

KUKA ROBOTICS CORPORATION (US)

STANDARD TERMS AND CONDITIONS FOR SALE

These Standard Terms and Conditions For Sale ("Terms") govern all sales by KUKA Robotics Corporation, United States ("KUKA") of any product ("Product") or service ("Service"). All sales of Products and Services are expressly limited to acceptance of these Terms and any additional or different terms, whether contained in Buyer's forms or otherwise presented by Buyer, are rejected unless expressly agreed to and accepted by KUKA.

1. Price – Taxes – Payment

- 1.1. Prices for Products are applicable only for delivery within the 48 contiguous United States.
- 1.2. The price of the Products does not include sales, use, excise or any other taxes, or export duties, or assessments levied by any federal, state, municipal or other governmental authority that may be owed by Buyer as a result of the purchase of the Product.
- 1.3. Payments for Products and or Service shall be made in US Dollars within thirty (30) days after the earlier of delivery or receipt of invoice, unless otherwise agreed to by both parties in writing. Payments not received when due shall bear interest the higher of twelve percent (12%) per year or the maximum percentage permitted by law.

2. Materials for Testing

All materials, parts or equipment required for tryout or special testing at KUKA's facility ("Testing Materials") shall be furnished by Buyer in a timely manner without cost to KUKA. Buyer is also responsible for all costs associated with the return of and/or safe disposal of all Testing Materials.

3. Packaging – Shipment - Installation

- 3.1 KUKA will attempt to comply with Buyer's packaging specifications, if any, but KUKA reserves the right to substitute any other methods of packaging that are reasonably comparable to the specifications furnished by Buyer.
- 3.2 Unless otherwise agreed, KUKA shall deliver the Products FCA (FOB if sea or inland waterway transport) KUKA's designated facility, INCOTERMS 2000. KUKA may make partial shipments at KUKA's sole discretion.
- 3.3 Shipping dates are approximate. KUKA shall endeavor to meet the shipping dates specified by Buyer. However, if KUKA is unable to meet such dates, Buyer shall have no claim against KUKA for damages resulting from any such failure.
- 3.4 All Products shall be installed by and at the expense of the Buyer unless otherwise expressly agreed to by KUKA in writing.

4. Security Interest

- 4.1 To secure Buyer's obligation to pay for the Products, Buyer hereby grants to KUKA, and KUKA shall retain, a first priority purchase money security interest in the Products and their proceeds (including accounts receivable), which security interest shall be superior to any other security interest granted or created by Buyer and shall be a first lien on the Products. This security interest shall continue until KUKA receives full payment of the purchase price of the Products.
- 4.2 When requested by KUKA, Buyer shall execute and deliver any and all documents as may be necessary to allow KUKA to perfect its security interest in the Products, including, but not limited to a separately executed security agreement, hypothec agreement, registration of lien, as well as Uniform Commercial Code financing and similar statements.

- 4.3 Until full payment, Buyer shall carry such insurance on the Products as KUKA may reasonably require.
- 4.4 The security interest granted KUKA in this Section 4 shall not be affected even if the Products are attached to realty or other personal property.
- 4.5 If default is made in any of the payments by Buyer, KUKA shall be entitled to the immediate repossession of the Products without prejudice to any further damages which KUKA may suffer by reason of the Buyer's refusal or failure to pay or surrender the Products.

5. Expedited Payment - Cancellation

- 5.1 If the financial condition of the Buyer at any time does not, in the judgment of KUKA, justify continued performance of any purchase order, KUKA: (a) may require full or partial payment in advance; or (b) shall be entitled to terminate the purchase order and receive payment for all costs incurred to the point of termination.
- 5.2 KUKA may, by written notice to Buyer, and without any liability to Buyer whatsoever, cancel Buyer's purchase order if Buyer:
 - a) fails to perform any of the terms and conditions contained herein or in the purchase order, and Buyer does not cure such failure to KUKA's satisfaction within a period of ten (10) days after receipt of written notice from KUKA; or
 - b) becomes insolvent, makes an assignment in favor of creditors, or becomes subject to any bankruptcy, dissolution or similar proceeding; or
 - c) is merged into, or all or a substantial part of its assets are sold to, another company.
- 5.3 As a non-exclusive alternative to cancellation, KUKA may, by written notice to Buyer, and without any liability to Buyer whatsoever, suspend any of its obligations under a purchase order for any reason referenced in subsections 5.2(a) through (c) above.
- 5.4 KUKA's remedies hereunder are not exclusive and KUKA shall be entitled to avail itself of any and all other remedies available to it at law or in equity.

