

# Kobelco Welding of America Inc.

## General Terms and Condition for Sales of Welding Materials

### Article 1. Definition

1.1. In these General Terms and Conditions, the word;

- 1) "KWAI" shall mean Kobelco Welding of America Inc.
- 2) "Buyer" shall mean the other party than KWAI on the legal acts and agreements referred to below in Article 2 with regard to the sale or delivery of goods or services by KWAI.
- 3) "Contract" shall mean the agreement to be entered into by and between KWAI and the Buyer in which KWAI sells and the Buyer purchases certain welding material.
- 4) "Delivery Time" shall mean the date on which the Goods shall be ready for dispatch from KWAI.
- 5) "EXW" shall mean Ex Works set forth in the latest version of Incoterms at the date of the Contract.
- 6) "Goods" shall mean the products and related services and works thereof to be furnished by KWAI under the Contract.
- 7) "Offer" shall mean the offer placed to the Buyer by KWAI for the supply of the Goods.
- 8) "Specifications" shall mean any technical descriptions, specifications and drawings of the Goods or other instructions contained or referred to in the Contract.
- 9) "Warranty Period" shall mean the period KWAI will provide warranty set forth in Article 9, which begins from the date of shipment and ends at the earlier date of (a) six (6) months from the date of delivery (unless explicitly agreed otherwise in writing), or (b) two (2) years from the date the Goods is completely manufactured.
- 10) "Anti-Bribery Laws" shall mean all applicable domestic and foreign anti-bribery laws, regulations and guidelines.
- 11) "Public Officials" shall mean any and all public officials who are presumed to accept bribes under the Anti-Bribery Laws.
- 12) "Related Parties" means the employees (including fixed-term employees, temporary employees and part-time employees), officers, directors of the board, advisors and representatives of its company or that of the entity for which it holds majority shares and control.

### Article 2. Applicability

2.1. These general terms and conditions apply to and form an integral part of all offers and quotations made by KWAI, all order confirmations, acceptances and acknowledgements by KWAI and any agreements and Contracts regarding the sale by KWAI and purchase by the

Buyer of Goods, unless and to the extent KWAI explicitly agrees otherwise in writing. They apply to the exclusion of any other terms or conditions of the Buyer and shall also apply to all further or additional agreements between KWAI and Buyer.

- 2.2. KWAI hereby explicitly rejects and disregards any other and/or contrary terms and conditions of the Buyer, issued either before or after issuance of any document by KWAI setting forth or referring to these terms and conditions.
- 2.3. Buyer's acceptance of the Offer of KWAI, Buyer's signature to the Offer or KWAI's commencement of performance or Buyer's failure to provide written notice of objection to the Offer shall constitute buyer's acceptance of these general terms and conditions, regardless of any contrary statements or representations not contained herein.

### Article 3. Offer; Formation of Contract; Entire Agreement

- 3.1. All offers are valid for a period of fourteen (14) days from the date of issue, unless otherwise expressly stated in the Offer, provided however that KWAI may withdraw or revoke the Offer at any time prior to receiving Buyer's acceptance thereof.
- 3.2. The Contract shall become binding between and be deemed to have been entered into by KWAI and the Buyer when the Buyer accepts the Offer in writing.
- 3.3. Unless explicitly expressed otherwise in writing by KWAI, the Contract constitutes the entire agreement between KWAI and the Buyer and shall supersede any and all previous and contemporaneous negotiations, commitments and understandings, whether in writing or oral, with respect to the Contract or the subject matter thereof. No change to or amendment or modification of the Contract or these general terms and conditions shall be binding upon KWAI unless accepted by KWAI in writing.
- 3.4. Sales literature, price lists and other documents issued by KWAI in relation to the Products are subject to alteration without notice and do not constitute offers to sell the Products which are capable of acceptance.
- 3.5. Illustrations, photographs or descriptions whether in catalogues, brochures, price lists or other documents issued by KWAI are intended as a guide only and shall not be binding on KWAI.

### Article 4. Price and Payment

- 4.1. Price
  - 1) Price for the Goods specified in the Contract are firm and final and shall not be subject to any adjustment for any reason whatsoever unless explicitly expressed otherwise in writing by KWAI
  - 2) Prices in any Offer, order confirmation or Contract of KWAI are in United States Dollars and based on EXW facility of KWAI or another facility designated by KWAI, and shall exclude Value Added Tax (VAT) and any and all of taxes, duties or other charges which

may be imposed on the sale of the Goods, unless otherwise explicitly agreed in writing. If KWAI is for any reason required to pay any of such charges, the Buyer shall reimburse KWAI for these costs plus overdue interest as stated below in respect of KWAI's payment thereof.

