

## **KBO DYNAMICS TERMS AND CONDITIONS OF TRADE**

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### **Authorised Retail Outlet**

Authorised retail outlets will appoint a qualified amp technician capable of performing the TubeSync installation procedure.

The authorised retail outlet must ensure that installations are performed by the approved amp technician.

### **Authorised Amp Technician**

Upon selection of the of the appropriate amp technician KBO Dynamics will provide suitable documentation combined with telephone / email support, to ensure the amp technician is comfortable with performing installations. When KBO Dynamics are satisfied that the amp technician has the appropriate skills to complete installation work the amp technician will become certified.

It is the responsibility of the amp technician to perform the installation in accordance to the installation guidelines. The amp technician will take full responsibility for the installation and provide the warranty for the work undertaken. KBO Dynamics will only accept liability for their product i.e. no elements of the customer's amplifier.

KBO Dynamics cannot accept liability for any injuries that may have occurred during the installation of the product.

Prices: Installation prices will be set by the amp technician, as prices depend on the type of amplifier, labour rates and features lists.

In order for the amp technician to become certified they must purchase KBO's Bias Runner software package and PC interface. This allows the amp technician to configure TubeSync hardware in the accordance of each individual amplifier. The use of this interface is strictly for the certified amp technician, as incorrect use could result in damage. A user licence will be granted to the amp technician, it is the responsibility of the amp technician to keep this under their control.

### **Minimum Batch Quantity**

A minimum of one TubeSync product can be ordered.  
A 5% discount will be given on orders above 10 pieces.

### **Payment Terms**

First order pro-forma. Option of 30 days from date of invoice, if credit approval is granted.

### **Warranty**

All components come complete with a 12 month warranty which commences from the date of delivery. The warranty covers the failure of the supplied product, it does not cover abuse or misuse. In the unlikely event that a product fails during the warranty period, it will be replaced free of charge. KBO Dynamics can only accept the liability of their own products, any additional costs for rework charges etc. will not be reimbursed.

### **Prices**

Prices quoted are ExWorks and do not include packaging, VAT or delivery.

### **Terms**

KBO Dynamics Standard Terms and Conditions of Trade apply. (See attached).

# KBO DYNAMICS TERMS AND CONDITIONS OF TRADE

## GENERAL

1.01 ALL PRODUCTS ARE SOLD AND SERVICES SUPPLIED ARE SUBJECT TO THE FOLLOWING TERMS & CONDITIONS WHICH UNLESS AND TO THE EXTENT OTHERWISE EXPRESSLY AGREED IN WRITING BY OUR AUTHORISED REPRESENTATIVE SHALL PREVAIL TO THE EXCLUSION OF ALL TERM & CONDITIONS PUT FORWARD BY THE PURCHASER WHICH SHALL BE OF NO CONTRACTUAL EFFECT WHATSOEVER. The giving of any delivery instructions, the acceptance of or payment of any products or any other act conducted by the purchaser after receipt of this document which is consistent with the purchaser's confirmation of the relevant transaction shall constitute unqualified acceptance by the purchaser of the terms and conditions as specified herein.

1.02 UNLESS PREVIOUSLY AGREED IN WRITING BY OUR AUTHORISED REPRESENTATIVE NO VERBAL, WRITTEN OR OTHER ADDITION HERE TO OR VARIATION OR WAIVER HERE OF SHALL BE EFFECTIVE.

## VALIDITY

2 Quotations and offers are open for acceptance within 30 days from the date thereof after which we reserve the right to withdraw the offer or vary any of its terms at any time prior to its acceptance.

## PRICE

3 Prices are exclusive of Value Added Tax and are based on raw materials and labour costs current at the date of contract and if, before delivery of all of the products there occurs any increase in any way of such costs WE SHALL BE ENTITLED TO INCREASE THE PRICE PAYABLE IN RESPECT OF PRODUCTS WHICH HAVE NOT BEEN DELIVERED, TO TAKE ACCOUNT OF SUCH VARIATIONS.

## PASSING OF PROPERTY

4.01 Notwithstanding delivery and the passing of risk in the

Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price including any taxes due for the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

4.02 If payment of the total price is not made on the due date, we may require the products to be returned to us and if this requirement is not immediately complied with, WE SHALL HAVE THE RIGHT (WITH OR WITHOUT PRIOR NOTICE) AT ANY TIME TO RETAKE POSSESSION OF THE WHOLE OR ANY PART OF THE PRODUCT (and for that purpose to go upon any premises occupied by the purchaser) and sever the goods from anything they are attached to without being responsible for any damage caused) without prejudice to any of our other remedies.

