

KM PARTS GROUP TERMS AND CONDITIONS

1. Definitions

Buyer	the person who buys or agrees to buy the goods from the Seller.
Conditions	the terms and conditions of sale as set out in this document and any special terms and conditions agreed in writing by the Seller.
Goods	the articles which the Buyer agrees to buy from the Seller.
Price	the price for the Goods, excluding VAT and any carriage, packaging and insurance costs.
Seller	<i>KM Agricultural Spares Ltd t/a KM Parts Group</i>

2. Conditions

- 2.1 These Conditions shall form the basis of the contract between the Seller and the Buyer in relation to the sale of Goods, to the exclusion of all other terms and conditions including the Buyer's standard conditions of purchase or any other conditions which the Buyer may purport to apply under any purchase order or confirmation of order or any other document.
- 2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods from the Seller 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 These Conditions may not be varied except by the written agreement of a director of the Seller.
- 2.5 These Conditions represent the whole of the agreement between the Seller and the Buyer. They supersede any other conditions previously issued.

3. Price

The Price shall be [*amount*] (*or*) [the price quoted on the Seller's confirmation of order]. All prices are subject to adjustment without notice. The contract price shall be the price current at the date of despatch of the goods. The Price is exclusive of VAT which shall be due at the rate in force on the date of the Seller's invoice.

4. Payment and Interest

- 4.1 Payment of the Price and VAT shall be due within [30] days of the date of the Seller's invoice.
- 4.2 Interest on overdue invoices shall accrue from the date when payment becomes due calculated on a daily basis until the date of payment at the rate of [15%] per annum above the Bank of England base rate from time to time in force. Such interest shall accrue after as well as before any judgment.
- 4.3 The Buyer shall pay all accounts in full and not exercise any rights of set-off or counter-claim against invoices submitted by the Seller.

5. Goods

The quantity and description of the Goods shall be as set out in the Seller's confirmation of order. Original manufactures names part numbers and descriptions are quoted for reference purposes only and do not indicate that replacement parts are made by the original equipment manufacture.

6. Warranties

The Seller warrants that the Goods will at the time of delivery correspond to the description given by the Seller in the confirmation of order. [Except where the Buyer is dealing as a consumer (as defined in section 12 of the Unfair Contract Terms Act 1977), all other warranties, conditions or terms relating to fitness for purpose, quality or condition of the Goods are excluded]. In respect of any defect in the goods arising from any drawing, design or specification supplied by the buyer the seller shall be under no liability under any warranty.

7. Delivery of the Goods

- 7.1 Delivery of the Goods shall be made to the Buyer's address. The Buyer shall make all arrangements necessary to take delivery of the Goods on the day notified by the Seller for delivery.
- 7.2 The Seller undertakes to use its reasonable endeavours to despatch the Goods on an agreed delivery date, but does not guarantee to do so. Time of delivery shall not be of the essence of the contract.

- 7.3 The Seller shall not be liable to the Buyer for any loss or damage whether arising directly or indirectly from the late delivery or short delivery of the Goods. If short delivery does take place, the Buyer undertakes not to reject the Goods but to accept the Goods delivered as part performance of the contract.
- 7.4 If the Buyer fails to take delivery of the Goods on the agreed delivery date or, if no specific delivery date has been agreed, when the Goods are ready for despatch, the Seller shall be entitled to store and insure the Goods and to charge the Buyer the reasonable costs of so doing.
- 7.5 Where the goods are to be collected by the buyer, the Seller shall be entitled to treat the contract as repudiated and re-sell the goods. Should the buyer fail to collect the goods within 14 days of notification by the seller that they are ready for collection or dispatch
- 7.6 Whilst every effort will be made to comply with any quoted dates given for dispatch or delivery, time shall not be of the essence and the seller shall not be liable for any loss or damage caused by delay or failure by the seller in obtaining goods from the seller's own suppliers, or loss or damage caused by strikes, lockouts, breakdowns, fire, accidents and/or any cause whatsoever beyond the seller's control. Such delay shall not constitute a breach or repudiation of the contract.

8. Acceptance of the Goods

- 8.1 The Buyer shall be deemed to have accepted the Goods [48 hours] after delivery to the Buyer.
- 8.2 The Buyer shall carry out a thorough inspection of the Goods within [48 hours] of delivery and shall give written notification to the Seller within 5 working days of delivery of the Goods of any defects which a reasonable examination would have revealed.
- 8.3 Where the Buyer has accepted, or has been deemed to have accepted, the Goods the Buyer shall not be entitled to reject Goods which are not in accordance with the contract.

9. Title and risk

- 9.1 Risk shall pass on delivery of the Goods to the Buyer's address.
- 9.2 Notwithstanding the earlier passing of risk, title in the Goods shall remain with the Seller and shall not pass to the Buyer until the amount due under the invoice for them (including interest and costs) has been paid in full.
- 9.3 Until title passes the Buyer shall hold the Goods as bailee for the Seller and shall store or mark them so that they can at all times be identified as the property of the Seller and shall insure the delivered goods against any loss or damage with an insurance office of repute.
- 9.4 The Seller may at any time before title passes and without any liability to the Buyer:
- 9.4.1 repossess and dismantle and use or sell all or any of the Goods and by doing so terminate the Buyer's right to use, sell or otherwise deal in them; and
 - 9.4.2 for that purpose (or determining what if any Goods are held by the Buyer and inspecting them) enter any premises of or occupied by the Buyer.
 - 9.4.3 The Seller may maintain an action for the price of any Goods notwithstanding that title in them has not passed to the Buyer.
 - 9.4.4 the buyer shall keep and retain the delivered goods free from any charge, lien or other encumbrance thereon.
- 9.5 if the buyer incorporates the goods within other equipment or products ("the new goods") provided that the goods remain a readily identifiable and removable part of the new goods the provisions of clause 9.4.1 shall apply.

10. Carriage of Goods

Carriage will be chargeable on all sales where applicable. This will be at the rate advised.

11. Liability

Except in respect of injury to or death of any person caused by the seller's negligence, or in respect of the seller's liability under the Consumer Protection Act 1987 for the injury to or death of any person or loss of or damage to property intended for private use caused by defect in the goods, the seller shall not be liable to the buyer for any loss or damage which arises out of or in connection with the supply of the goods or their use or resale by the buyer, except as expressly provided in these conditions of sale.

12. Construction

These conditions of sale shall be subject to and shall be construed in accordance with English law and the High Court of Justice in London shall have non-exclusive jurisdiction over any dispute which may arise hereunder unless the parties agree otherwise in writing.