- 3) Notwithstanding what is stipulated in 1) of 4.1, KWAI shall have the right to increase the price for the Goods accordingly in the event of statutory changes in prices, such as taxes and duties levied by the government, and due to increase in prices of raw materials, equipment, electricity, national insurance contributions, wages, freight and other cost price factors or charges, including charges in foreign exchange and an increase of prices KWAI is charged by its own suppliers, in the period between the Offer date and the delivery date.

#### 4.2. Payment

- 1) If no payment terms are otherwise agreed in the Contract, the Buyer's payment under the Contract shall be made in advance before shipment of the goods.
- 2) Payment shall be made in US Dollars without any discount, deduction, set-off or counterclaim of any kind whatsoever, unless otherwise indicated on the invoice.
- 3) If KWAI determines, in its sole discretion, that Buyer's financial condition is not sufficient to meet Buyer's obligations under the Contract, KWAI may demand security for payment, impose other payment terms or terminate the Contract.

#### 4.3. Delay in Payment

- 1) Prompt payment is of the essence of the Contract and a delay or default in any payment will, at the option of KWAI, operate as a fundamental breach of this Contract. All costs incurred by KWAI as a result of nonpayment or delay in payment by the Buyer including collection costs and attorney's fees, shall be due by the Buyer. In this regard, KWAI may charge at least fifty (50) US Dollars per reminder to the Buyer to cover all administrative costs, as well as suspend the delivery of the Goods until the payment is fulfilled. In addition, KWAI reserves, without prejudice to any other right permitted under applicable laws and the Contract and with no liability to KWAI, the right to cancel the Contract for the Goods to which the payment is not fulfilled for ninety (90) days or more.
- 2) Past due payments shall bear overdue interest computed daily at the lesser of (i) fifteen percent (15%) per annum; or (ii) the maximum rate of interest permitted by law from the due date until payment in full.
- 3) Furthermore, KWAI will hand over the outstanding debt to debt collector(s) for collecting the money.

## Article 5. Cancellation

Unilateral cancellation of an order by Buyer which has been accepted by KWAI or cancellation of the Contract by Buyer shall be null and void, unless KWAI explicitly agrees otherwise in writing. Buyer will indemnify KWAI for all costs and expenses already incurred and commitments made by KWAI in relation to the cancelled order or Contract plus a liquidated damage at a minimum of 25% of the total amount of the order or Contract.

## Article 6. Delivery

6.1. KWAI will perform the delivery of the Goods as described in the Contract. KWAI, at its sole discretion, is entitled to make partial delivery.

6.2. Unless otherwise explicitly agreed in writing, delivery shall be made according to KWAI's capacity planning. The Buyer hereby acknowledges that the delivery times are always an estimate and on the condition Buyer provides all the necessary information, documents, etc. for the delivery of the Goods.

6.3. Delivery of the Goods shall be made EXW as designated by KWAI unless otherwise explicitly agreed in writing. Upon delivery, such delivery shall be deemed complete.

6.4. If it becomes apparent to KWAI that delivery of any of the Goods will be delayed, KWAI shall forthwith notify the Buyer of the foreseeable extent of such delay and shall, from time to time thereafter, notify the Buyer whenever the nature or foreseeable extent of such delay shall change.

6.5. IN NO EVENT SHALL KWAI BE LIABLE FOR ANY DIRECT OR INDIRECT DAMAGE OR CONSEQUENCES ATTRIBUTED TO A DELAYED DELIVERY NOR SHALL THE BUYER BE ENTITLED TO TERMINATION OF THE CONTRACT OR TO SUSPENSION OF ITS OWN OBLIGATIONS UNDER THE CONTRACT OR UNDER ANY OTHER CONTRACT BETWEEN KWAI AND BUYER, EXCEPT IN THE EVENT OF KWAI'S GROSS NEGLIGENCE.

6.6. In the event the Buyer is in default with regard to taking the delivery of the Goods, KWAI may be entitled to terminate the Contract and to claim full compensation.