## TRANSFER OF RISK INSURANCE

5 The risk in the products shall pass to the purchaser as follows

5.01 Where products are to be delivered by us or our carrier to an address in the United Kingdom designated for delivery thereof by the purchaser the risk will pass when the goods have been so delivered.

5.02 Where products are to be collected by the purchaser the risk will pass when the products have been loaded on to the transport of the purchaser or his carrier or, if the purchaser fails to collect within a period of fourteen days after we have given the purchaser written notice that the products are ready for delivery and collection, risk will pass at the expiry of such period.

## ACCEPTANCE OF ORDERS

6 The purchaser's order must be accompanied by all information to enable us to proceed with the execution thereof.

## INSTALMENTS & PART DELIVERIES

7.01 In the case of a contract for delivery of products by Instalments EVERY INSTALMENT SHALL BE DEEMED TO BE THE SUBJECT MATTER OF A SEPARATE CONTRACT and, unless otherwise agreed in writing by our authorised representative failure in delivery of any one or more of the said instalments shall not, subject to the other provisions of these Conditions, entitle the purchaser to treat such failure as a repudiation of the whole contract.

7.02 Where an order is in respect of a number of products (whether the same or different) we reserve the right to deliver all or any reasonable number thereof as soon as they are completed at our works (where the products are to be collected by the purchaser) we shall notify the purchaser that all or any reasonable number of the products are ready

for collection, and the purchaser shall accept such deliveries or make such collections and honour all demands for payment in respect thereof in accordance with the terms of payment set out herein.

## DAMAGE OR LOSS IN TRANSIT

8 Where the transport of products to be delivered to the purchaser is to be effected by us or our carrier the PRODUCTS MUST BE EXAMINED BY THE PURCHASER ON RECEIPT AND THE PURCHASER MUST NOTIFY US PROMPTLY IF SUCH PRODUCTS ARE RECEIVED IN ADAMAGED CONDITION OR THEY ARE NOT RECEIVED ON THE DUE DATE FOR DELIVERY THEREOF THE PURCHASER WILL indemnify us against any loss suffered by us as a result of any such notification being received too late to enable us to claim against carrier or insurer in respect thereof within the time limits applicable thereof. A signature on receipt of the products to the effect that products have not been examined shall not relieve the purchaser of his liability under this condition.

## ACCEPTANCE OF GOODS

9 Unless within seven days from date of receipt (or such longer period as agreed in writing by our authorised representative) we are notified in writing to the contrary any products shall be deemed to have been accepted by the purchaser.

# KBO DYNAMICS TERMS AND CONDITIONS OF TRADE

## TERMS OF PAYMENT

10.1 The terms of payment (unless otherwise agreed in writing by our authorised representative) are for deliveries in United Kingdom: Payment in full within 30 days from date of invoice. Export Shipments: Net cash payable in full by irrevocable documentary letters of credit (providing for part shipment) opened by the purchaser with a bank in London to be approved by us and payable against delivery of therelevant bill of lading/airway bill in our favour covering the products. All prices quoted are the actual amounts payable to us free of all deductions whatsoever and are Ex-works.

10.02 Stipulations as to time of payments shall be deemed to be of the essence of the contract.

10.03 If the purchaser fails to make payment for any products supplied to him on the due date therefor as above provided, without prejudice to any other rights we may have we shall be entitled to charge in addition to any money due here under, interest on any amount so outstanding at the rate (as well after as before any judgement) up to 8 per cent per annum above the base lending rate at the time being calculated on a daily basis on the outstanding balance from the due date for payment down to receipt by us of payment.

10.04 Default by the purchaser in making any payment on the due date therefor will also entitle us to refuse to make delivery of any further products (whether ordered under the same contract as that under which the default was made or not) without thereby incurring any liability whatsoever to the purchaser.

10.05 No deduction shall be made by the purchaser in respect of any set-off or counter-claim howsoever arising.

## DELIVERY

11.01 Unless products are to be delivered by us or our carrier in accordance with the instructions of the purchaser delivery shall mean delivery ex-factory.

