

## GENERAL TERMS AND CONDITIONS OF SALES

**1. General.** This document, entitled "General Terms and Conditions" (referred to herein as the "Agreement"), forms an integral part of the quotation to which it is attached (the "Quotation") issued by Kokam Co., Ltd. or any of its subsidiaries or affiliates ("Kokam") to the buyer described in the Quotation ("Buyer") for the purchase of the products and/or services set out therein ("Products"). This Agreement sets out the only terms and conditions applicable to any sale by Kokam to Buyer of the Products and, unless otherwise agreed in writing by Kokam, any terms and conditions set out in a purchase order issued by Buyer for Products ("Purchase Order") shall not be binding on Kokam.

**2. Purchase Orders and Acceptance.** All Purchase Orders placed by Buyer, whether in writing or electronically transmitted, are subject to Kokam's written acceptance ("Acceptance"); provided, however, that where such Purchase Orders comply with the terms of the Quotation, they will be deemed to be accepted upon receipt thereof by Kokam. Upon such Acceptance, or deemed acceptance, Buyer shall become bound by the provisions of this Agreement, regardless of whether Kokam acknowledges or otherwise signs this Agreement. Once issued, Purchase Orders may only be modified or cancelled, in whole or in part, upon the mutual written agreement of Kokam and Buyer.

### **3. Purchase Price and Payment.**

**3.1 Purchase Price and Payment.** Buyer will pay Kokam the price for Products specified in the Quotation (the "Purchase Price") in accordance with the payment terms specified in the Quotation. Unless otherwise agreed in writing by Kokam and Buyer, (i) all invoices issued by Kokam for Products purchased shall be paid in advance prior to shipment; and (ii) all payments hereunder shall be made to Kokam in the currency denominated in the Quotation by wire transfer to the account specified on the invoice.

**3.2 Taxes and other Charges.** Unless otherwise indicated in the Quotation, the Purchase Price does not include any taxes and other charges applicable to the purchase, shipping and delivery of Products hereunder, all of which are in addition to the Purchase Price and shall be paid by Buyer.

**3.3 Late Payments.** Any amount not paid by Buyer when due will be subject to a finance charge equal to 1.5% per month (18 % per annum) or such lower rate which is the highest rate permitted by applicable law. Without limiting any remedies available to Kokam, Kokam may defer or cancel the relevant delivery of Products or goods ordered by Buyer from Kokam until full payment of all amounts due is made. Unless otherwise agreed in writing by Kokam, in no event may Buyer set-off any amounts due hereunder from amounts that may be owed to Buyer by Kokam.

### **4. Delivery and Shipment.**

**4.1 Delivery.** Deliveries will be made in accordance with Buyer's written shipping instructions set out in the Purchase Order as may be modified by Kokam's acceptance based on the general availability of Products. Delays in delivery which are due to reasons beyond the control of Kokam such as, by way of example, force majeure or events which make it considerably more difficult or impossible for Kokam to make delivery of Products for more than a temporary period of time, including strikes, lockouts, official directives (even if they are at the premises of Kokam's suppliers or their suppliers), will entitle Kokam to defer delivery of the Products ordered by the period of the impediment plus an appropriate preceding period. In the event that due to the existence of such an event it becomes apparent to Kokam that delivery of the Products will not occur within the forecasted delivery schedule, Kokam will notify Buyer thereof and the delivery timeframe shall be extended until the event causing the delay has terminated plus a period of no more than thirty (30) calendar days. Kokam shall not be liable for any cost or damage due to early or late delivery. Notwithstanding the foregoing, if Kokam is unable to meet total demand for Products by Kokam's customers, Kokam may allocate the available quantity of Products as it deems most equitable in making partial shipments or shipment cancellations, and may give preference to the earliest commitments made among Kokam's customers. Buyer may cancel any order for such partial or cancelled shipments by providing written notice to Kokam within three (3) calendar days of receipt of notification from Kokam regarding the anticipated delivery of such partial shipment of Products or order cancellation. Payment for such orders shall become due within thirty (30) calendar days of the delivery of each partial order in accordance with the payment terms set forth herein.

**4.2 Shipment Terms.** Unless otherwise stated in the Purchase Order, all

shipments are Ex-Works (Incoterms 2010) Kokam plants or warehouses from which products is shipped. Notwithstanding the foregoing, at Buyer's request, Kokam may ship orders DDP/DAP (Incoterms 2010), provided however that the Buyer assumes all shipment costs. Title and risk of loss shall transfer to Buyer upon the delivery of the Products to Kokam's warehouse in case of Ex-Works delivery or upon the delivery of the Products to Buyer's requested destination in the case of DDP/DAP delivery.

**4.3 Packing and Shipping.** Kokam will pack and ship Products ordered hereunder in accordance with its general practice unless specific instructions are provided by Buyer in the Purchase Order and Accepted by Kokam. Any additional costs incurred by Kokam as a result of such special packaging and/or shipping requests will be borne exclusively by Buyer.

**4.4 Risk of Loss and Title.** Unless otherwise stated in the Purchase Order, risk of loss and title for the Products shall transfer upon delivery at the delivery point.