## Article 7. Title and Risk of Loss of Goods

7.1. The risk of loss or damage to the Goods delivered under this Contract shall pass from KWAI to the Buyer at the facility of KWAI under the Contract, in accordance with the provisions of the Incoterms (latest version at the date of the Contract) referred to in the Contract.

7.2. Title to the Goods delivered under this Contract shall pass to the Buyer upon payment of the price in full, including any costs or interest in respect thereof, and of payment in full of any other claim in connection with the Contract or in connection with KWAI, the latter notwithstanding applicable mandatory law; provided, however, if the Contract mandates the advance payment

for the Goods, title to such Goods shall pass to the Buyer at the same time the risk of loss or damage of such Goods passes.

- 7.3. Until the title of the Goods passes to the Buyer, the Buyer is obliged a) to keep the Goods in good care and separate from other goods, b) to keep these Goods identifiable as Goods obtained from KWAI, c) to insure the goods against damage or loss and d) to refrain from processing, transferring or pledging any of these Goods or granting any right or title to the Goods to any third party, other than in connection with its normal business operation. At all times and without prior notice or default KWAI has the right, at Buyer's cost and expenses, to recover any of the Goods in the Buyer's possession or control to which KWAI holds the title and KWAI is hereby given the right by Buyer to enter into any land or building where these Goods are stored to retrieve the Goods in the event the Buyer fails in the performance of its payment obligations or gives KWAI reason to believe that it will not fulfil its payment obligations.
- 7.4. If the Goods are destined for a country whose laws recognize more far-reaching opportunities of retaining the right of ownership/the retention of title than stated above, KWAI and Buyer then these further opportunities are expected to have been stipulated on behalf of KWAI, with the understanding that if it cannot be objectively determined which further regulations this provision relates to, the provisions above continue to apply.

#### Article 8. Inspection, Test and Notice

- 8.1. The Buyer, at the Buyer's expense, shall be obligated to inspect the Goods immediately after arrival at the Buyer's premises or such other place as may be mutually agreed between KWAI and the Buyer. Buyer shall be responsible to note any exception (damage and/or shortage) on delivery receipt. Such inspection, however, does not relieve Buyer from any obligations hereunder. If Buyer does not give notice in writing with an itemized report of well-founded complaints to KWAI and/or carrier of any defects, shortages, damages or incompliance with the warranties set forth in Article 9, or the shortage of quantity within three (3) business days, the Goods shall be deemed accepted and it is explicitly agreed that Buyer shall have waived all claims bases on any defects that were or would have been discovered on reasonable inspection during this period.
- 8.2. The Goods shall meet the Specifications. If no specifications are agreed, the Goods shall meet the general specifications of KWAI at the time of shipment. Statements presented in product information, handbooks, websites, price lists or other information regarding the goods will only be binding on KWAI if expressly referred to in the Contract.

#### Article 9. Warranties

- 9.1. KWAI, warrants during Warranty Period that:

- 1) the Goods shall be free from any liens or encumbrances in title, and;
  - 2) for a period of six (6) months from the date of shipment (unless explicitly agreed otherwise in writing), the Goods shall be substantially as expressly set forth in the Specifications, or if no specifications are agreed, the Goods shall meet the general specifications of KWAI at the time of delivery; provided, however, . the statements presented in product information, handbooks, websites, price lists or other information regarding the Goods will only be binding on KWAI if expressly referred to in the Contract.
- 9.2. THE WARRANTIES STIPULATED IN 9.1 ARE IN LIEU OF ANY OTHER REQUIREMENTS AND GUARANTEES, AND KWAI MAKES NO WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OR SPECIAL CIRCUMSTANCES, NOR ANY OTHER WARRANTIES WHETHER WRITTEN OR ORAL, STATUTORY, EXPRESSED OR IMPLIED AND NOT EXCEEDING THE BUYER.
- 9.3. For the breach of above warranties that could not reasonably have been detected upon arrival of the Goods, the Buyer shall notify KWAI of it in writing. However, KWAI has no liability for failure to conform to the Contract, including but not limited to nonconformity of the Specification, unless KWAI receives notice thereof at the latest within Warranty Period. KWAI shall furthermore have no obligations under the above warranty in the event the nonconformity is (not limited) a result of misuse, neglect, improper handling, alteration, storage, transportation.
- 9.4. If the Goods fail to meet the above warranty, KWAI's sole and exclusive obligation shall be limited, at KWAI's discretion, to repair or replace the non-conforming (part of the) Goods in a timely manner. Subject to the limitations set forth in section 13 of these terms and conditions, the foregoing states the entire liability of KWAI in connection with nonconforming Goods.