6. Warranty

- 6.1 For Services, KUKA warrants that the Services will be of workmanlike quality and will be performed by qualified personnel.
- 6.2 FOR ALL NEW PRODUCTS AND KUKA SOFTWARE, KUKA WARRANTS THAT FOR TWELVE (12) MONTHS AFTER DELIVERY [OR EIGHTEEN (18) MONTHS AFTER SHIPMENT, WHICHEVER IS FIRST TO OCCUR THE "WARRANTY PERIOD"] THE PRODUCTS WILL MEET THEIR PUBLISHED SPECIFICATIONS. KUKA DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES OF ANY KIND (WHETHER ARISING BY IMPLICATION OR BY OPERATION OF LAW) WITH RESPECT TO THE PRODUCTS OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OR REPRESENTATIONS AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR INFRINGEMENT. THE SOFTWARE WARRANTY DOES NOT APPLY TO KUKA SOFTWARE DEFECTS THAT OCCURRED FROM: 1) INCORRECT SPECIFICATIONS OR INFORMATION SUPPLIED BY BUYER; OR 2) BY ANY MODIFICATION TO THE SOFTWARE PERFORMED BY BUYER OR ANY THIRD-PARTY UNLESS SPECIFICALLY AUTHORIZED BY KUKA IN ADVANCE.

6.3 TO THE EXTENT THAT THE PRODUCT INCORPORATES THIRD-PARTY HARDWARE OR SOFTWARE, SUCH THIRD-PARTY HARDWARE OR SOFTWARE SHALL BE COVERED ONLY BY THE HARDWARE OR SOFTWARE PROVIDER'S END-USER LICENSE AGREEMENT WARRANTY AND BUYER'S REMEDIES ARE LIMITED SOLELY TO THOSE SPECIFICALLY CONTAINED THEREIN.

6.4 In order for the Product warranty to be valid under paragraph 6.2, Buyer must, within thirty (30) days after receipt of the Product, complete and return to KUKA its Warranty Registration Form.

6.5 Software purchases for upgrades, revisions or additions, KUKA warrants that for thirty (30) days after proper installation the Software will be free from errors and defects and shall meet the specifications.

6.6 Warranty travel and related expenses within the 48 contiguous United States will be covered. Travel and related expenses outside the 48 contiguous United States will be invoiced at actual cost plus 10% (in such case, parts and on-site labor will be covered under the standard warranty where applicable).

6.7 Except as otherwise expressly provided herein, KUKA warrants that, to the best of its current knowledge, information and belief, the Product(s), their sale, possession and intended use do not infringe on any United States or foreign Letters Patent. This warranty extends only to infringement claims which pertain to the Products and to methods performed by the Products. This warranty does not extend to any charge of infringement which pertains to an article of manufacture or which arises by reason of use of the Products in conjunction with other machinery not manufactured by KUKA or which arises from use of the Products in the practice of any process involving more than the inherent mode of operation of the Products. KUKA reserves the right to discontinue the delivery of any Product, the manufacture, sale or use of which, in its opinion, would infringe upon any Letters Patent now or hereafter issued and under which KUKA is not licensed.

6.8 KUKA's Product Warranty shall be void if: (i) the Product is not stored or handled appropriately; (ii) a defect resulted from damages occurring after delivery of the Product; (iii) a defect was caused by the acts, omissions or negligence of Buyer or a third party; (iv) the Product was incorrectly installed, misused, altered or was not maintained properly; or (v) the Product is used or exported outside of the country in which they were delivered without notice to and written consent from KUKA.

6.9 Preventive maintenance performed at documented intervals is required to perfect all Product warranties. Preventive maintenance must be provided by KUKA authorized service personnel and, if performed by KUKA, will be billed to Buyer (or the end-user as the case may be) at prevailing KUKA standard parts, field service, and travel rates.

6.10 Replacement parts provided, and Products repaired, under warranty shall be warranted for the greater of either: (a) the warranty provided by the third party manufacturer of the replacement part; or (b) the remainder of the original Warranty Period for the Product.