**5. Inspection and Acceptance.** Unless otherwise agreed by Kokam and the Buyer in writing, not later than fifteen (15) calendar days following receipt of any of the Products but in all events prior to any use or processing thereof, Buyer shall notify Kokam of any discrepancies between the quality (as ascertainable based upon visual inspection only) of the Products ordered and those actually delivered (a "Defect") or between the quantity of the Products ordered and those actually delivered. If Buyer does not provide such notice to Kokam within the foregoing time period, or if Buyer uses or processes the Products, such Products shall be deemed to have been conclusively received and accepted by Buyer without defects, and shall constitute full waiver of such claims by Buyer. In the event that Buyer identifies discrepancies between the quantity or quality of the Products ordered and those actually delivered within the foregoing time period, Buyer shall promptly notify Kokam thereof in writing. Upon validation of such claim, Kokam will take further measures and provide Buyer with instructions in order to resolve any such discrepancy.

**6. Intellectual Property and Use.** Buyer acknowledges, understands and agrees that while Buyer is purchasing the physical embodiment of the Product, Kokam retains sole and exclusive ownership of all intellectual property rights and know-how embodied within and related to such Products. Except for the limited right to market, distribute and sell the Products, Buyer is not granted and has no rights in or to any such intellectual property, and, except where specifically permitted by law, shall not, directly or indirectly, modify, reverse engineer or disassemble the Products. Buyer further acknowledges and agrees that it is solely liable for any claims of patent, trademark, or intellectual property infringement that may arise as a result of using or integrating the Products in combination with other materials, equipment or processes. In the event that Buyer desires to obtain Products for Buyer's own internal use, Buyer shall be obligated to enter into a separate agreement with Kokam.

**7. Warranty.** Kokam provides warranty coverage for Products purchased hereunder. Such warranty is set out in the document entitled "Limited Product Warranty" available on the Kokam website, and is governed by the terms and conditions set out therein.

**8. Disclaimer.** EXCEPT AS EXPRESSLY SET OUT IN THE PRODUCT WARRANTY, KOKAM DOES NOT MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY AS TO QUALITY, MERCHANTABILITY OR FITNESS FOR PURPOSE, CONCERNING THE USE OR PERFORMANCE OF ANY OF THE PRODUCTS, OR THEIR DESIGN, MATERIALS, WORKMANSHIP, LIFE, PERFORMANCE OR SUITABILITY, OR THE INFORMATION, SPECIFICATIONS OR MANUALS PROVIDED WITH THEM. WITHOUT LIMITING THE FOREGOING, UNDER NO CIRCUMSTANCES WHATSOEVER WILL KOKAM HAVE ANY LIABILITY TO BUYER FOR ADVICE, ASSISTANCE, RECOMMENDATIONS OR INFORMATION PROVIDED BY KOKAM TO BUYER WITH RESPECT TO THE HANDLING, STORAGE OR USE OF ANY PRODUCTS.

**9. Indemnity.** Buyer shall be solely responsible for, and shall indemnify and hold harmless Kokam from and against all actions, causes of action, damages, losses, injury, costs, expenses and liabilities whatsoever arising out of or by virtue of any claim in respect of: (i) any misuse, abuse, negligence or failure to maintain the Products as specified by Kokam; (ii) any modifications, alterations or attachments to the Products which were

not undertaken by Kokam or pre-authorized in writing by Kokam; (iii) any failure to observe applicable safety regulations governing the proper use, transportation or disposal of the Product and any other standards and requirements applicable at the installation location; (iv) installation or operation of the Products not in strict conformance with Kokam's instructions, including without limitation, failure to ensure sufficient ventilation for the Products; (v) modification or disassembly of the Products in any way without Kokam's prior written consent; and (vi) use of the Products in combination with items, articles or materials not authorized in writing by Kokam.

**10. Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, KOKAM WILL BE LIABLE TO BUYER ONLY FOR DIRECT DAMAGES ACTUALLY INCURRED BY BUYER AND ONLY UP TO A MAXIMUM AMOUNT EQUAL TO THE PURCHASE PRICE FOR THE PRODUCTS THAT CAUSED SUCH DAMAGES, AND BUYER HEREBY RELEASES KOKAM AND ITS AFFILIATES FROM ALL OTHER CLAIMS AND LIABILITIES INCLUDING, WITHOUT LIMITATION, (A) ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOST REVENUES, FAILURE TO REALIZE EXPECTED SAVINGS, OR OTHER COMMERCIAL OR ECONOMIC LOSSES OF ANY KIND, EVEN IF KOKAM HAS BEEN ADVISED, OR HAD REASON TO KNOW, OF THE POSSIBILITY OF SUCH DAMAGE, (B) ANY LIABILITY ARISING IN TORT OR OTHERWISE, WHETHER OR NOT ARISING OUT OF KOKAM'S NEGLIGENCE, AND ALL LOSSES OR DAMAGES TO ANY PROPERTY (INCLUDING THE BUSINESS PROPERTY OF THE BUYER) OR FOR ANY PERSONAL INJURY OR ECONOMIC LOSS OR DAMAGE CAUSED BY THE CONNECTION OF A PRODUCT TO ANY OTHER DEVICE OR SYSTEM, AND (C) ANY DAMAGE OR INJURY ARISING FROM, OR AS A RESULT OF, MISUSE, ABUSE OR INCORRECT INSTALLATION, INTEGRATION OR OPERATION OF THE PRODUCTS BY PERSONS NOT AUTHORIZED BY KOKAM. IN CIRCUMSTANCES WHERE ALL OR ANY PORTION OF LIABILITY IS FINALLY DETERMINED TO BE ENFORCEABLE AGAINST KOKAM, THE TOTAL LIABILITY OF KOKAM SHALL NOT EXCEED AN AMOUNT WHICH IS PROPORTIONAL TO THE RELATIVE FAULT OF KOKAM'S CONDUCT IN RELATION TO ALL OTHER CONDUCT GIVING RISE TO SUCH CLAIM.