#### Article 10. Force Majeure

- 10.1. KWAI shall not be liable for delay in performing or failure to perform its obligations if the delay or failure results from an impediment outside its reasonable control – whether or not foreseeable at the time of the Contract – as a result of which KWAI cannot reasonably be required to execute its obligations, such as war, terrorism, fire, explosion, flooding or other extreme weather, major machine break down, strikes, lockouts and other labor disputes, trade disputes, refusals to grant licenses, pandemic or epidemic, force majeure and/or default by one of KWAI's suppliers, etc (“Force Majeure”).
- 10.2. Delay in or failure to perform KWAI's obligation under the Contract due to Force Majeure such impediment shall not constitute a breach of contract, with the effect that KWAI is relieved from liability and all contractual claims against it in respect thereof. The time for performance shall be extended by a period equivalent to that during which performance is so prevented.

- 10.3. In the event as stated in this provision KWAI shall have the right to allocate, in a manner that KWAI considers to be fair and equitable, its supply of available Goods among itself and all of its buyers.
- 10.4. If such a delay or failure persists for more than three (3) months, the Buyer shall be entitled to terminate the Contract in respect of the Goods not yet delivered. In the event of such a termination, Buyer will not be entitled to any compensation, provided, however, that any prepayment for the Goods not delivered shall be refunded and the Goods in transit not delivered shall be reverted.

#### Article 11. Export Control

- 11.1. The Buyer guarantees that during the trading of the delivered goods in whatsoever form he/it the Buyer will comply with the legislation and regulations applicable thereto from time to time.
- 11.2. The Buyer guarantees that the Buyer will comply in all respects with all of the export, reexport and transfer restrictions set forth in export control laws and regulations of the United States of America and the United Nations and in export licenses for the Goods supplied to Buyer. Buyer warrants that the Goods cannot be directly or indirectly destined or probably destined for any country for which a sanction is in effect for the goods concerned in confirmation with regulations of areas or countries including but not limited to the country of the Buyer's Location, the United States of America, Japan, Netherland, European Union or United Nations unless the Buyer has acquired an exemption for this from a related competent authority. Buyer guarantees to impose all export control restrictions as set out above to any third-party(-buyer) if the Goods are transferred or re-exported. Buyer shall take all necessary actions to ensure no Buyer/buyer or end-user contravenes these export restrictions and shall indemnify KWAI against all direct, indirect and punitive damages, loss, costs and other liability arising from claims resulting from Buyer's or its Buyers' non-compliance with this article.

#### Article 12. Suspension and Termination

- 12.1. In the following events, KWAI, without prejudice to any other rights and remedies under the Contract or at law, shall be entitled to suspend the Contract for a maximum period of six (6) months or to terminate the Contract or any part thereof with immediate effect, without judicial intervention and without any liability for any damage whatsoever:
- 1) if Buyer breaches the Contract;
  - 2) if KWAI reasonably conceives serious doubt if Buyer can meet its obligations from under the Contract;
  - 3) if Buyer becomes insolvent or files a voluntary or involuntary petition in bankruptcy or for corporate reorganization or for any similar relief or is filed by or against a party, or if

a receiver is appointed with respect to any of the assets of a party, or if a liquidation proceeding commenced by or against a party; or

- 4) if the whole or any important part of the business of the Buyer is transferred to a third party by agreement, order of court or otherwise or otherwise and/or the control of Buyer changes.

12.2. Upon occurrence of any of the events referred to above, all payments to be made by Buyer under the Contract shall become immediately due and payable.

#### Article 13. Limitation of Liability

13.1. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE MANDATORY LAW, KWAI, ITS AFFILIATES, DIRECTORS OR OFFICERS SHALL IN NO EVENT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES WHATSOEVER IN CONNECTION WITH OR ARISING FROM THE CONTRACT OR THE GOODS AND/OR THE USE THEREOF, OR FROM THE SERVICES PROVIDED HEREUNDER, INCLUDING (WITHOUT LIMITATION) LOST PROFITS OR REVENUES, INTERRUPTION OR DELAYS OF BUSINESS OR MANUFACTURE, PRODUCTION, DELIVERY, LOSS OF REPUTATION OR GOODWILL, AND DAMAGES RESULTING FROM USE OR LOSS OF USE, WHETHER SUCH DAMAGES ARISES IN CCONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY OR ANY OTHER LEGAL THEORY AND IRRESPECTIVE OF WHETHER KWAI HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY THEREOF.