11.02 Unless otherwise specifically agreed in writing with the purchaser by our authorised representative, we are under no liability whatsoever to the purchaser

11.03 Where no date has been specified for delivery of any products the purchaser shall give us all necessary instructions and authorities and generally make all necessary arrangements so that delivery may take place within 14 days after we have notified the purchaser that the products are ready for delivery.

11.04 Without prejudice to any other rights which we may have in respect thereof if the purchaser refuses or neglects to take delivery of any of the products on the dates specified therefor, or, when no date has been specified for delivery or, without fault on our part delivery has not been made within 14 days after a notification to the purchaser under conditions 7.02 or 11.03 above, the purchaser shall pay our reasonable charges for storage of the products in question.

## CANCELLATION & INSOLVENCY

12.01 If there is any default or breach of any of the purchaser's obligations here under or if any distress, execution or of purchaser's property or if the purchaser shall make or offer to her legal process shall be levied upon or issued out against the make any arrangement of compositions with its creditors or commit any act of bankruptcy or if any petition or receiving order shall be presented or made against the purchaser or any resolution or petition to wind up the purchaser shall be passed or presented, or if a receiver of all or any of the purchaser's assets shall be appointed, then (without prejudice to any other remedies we might have) in each and every such case WE SHALL HAVE THE RIGHT AT ANY TIME TO SUSPEND OR DETERMINE THE CONTRACT OR ANY UNFULFILLED PART THEREOF AND TO CANCEL ANY OUTSTANDING DELIVERY AND TO STOP ANY PRODUCTS IN TRANSIT AND, NOTWITHSTANDING ANY OTHER PROVISIONS, PAYMENT IN RESPECT OF ANY DELIVERY ALREADY MADE SHALL BE IMMEDIATELY DUE.

12.02 The purchaser shall not cancel an order which has been accepted by us without the written agreement of our authorised representative and if such agreement is given the purchaser shall pay to us such a sum as we shall consider reasonable in respect of work done and materials supplied or ordered.

## FORCE MAJEURE

13 All reasonable efforts will be made to carry out any contract which these conditions apply but if we are prevented (directly or indirectly) from making delivery of the products, or performing or completing any of our obligations here under by reason of acts of God, war, strikes, trade disputes, or other industrial action, fire, droughts, floods, explosions, breakdowns, interruption of transport, refusal of licence, Government or administrative action, delays in delivery to us or increase in the price of any goods or materials, any statute rule regulation order requisition recommendation or directive of any Government agency or other authority or any other body of competent judicial authority, or any other cause whatsoever (whether or not of the like nature to those specified above), which shall reasonably be considered to be outside our control, we shall be under no liability whatsoever to the purchaser, and shall be entitled at our option (to be notified to the purchaser in writing by our authorised representative) either to cancel the contract (whereupon we shall be relieved of all liabilities here under) or to extend the time of its performance by a period equivalent to that during which performance by us has been prevented by the circumstances herein before referred to.

## WARRANTY

14.01 Unless our authorised representative shall have otherwise agreed in writing with the purchaser we will at our option either repair or replace without charge, for delivery ex-factory, unpacked any part or parts of the products which are shown to our satisfaction to be or which have become defective (other than as a result of fair wear and tear) within twelve calendar months from the date on which the original goods shall first have been despatched from our factory, and which are carefully packed and returned at the PURCHASER'S expense to our factory provided that notice of such defects and satisfactory proof thereof is given by the PURCHASER promptly after discovery and provided further that the defect is not due in whole or in part to mistreatment, lack of or proper maintenance or failure to observe any operating instructions issued by us in connection therewith.

## **KBO DYNAMICS TERMS AND CONDITIONS OF TRADE**

14.02 Save as in this condition herein before and except in those cases where the absolute prohibitions against exclusion or restriction of liability contained in Section 6(1) and 6(2) of the Unfair Contract Terms Act 1977 apply WE SHALL NOT BE UNDER ANY LIABILITY WHATSOEVER HOWSOEVER ARISING (INCLUDING WITHOUT PREJUDICE TO THE GENERALITY OF THE FOREGOING LIABILITY WHETHER FOUNDED IN COMMON LAW OR STATUTE ARISING FROM OUR NEGLIGENCE OR THAT OF ANY PERSON FOR WHO WE ARE VICARIOUSLY LIABLE) IN RESPECT OF OR IN CONNECTION WITH.