**11. Termination.** Any Purchase Order may not be terminated by Buyer without Kokam's prior written consent. If Kokam consents to such termination, Buyer will be liable for termination charges including, without limitation, a price adjustment based on the quantity of Products actually delivered and all costs, direct, incurred and committed for Purchase Order together with reasonable allowance for prorated expenses and anticipated profits. Kokam may terminate this Agreement with immediate effect in any of the following events: (a) Buyer breaches this Agreement or any other of its obligations to Kokam and fails to remedy such breach (if capable of cure) within thirty (30) calendar days of receiving notice thereof from Kokam; or (b) where any bankruptcy, insolvency, liquidation, reorganization or similar proceedings are commenced with respect to Buyer, or Buyer is adjudged a bankrupt or becomes insolvent; or (c) Buyer makes an assignment for the benefit of, or proposes an arrangement with, its creditors, or a receiver or similar person is appointed in respect of all or any part of Buyer's assets. Upon termination of this Agreement for any of the events indicated above, Kokam will be released from any further obligations to Buyer, including without limitation the Product Warranty and monitoring or other services which shall end upon the effective date of termination hereunder.

**12. Miscellaneous.**

12.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement.

12.2 Amendment and Waiver. No amendment, supplement, consent or waiver, express or implied, to or of any provision of this Agreement will be effective unless in writing signed by the parties hereto and then only in the specific instance and for the specific purpose given.

12.3 Severability. If any provision of this Agreement is found by any court or arbitrator to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected thereby.

12.4 Assignment. Buyer may not assign or transfer this Agreement or any of its rights or obligations hereunder without Kokam's prior written consent, which consent may be withheld at Kokam's sole discretion.

12.5 Independent Contractors. The parties are independent contractors and nothing contained in this Agreement shall give any party the right to

bind the other party.

12.6 Export Laws. Products delivered by Kokam are subject to Israeli, Korean and U.S. Export controls and may be subject to the trade laws of other countries. Buyer agrees to comply with all export control regulations and acknowledges that it has the responsibility to obtain such licenses to export, re-export or import as may be required. Buyer agrees not to export or re-export to entities on the most current Israeli, Korean and/or U.S. Export exclusion lists or to any country subject to U.S. Embargo or terrorist controls as specified in the U.S. Export laws including but not limited to Iran, Syria, Lebanon, Cuba and North Korea.

12.7 Force Majeure. Kokam shall not be in breach of any of its obligations under this Agreement where the failure to perform or delay in performance is due, wholly or in part, directly or indirectly, upon the occurrence of any act of God, acts of governmental bodies or agencies foreign or domestic, sabotage, fire, terrorism, floods, earthquakes, explosions or other catastrophes, accidents, freight embargos, delays occasioned by carriers, delays of a supplier of Kokam, strikes, lockouts, labor unrest, labor shortages, manufacturing breakdowns or any other event beyond the control of Kokam.

12.8 Notices. All notices shall be in writing to the address or facsimile number indicated in the Quotation and/or Purchase Order. Notices shall be deemed accepted three (3) calendar days after delivery by international courier, or two (2) calendar days following transmission by email (receipt confirmed), or seven (7) calendar days after delivery by registered mail.

12.9 Governing Law. Unless a dispute has arisen between two Korean companies, in which case Korean law and jurisdiction shall apply, this Agreement and all purchase orders issued hereunder shall be governed by and construed in accordance with the laws of England.

12.10 Language. This Agreement is drawn up solely in the English language, which shall be the only recognized language in all documents and communications between the parties.

12.11. Buyer shall be solely responsible for the disposal of the Products and undertakes to enter into an agreement with a company certified , in the states and countries in which it is selling or commissioning Kokam products, in accordance with applicable laws regulations and guidelines in such territories including without limitation the WEEE directive governing the evacuation of the Products and components at their End of Life stage, to authorized evacuation sites.

Revised: March 2020

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Company Name/Seal

\_\_\_\_\_  
Approved and Agreed - Buyer's Authorized Signature

\_\_\_\_\_  
Printed Name & Title of Signatory

\_\_\_\_\_  
Date