13.2. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE MANDATORY LAW, IN NO EVENT, WHETHER SUCH LIABILITY ARISES IN CCONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY OR OTHERWISE, SHALL KWAI'S LIABILITY UNDER OR IN CONNECTION WITH THE CONTRACT EXCEED THE PRICE OF THE SPECIFIC GOODS IN THE CONTRACT OF WHICH THE CLAIM IS MADE OR THE AMOUNT PAID OUT BY THE LIABILITY INSURANCE OF KWAI FOR THE INCURRED DAMAGES, WHICH IS SMALLER.

#### Article 14. Non-Waiver

No failure or delay on the part of KWAI to insist upon strict compliance by Buyer with these terms and conditions and/or the Contract or to exercising any right or power under the Contract shall operate as waiver thereof, nor shall any single or partial exercise of any such right or power preclude any other or further exercise thereof or the exercise of any other right or power thereof.

#### Article 15. Limitation of Action

Any Buyer's claim for any alleged breach of these terms and conditions must be brought by Buyer within three (3) months from the accrual of such cause claim and any legal action (as in a lawsuit) must be filed within one (1) year of the date of Buyer's claim.

#### Article 16. Governing Law

All offers, order confirmations and Contracts shall be governed by the laws of Texas with exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and without the application of the conflict of law rules.

#### Article 17. Resolution of Disputes

17.1. Any dispute, controversy or claim arising of or in connection with the Contract and these general terms and conditions, or the breach, termination or invalidity thereof, shall be exclusively adjudicated by the court with the competent jurisdiction of Houston, Texas.

17.2. Notwithstanding the paragraph set forth above, KWAI shall, in its sole discretion, be entitled to choose to have recourse to competent courts and execution authorities in and under the laws of the Buyer's country, or elsewhere, for injunctive or equitable relief or to take any action for purpose of collecting debts of the Buyer or to safeguard its possibility to have recourse on the other party.

#### Article 18. Confidentiality

18.1. KWAI and the Buyer hereby undertake to maintain confidentiality of all technical, commercial and/or business information including but not limited to know-how, ideas, formulas, processes, methods, designs, drawings, photographs, specifications and technical data, notwithstanding in writing or orally, disclosed to a party from another party ("Confidential Information") and shall not disclose it to third parties.

18.2. Furthermore, KWAI and the Buyer shall use the Confidential Information received from the other party solely for the purpose of the performance of the obligations under the Contract for which it has been communicated. and shall not disclose it to third parties.

18.3. The obligations set forth in this section 19 shall survive five (5) years after the expiration, termination or cancellation of the Contract for which the Confidential Information has been communicated.

#### Article 19. Intellectual Properties; Trademarks

19.1. Any and all know-how, ideas, formulas, processes, methods, designs, drawings, photographs, specifications, technical data, software and other code or inventions that are developed or

furnished by KWAI as a result of KWAI's engagement hereunder (collectively, "Technical Materials") shall be the sole and exclusive property and Confidential Information of KWAI. The Buyer agrees to execute any further documents and take such actions as may be reasonably requested by KWAI in order to evidence said ownership by KWAI, or transfer said ownership to KWAI, including, but not limited to, causing such of its employees as may be necessary to execute a patent application and/or an assignment of an applicable patent for the benefit of KWAI.

19.2. The Buyer will not use, authorize or permit any other person to use any name, trademark, house mark, emblem or symbol which KWAI is licensed to use or which is owned by KWAI upon any premises, note paper, visiting cards, advertisement or other printed matter or in any other manner whatsoever unless such use shall have been previously authorized in writing by KWAI and (where appropriate) its licensor.

19.3. The Buyer will use its reasonable endeavors to ensure compliance with this Article 19 by its employees, servants and agents.