7. Defective Products & Services – Remedies

7.1 Product:

If a Product does not conform to the Product Warranty and the warranty is not otherwise excluded as provided herein, then Buyer must, as soon as possible, notify KUKA in writing of such non-conformance. Upon receipt of such a report, KUKA will schedule an inspection of the alleged defective Product. If KUKA determines that the Product does not comply with the Product Warranty, then KUKA will repair or

replace the defective Product at no cost to Buyer. SUCH REPAIR OR REPLACEMENT REMEDY IS THE ONLY REMEDY AVAILABLE TO BUYER FOR ANY BREACH OF THE PRODUCT WARRANTY AND SHALL BE EXCLUSIVE AND IN LIEU OF ALL OTHER REMEDIES OTHERWISE AVAILABLE TO BUYER AT LAW OR IN EQUITY.

7.2 Service:

If any failure to meet the Service warranty appears within thirty (30) days after the Services are completed, KUKA shall again perform, or cure, those Services directly affected by such failure, at its sole expense. BUYER'S SOLE REMEDY FOR DEFECTIVE SERVICES SHALL BE LIMITED TO THE COST OF REPERFORMING OR CURING SUCH SERVICES. IN ORDER TO RECEIVE THIS REMEDY BUYER MUST NOTIFY KUKA, IN WRITING, OF ANY CLAIMED DEFICIENCY WITHIN THIRTY (30) DAYS OF COMPLETION OF THE SERVICES. THE REMEDY SET FORTH HEREIN IS EXCLUSIVE AND IN LIEU OF ALL OTHER REMEDIES OTHERWISE AVAILABLE TO BUYER AT LAW OR IN EQUITY.

8. Returns - Cancellation by Buyer

8.1 No Product may be returned to KUKA without KUKA's prior written consent.

8.2 Returned Products must be securely packed by Buyer to reach KUKA without damage. Buyer must obtain a Return Authorization Number from KUKA prior to returning any Product. Buyer is solely responsible for the costs and risks of returning the Product to KUKA. Risk of loss for the returned Product will transfer to KUKA when the Product has been unloaded onto KUKA's factory floor. Reimbursement for returned Products shall not in any case exceed the full credit of the purchase price less all application specific engineering expenses, raw materials and/or supplies used, plus a fifteen percent (15%) restocking fee.

8.3 Buyer's purchase order shall not, for any reason, be cancelled by Buyer without KUKA's prior written consent, which consent KUKA may withhold in its sole discretion. If KUKA consents to such a cancellation, Buyer shall pay KUKA as follows: all engineering expenses, work in process, and any raw materials or supplies used, or for which commitments have been made by KUKA in connection with such cancelled order (paid for on the basis of KUKA's full cost) plus a cancellation premium of fifteen (15%) percent of the full price of the order. No software may be returned.

9. Cancellation/Rescheduling of Training Classes

9.1 Full payment ("Tuition") for a reservation in a KUKA robot training class is expected at the time of scheduling such reservation, unless otherwise agreed to by KUKA in writing. **TUITION IS NON-REFUNDABLE.** Rescheduling a reservation with a minimum of two (2) weeks advance notice to KUKA is subject to a fee equal to ten percent (10%) of the Tuition. Rescheduling a reservation with less than two (2) weeks advance notice to KUKA is subject to a fee equal to thirty percent (30%) of the Tuition. Upon payment of the rescheduling fee, KUKA will issue a voucher to Buyer which may be used by Buyer to reschedule the reservation for a training class held within six (6) months from the voucher date. Unused vouchers are non-refundable.

9.2 Attendance at classes without prior reservation is possible, but will only be allowed at KUKA's discretion if seats and related training equipment are available, and after Tuition has been paid in full.

9.3 **KUKA RESERVES THE RIGHT TO CANCEL OR MODIFY CLASSES AT ANY TIME.**

10. Exclusion of Certain Damages

IN NO EVENT, AND UNDER NO CIRCUMSTANCE, SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY PUNITIVE, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR SIMILAR TYPE DAMAGES, INCLUDING, BUT NOT LIMITED TO, ANY DIRECT AND INDIRECT LOST PROFITS, LOST REVENUES OR LOST OPPORTUNITIES REGARDLESS OF WHETHER THOSE DAMAGES WERE FORESEEABLE.

