

14.3 The Supplier is entitled to withhold performance of its obligations under this Agreement if the Customer fails to comply with this clause 14.

14.4 The Customer indemnifies the Supplier from any claims or losses suffered by the Supplier as a result of any breach by the Customer of this 14.

15. Financial Distress

15.1 Without limiting its other rights or remedies, if the Supplier reasonably believes the Customer to be at risk of being unable to perform its contractual obligations due to a deterioration in its financial circumstances:

- (a) all amounts owing to the Supplier under this Agreement shall become immediately due and payable;
- (b) it shall be entitled, at its option, to suspend or terminate the agreement with immediate effect; and
- (c) it shall be entitled to withhold the delivery of the Products under any Order until prepayment of the Product Price or the establishment of an appropriate security.

16. Force majeure

16.1 **Force Majeure Event** means any circumstance not in a party's reasonable control including, without limitation:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) terrorist attack, civil war, civil commotion or riots;
- (c) nuclear, chemical or biological contamination, or sonic boom;
- (d) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;

- (e) any labour or trade dispute, strikes, industrial action or lockouts;
- (f) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and
- (g) interruption or failure of utility service.

16.2 Provided it has complied with clause 16.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

16.3 The Affected Party shall:

- (a) as soon as reasonably practicable after the start of the Force Majeure Event notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and
- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

16.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 12 weeks, the party not affected by the Force Majeure Event may terminate this agreement immediately by giving written notice to the Affected Party.

17. Severance

If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the extent necessary to make it valid, legal and enforceable. If that modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to, or deletion of, a provision or part-provision under this clause 17 shall not affect the validity and enforceability of the rest of this agreement.

18. LCIA Arbitration

18.1 If a dispute arises out of or in connection with this agreement the Supplier's and the Customer's representatives shall, within 30 days of request from one party, meet in good faith to resolve the dispute.

18.2 If the Dispute is not resolved at that meeting it shall be

GENERAL TERMS AND CONDITIONS FOR SUPPLY OF PULTREX GOODS

referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this clause.

- (a) The number of arbitrators shall be one.
- (b) The seat, or legal place, of arbitration shall be London.
- (c) The language to be used in the arbitral proceedings shall be English.
- (d) The governing law shall be the substantive laws of England and Wales.

18.3 Nothing in this agreement shall prevent either party seeking immediate injunctive or other interim relief.

19. Further assurance

At its own expense, each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this agreement.

20. Variation and Waiver

20.1 No variation of this agreement shall be effective unless it is in writing and signed by both parties (or their authorised representatives).

20.2 A waiver of any right or remedy under this agreement or by law shall only be effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

20.3 A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

21. Notices

21.1 Any notice given to a party under or in connection with this agreement shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by fax to its main fax number **OR** sent by email to the address specified in the Order.

21.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; or
- (c) if sent by fax or email, at 9.00am on the next Business Day after transmission.

21.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

22. Entire agreement

22.1 This agreement constitutes the entire agreement between the parties, and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

22.2 Each party acknowledges that in entering into this agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.

22.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

23. Third party rights

Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

24. Governing law and Jurisdiction

24.1 This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

24.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.