(a) Any defect in the products which should reasonable have been discovered by the purchaser on inspection or test prior to acceptance.

(b) Any loss or injury or damage including without prejudice to the generality of the foregoing any loss of profit or other consequential loss of any description in connection with the products or any work done in connection therewith. The PURCHASER is advised to obtain appropriate insurance cover to protect himself against such risks in (b) above for which our liability is excluded

14.03 Should the PURCHASER wish us to assume a greater liability in respect of the products, we will be pleased to discuss the terms (including payment) upon which such greater liability will be assumed but STRICTLY ON THE BASIS THAT SUCH GREATER LIABILITY SHALL BE AGREED IN WRITING WITH OUR AUTHORISED REPRESENTATIVE before the contract in respect of the products is entered into.

14.04 NOTHING IN THIS CONDITION AFFECTS OR WILL AFFECT THE STATUTORY RIGHTS OF A CONSUMER PURSUANT TO A CONSUMER TRANSACTION (all as defined in the Consumer Transactions (Restrictions on Statements) Order 1976).

14.05 KBO Dynamics Ltd. can only accept the liability of their own products, any additional costs for rework charges etc. will not be reimbursed.

### **SUITABILITY**

15 The purchaser assumes responsibility that products stipulated by him are sufficient and suitable for his purposes and save insofar as specific mention thereof is made in any quotation or offer the purchaser shall not rely upon our skill or judgement as to whether the products are fit for any particular purpose or as to the manner in which the products shall be used irrespective of any advice which may have been given by us, our servants or agents in good faith.

### **PERFORMANCE & DRAWINGS, ETC**

16 All specifications, illustrations, drawings, particular, dimensions and performance and other criteria are intended merely to present a general idea of the products described and unless otherwise specifically agreed in writing by our representative do not constitute a warranty or representation that any products purchased will conform with any such specifications, illustrations, drawings, particulars or criteria

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### **INTELLECTUAL PROPERTY**

17 All intellectual property rights created in the performance of the services shall belong to KBO and shall be licensed to the purchaser in accordance with these Terms.KBO hereby grants to the purchaser a non-exclusive licence under the Patents for the purpose only of installing the Goods in the Merchandise as approved by KBO in writing and marketing, selling and servicing such Merchandise. In the marketing and sale all such Merchandise, the purchaser shall make reference to the Patents and the fact that the purchaser supplies the same under licence from KBO in the form reasonably requested by KBO from time to time.

17.01 Where provided for in the quotation and/or Order, the merchandise shall be marketed with reference to the Trade Marks. For that purpose only, KBO hereby grants to the Buyer a licence in respect of the Trade Marks. The Buyer shall make use of the Trade Marks in accordance with the Branding Guidelines as updated by KBO from time to time. Wherever the Trade Marks are used, they shall be accompanied by wording and clear marking (including in respect of trade marks that are registered, the use of the ® sign) to show that these are trade marks or registered trade marks used with the permission of KBO. The terms of such wording and its placing shall be as reasonably requested by KBO.

17.02 The purchaser shall not use the Trade Marks in any way that would tend to allow them to become generic, lose their distinctiveness, become liable to mislead the public, or be materially detrimental to or inconsistent with the good name, reputation and image of KBO.

17.03 The purchaser shall not adopt or use any Trade Mark, symbol or device that incorporates or is confusingly similar to, or is a simulation or colourable imitation of, the Trade Marks, or which unfairly competes with those Trade Marks. The purchaser shall not at any time apply anywhere in the world to register any trade marks identical to or so nearly resembling the Trade Marks as to be likely to deceive or cause confusion, nor shall it at any time use the Trade Marks as part of any corporate business or trading name that it adopts.

### **NOTICES**

18 Any notice required or authorised to be given here under may be given either personally or by post addressed to such other part at its address furnished to the other by written notice and shall be deemed to have been served 48 hours after the same is posted and proof that the envelope containing the notice was properly addressed and sent by prepaid post shall be sufficient evidence of service.

### **LEGAL CONSTRUCTION**

19 The contract shall in all respects be construed and operate as an English contract and in conformity with English law and unless otherwise agreed. Products will therefore comply with English law.