11. Force Majeure

11.1. KUKA is not liable or responsible for delay or failure to perform any of KUKA's obligations under any purchase order or to make delivery of any Product or Service caused by: (i) any cause beyond its reasonable control, including, but not limited to: labor disputes, industry disturbance, fires, unusually severe weather conditions, earthquakes, floods, declared or undeclared war, acts of terrorism, epidemics, computer malfunctions, civil unrest, military authority, insurrection, embargoes, riots, lack of supplies, delay in transportation, governmental, regulatory or legal action, act of God; or (ii) by acts or omissions of Buyer, including, but not limited to, Buyer's failure to promptly comply with the terms of payment--(collectively "Force Majeure Event"). The date of delivery shall be extended for a period equal to the time lost by reason of any of the Force Majeure Event.

11.2. If Buyer delays shipments, payments shall become due from date when KUKA is prepared to make shipment. If Buyer delays manufacture, payment shall be based on the contract price and percent of completion.

12. Indemnification

Buyer shall defend, indemnify and hold KUKA and its employees and agents harmless, from and against all sums, claims, costs, duties, liabilities, losses, obligations, suits, actions, damages, penalties, awards, fines, interest and other expenses (including investigation expenses and attorneys' fees) that KUKA may incur or be obligated to pay as a result of: (i) Buyer's negligence in the use, ownership, maintenance, transfer, export, transportation or disposal of the Product; (ii) any infringement or alleged infringement of the industrial and intellectual property rights of others arising from Buyer's plans, specifications (including Buyer's trademarks and brand names); (iii) Buyer's violation or alleged violation of any federal, state, county or local laws or regulation, including without limitation, the laws and regulations governing product safety, labeling, packaging and labor practices; and (iv) Buyer's breach of these Terms or any purchase order.

13. Installation and Service

13.1 KUKA will furnish adequate Product installation and operation instructions to the Buyer. Buyer and/or the end user are solely responsible for installation and use of Product in compliance of applicable local, State (Province), and Federal laws. If Buyer requests KUKA to assist with installation and use of the Product KUKA may, at its option, charge for such services ("Service Call") according to its then existing Service Call charge(s) plus travel and living expenses.

13.2 In the event of a Service Call, Buyer shall be responsible for Product and site preparation prior to the arrival of any KUKA service technician including all safety precautions and obtaining necessary permits. Delays caused by Buyer's failure to complete such preparations may result in the cancellation by KUKA of any such Service Call. Buyer shall be responsible for paying all associated costs and expenses caused by any such delay or cancellation.

14. Export Compliance

14.1 In order to ensure compliance with U.S. export control laws and regulations, including the Export Administration Regulations, at 15 C.F.R. Part 730 *et seq.*, the Office of Foreign Assets Control's ("OFAC") sanctions regulations, at 31 C.F.R. Part 500 *et seq.*, and the International Traffic in

Arms Regulations ("ITAR") 22 C.F.R. 121 *et seq.*, Buyer certifies as follows:

- a) Buyer acknowledges that its use of Products and any related technology and services are subject to U.S. export laws and regulations.
- b) Buyer is not a citizen, national, permanent resident of, or incorporated or organized to do business in, and is not under the control of the governments of Cuba, Iran, North Korea, Sudan or Syria or to any other destination to which the U.S. government may in the future prohibit exports. Buyer will not sell, export, re-export or cause to be exported Products or any related technology or software, directly (or indirectly through its agents or employees) to the above mentioned countries or to citizens, nationals or permanent residents of those countries.
- c) Buyer is eligible to receive exports of Products. Buyer has not been deemed by the U.S. government to be ineligible to receive exports and, in particular, is not listed on any of OFAC's list of Specially Designated Nationals or on the U.S. Department of Commerce's Table of Denial Orders or Entity List or Unverified List. Buyer will not sell, or otherwise re-export Products, directly or indirectly, to any ineligible persons.
- d) Buyer will not use the Product and will not enable the Product to be used for any purposes prohibited by U.S. export laws and regulations, including the development, design, manufacture or production of nuclear, missile, chemical and biological weapons and technology, or other defense articles and/or defense services as defined in the US Munitions List pursuant to the Arms Export Control Act [22 U.S.C. 2778 (a)] without first obtaining proper authorization and licensing from the proper Federal agency or agencies.

14.2 Buyer shall notify KUKA in writing of its intention to sell KUKA Products to any portion of the United States Government, or any Government or related contractor, in advance of issuing any pricing or acceptance of any purchase order. Integrator and end-user customer are prohibited from using KUKA Products for the development or production of weapons of mass destruction, including but not limited to nuclear weapons, biological weapons, chemical weapons, or missiles.