## Article 20. Anti-Bribery

### 20.1. Prohibition of Public Bribery

20.1.1. In performing business related to this Contract, parties of this Contract will comply with Anti-Bribery Laws. Parties will not, directly or through a third party, provide, promise or offer, anything of value, to Public Officials, for the purpose of unlawfully gaining profits, acquiring or maintaining transactions or influencing Public Officials' actions or decisions, or to do so knowing that such provision, promise or offer will be for the above-mentioned purposes, regardless of whether the parties themselves will bear the cost thereof. Parties will not use the payments received the other party for any purpose that could constitute a violation of the Anti-Bribery Laws.

20.1.2. Parties will instruct and manage the Related Parties to comply with the provisions of the preceding paragraph.

### 20.2. Prohibition of Commercial Bribery

20.2.1. In performing business related to the Contract, parties will not, directly or through a third party, provide, promise or offer, anything of value, even to private persons other than Public Officials, for the purpose of unlawfully gaining profits, acquiring or maintaining transactions or influencing such private persons' actions or decisions, or to do so knowing that such provision, promise or offer will be used for the abovementioned purposes, regardless of whether the parties themselves will bear the cost thereof.

20.2.2. Parties will instruct and manage the Related Parties to comply with the provisions of the preceding paragraph.

20.3. Representations and Warranties

20.3.1. Each party represents and warrants that, to the best of its knowledge,

(1) No judicial or administrative body of any country is considering investigation, arrest, detention, prosecution, sentence or any other penalty against the party in relation to the Anti-Bribery Laws; and

(2) No Related Parties fall under Public Officials who would affect the performance of the Transactions, or family members or close relatives of such Public Officials.

20.3.2. Each party will immediately notify the other party, if it becomes aware that any of the representations and warranties set forth in the preceding paragraph is incorrect, inaccurate or have changed, in a document marked “Confidential” with as much detail as possible, to the contact designated separately by the other party.

20.4. Notice

Each party will notify the other party within commercially reasonable time if it becomes aware of any violation of Anti-Bribery Laws or breach of this Article 20 in connection with the Transactions, in a document marked as “Confidential” with as much detail as possible, to the contact designated separately by the other party.

20.5. Investigation

Each party agrees to cooperate with the other party’s reasonable request to provide information in order for the other party to investigate whether or not the party or its Related Parties have breached any of this Article 20.

20.6. Change of Business Partner

Either party may demand to change the other Party’s business partner employed for the performance of the obligations under this Contract within a reasonable period of time, if requesting party reasonably determines that such business partner is in violation of the Anti-Bribery Laws or is engaged in conduct prohibited under the Anti-Bribery Laws,

and that such business partner is being investigated, arrested, detained, prosecuted, sentenced or otherwise penalized by a judicial or administrative body of any country.

#### Article 21. Human Right

- 21.1 KWAI and Buyer shall comply with, and KWAI shall employ commercially reasonable efforts to cause its direct vendor to comply with, all applicable laws and regulations regarding labor rights, including rights in relation to working conditions, minimum age requirements, worker health and safety, and harassment, and each Party agrees not to use forced, bonded, or any other form of involuntary labor or child labor.
- 21.2 Buyer may not provide or allow any third-party person or entity to use any of KWAI's goods if Buyer actually knows or has reasonable grounds to suspect that such person or entity does not comply with all applicable laws and regulations regarding labor rights, including rights in relation to working conditions, minimum age requirements, worker health and safety, and harassment, or uses forced, bonded, or any other form of involuntary labor or child labor.

#### Article 22. Heading

All heading and numbering in the Contract are for convenience of reference only and shall in no way be used in interpretation of any of the provisions in the Contract.

#### Article 23. Setoff

- 23.1 Any and all payments which the Buyer shall be entitled to under the Contract shall not be subject to deduction or offset of any amount which the Buyer may be obliged to pay to the Seller under any provisions of or in relation to the performance of the Contract.
- 23.2 The Seller shall be entitled from time to time to set off against the Seller's payment obligation under the Contract, any amounts lawfully due from the Buyer to the Seller, whether under the Contract or otherwise.

#### Article 24. Assignment

- 24.1 This Contract or any part thereof shall not be assigned or transferred to any third party without prior written consent of the other party.
- 24.2 Notwithstanding the foregoing, KWAI may assign all of its rights and delegate all of its obligations hereunder to any parent, subsidiary or affiliated entity of KWAI without the consent of the Buyer.

#### Article 25. Severability

The provisions of the Contract and these terms and conditions shall be deemed severable. If and to the extent that any provision of the Contract or any, term or condition proves to be or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remainder will not be affected or impaired in any way.