15. Governing Law

These Terms and the of the sale of Products or Services between KUKA and Buyer shall be governed by, and shall be construed in accordance with, the law of the State of Michigan, without regard to its conflicts of law provisions. **THE PARTIES AGREE THAT THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALES OF GOODS (CISG) DOES NOT APPLY TO ANY SALE OF PRODUCTS OR SERVICES AND THE PARTIES HEREBY WAIVE APPLICATION OF SAME PURSUANT TO ARTICLE VI THEREOF.**

16. Jurisdiction and Venue

Buyer irrevocably submits and agrees to the jurisdiction of the state and federal courts sitting in the State of Michigan in any action, suit or proceeding related to, or in connection with, any sale for Products or Services between the parties and, to the extent permitted by applicable law, Buyer waives and agrees not to assert as a defense in any such action, suit or proceeding any of the following claims and defenses: (i) that Buyer is not personally subject to the jurisdiction of the State and Federal courts of Michigan; (ii) that the venue of the action, suit or proceeding is improper; (iii) that the action, suit or proceeding is brought in an inconvenient forum; or (iv) that the subject matter of any contract for the sale of Products or Services may not be enforced in or by the State or Federal courts of the State of Michigan. Without prejudice to any other mode of service, Buyer consents to service of

process relating to any such proceedings by personal service or prepaid mailing (air mail if international) in registered or certified form a copy of the process to the Buyer.

- c) The offering, promising, granting/promoting, obtaining of promises (for oneself), and accepting of advantages to/from business partners in exchange for unfair preferential treatment in national or international business transactions;
- d) The disclosure or procurement (for oneself) of trade and business secrets, and the unauthorized exploitation of (technical) patterns/models; and
- e) Violations of competition and antitrust law.

17. Miscellaneous

- 17.1 If any provision of any purchase order or these Terms is held by a court of competent jurisdiction to be contrary to law or public policy, the remaining provisions of any purchase order or these Terms remain in full force and effect.
- 17.2 The waiver by KUKA of any breach by Buyer of any provision of any purchase order or these Terms may not be construed to be either a waiver of the provision itself as to subsequent application or enforcement or any other provision of any purchase order or these Terms.
- 17.3 Nothing that in any way purports to modify any of these Terms is binding upon KUKA unless made in writing and signed by an authorized officer of KUKA.
- 17.4 In case of a conflict between these Terms and an individual purchase order, these Terms shall prevail unless KUKA has expressly agreed to the conflicting term in its acceptance or purchase order acknowledgment. In case of a conflict between a purchase order and KUKA's acceptance or purchase order acknowledgment, the acceptance or purchase order acknowledgment shall prevail.
- 17.5 Buyer may not, directly or indirectly through one or more other persons or entities (whether as a principal, owner, shareholder, partner, member, joint venture, officer, director, manager, consultant, employee, agent, lender or otherwise), use the Products to engage in any activity that is substantially similar to or competitive with any part of KUKA's or its affiliates' business, including, but not limited to, designing, manufacturing, selling and servicing industrial robots, or developing, selling, or in any way providing industrial robot training programs. By placing a purchase order for the Products Buyer acknowledges that this Paragraph 17.5 is reasonable and valid in all respects. If a final judgment of a court of competent jurisdiction or arbitral body declares that any term or provision of this Paragraph 17.5 is invalid or unenforceable, KUKA and Buyer agree that the court or arbitral body making the determination or invalidity or unenforceability shall have the power to reduce the scope, duration, or area of the term or to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term and the covenants set forth in this Paragraph 17.5 shall be enforceable as so modified. To the extent permitted by applicable law, the parties waive any provision of law that renders any covenant in this Paragraph 17.5 invalid or unenforceable in any respect.
- 17.6 KUKA and Buyer declare their commitment to a corruption-free business community, undertake to refrain from any kind of corrupt conduct and any other kind of criminal practices, and to take all necessary measures to prevent such. They undertake in particular to take precautionary measures against the following listed serious transgressions:
 - a) Criminal acts in business transactions, particularly money laundering, fraud, criminal breach of trust, forging of documents, forging of technical sketches/notes, forging of evidentiary-relevant data, causing the recording of false declarations/facts, perjury, concealment of documents, and collusive bidding in conjunction with tender invitations;
 - b) The offering, promising, or granting of advantages to national or foreign public officials, office holders, or persons under a special obligation to the public service who decisively participate in the granting or execution of contracts;