

## Wachs UK Sales Terms and Conditions

All sales made by Wachs UK<sup>®</sup> (hereinafter called "Seller") to its customers (hereafter called "Purchaser") are subject to the following Sales Terms and Conditions. Purchaser's acceptance of these terms and conditions shall be made by either (a) Purchaser's providing a purchase order number to Seller or (b) Purchaser's acceptance of any product from Wachs UK, whichever occurs first.

- 1. General Definitions.** The following terms and conditions constitute the entire agreement between you (the buyer) and Wachs UK (the seller) for the purchase of equipment. Unless otherwise agreed in writing by the Sellers, these terms and conditions will apply to all transactions between the Buyer and the Seller to the exclusion of any terms and conditions put forward.
- 2. Delivery and Collection.** In addition to the purchase charge, separate charges will be made for delivery and collection of the equipment. Where the Buyer's own transport is used it is the Buyer's responsibility to adequately pack and protect the equipment. All packaging materials are chargeable.
- 3. Acceptance Conditions.** Acceptance of delivery of the equipment by the Buyer or its appointed agent will be conclusive evidence that the said equipment has been examined and found to be complete in accordance with the manufacturer's description, in good order and condition, fit for any purpose for which it may be required, and in every way satisfactory.
- 4. Indemnities.** Any claim for damages by the Buyer against the Seller arising out of the Buyer's use of the equipment shall, subject to the Seller admitting liability or being found liable for such damages, be limited in amount to the total amount of the purchase payments paid by the Buyer for the equipment to the Sellers as at the date of the Sellers receiving notification of any such claim. The Buyer shall be solely responsible for and hold the Sellers fully indemnified against any loss or damage (excluding death or personal injury) to the equipment and any loss of profit, cost or expenses and any loss or damage (excluding death or personal injury) to any property arising in connection with any of the said equipment or as a result of the use thereof. The Sellers shall not be liable for any loss which may arise out of or in connection with the failure of the said equipment for whatever reason. Save as provided by Law, the Sellers exclude all warranties relating to the equipment and the Buyers use thereof except as specifically stated herein.
- 5. Delivery Dates.** Delivery dates quoted are intended as estimates only although reasonable endeavours will be made to adhere to them. In no circumstances shall the Owners be liable for delay arising from any cause whatsoever.
- 6. Cancellation.** Cancellation or part cancellation of any order can only be accepted with the Sellers consent in writing and on terms which indemnify them fully against loss.
- 7. Payment Terms.** Payments by post are at the risk of the Buyer. The Sellers reserve the right to alter the credit terms at any time when in the Seller's opinion the Buyer's financial condition or previous payment record so warrants. No Payment is deemed to be made until received in the Seller's bank account. The Buyer shall not be entitled to withhold payment of any amount payable to the Sellers because of any disputed claim of the Buyer in respect of faulty equipment or any other alleged breach of this or any other contract between the Buyer and the Sellers, nor shall the Buyer be entitled to set off against any amount payable under this contract any monies which are not then presently payable by the Sellers or for which the Sellers dispute liability. Payment terms are strictly 30 days end of month. In the event of default we reserve the right to charge any collection costs and interest permitted under English law.
- 8. Ownership.** The equipment is and shall remain the sole property of the Sellers save that for purposes connected with financing of the said equipment the property in the equipment may be vested in a third party. The consent of the Buyer will not be required for the assignment or transfer of this agreement or the benefit thereof from or to the Sellers to or from any bank leasing company or finance house being the owner of the equipment. The Buyer shall not do or permit or cause to be done anything whereby the rights of the Sellers in respect of the equipment are or may be prejudicially affected and the Buyer is not allowed to claim capital allowances on the equipment.
- 9. Default.** If the Buyer shall default in making payment for any period in excess of sixty days or if the Buyer is in breach of these Conditions, or becomes insolvent or compounds with its creditors or has distress or execution levied upon its property or is wound up or goes into liquidation (except for the purposes of a solvent reconstruction) or has a receiver, administrative receiver or administrator appointed of the whole or any part of its assets or suffers any similar process under the law of its domicile then the Sellers shall be entitled to terminate the agreement forthwith and enter upon the Buyer's premises and to remove the equipment without notice to the Buyer.

The Sellers are hereby indemnified by the Buyer in respect of all and any damage or loss to the Buyer or any third party resulting from the exercise by the Sellers of its rights therein reserved. This shall include the Sellers recovering all amounts outstanding and payable as a result of such action.

10. **Warranty & Claims.** The Sellers hereby warrant to the Buyer that upon receipt the equipment complies with its manufacturer's description. The benefit of this warranty may not be assigned by the Buyer to any other party. In no event shall the Sellers be liable to the Buyer for any consequential incidental or exemplary damages such as loss of revenues or use of any equipment or down time costs. The Sellers shall not be responsible for any delays or failures in delivery of equipment or in making repairs, recalibration or replacement due to unavailability of parts, or labour, or industrial disputes, delays in transportation or other causes beyond its reasonable control. The Buyer will, in its use of the said equipment, observe all the manufacturer's instructions and other regulations that may be issued for the proper use thereof and shall be entirely responsible for any damage caused to the said equipment through failure to observe such instructions or regulations or failure to use the same in a proper manner. The Buyer will also take all reasonable and practical steps to ensure its use of the said equipment conforms to the terms and conditions laid down in the Health & Safety at Work, etc., Act 1974 (in particular section 2(2) (b) and 2(2) (c) thereof) or any subsequent governing legislation. Use of an Air Treatment Module is recommended for all air powered machines. The Buyer warrants that it is familiar and experienced in the safe operation of Wachs Portable Machining Equipment. Training is strongly recommended for the first time use of the equipment. The Buyer will be notified in writing of all repair/replacement costs prior to being billed should the repairs be deemed none warranty. Warranty period is 12 months from date of purchase.
11. **Performance.** Whilst application advice may be given no responsibility is accepted for incorrect results due to circumstances external to the equipment Purchased.
12. **Patents & Copyright.** Equipment may be the subject of patent rights and/or legal protection.
13. **Software.** The Following shall apply where software is supplied with the equipment:
  - (a) The title to all software including programs and documentation furnished by the Sellers shall be retained by the original manufacturer.
  - (b) The Buyer is supplied the use of the software only for the rental term and the Software shall be used only on the specific equipment with which it was supplied. Use of the software shall consist either of copying any portion of the program from storage units or media into the CPU or the processing of data with the program or both.
  - (c) Subject to the provision of clause 19(c) the Buyer shall not copy or duplicate or permit a third party to copy or duplicate in any manner any physical or magnetic version of the Seller's supplied machine readable software.
  - (d) The Buyer shall not copy or duplicate any printed materials related to any furnished with the Seller's supplied machine readable software.
  - (e) No licences or rights are granted except as set forth herein or in the original manufacturer's software or program licence agreement which the Buyer shall be required to sign on receipt and before using the software. The software may not be assigned by the Buyer without the Seller's prior written consent.
14. **Force Majeure.** If either the Sellers or the Buyer are rendered unable wholly or in part by Force Majeure to carry out their obligations under this contract the party affected shall give to the other prompt written notice of the Force Majeure with reasonable full particulars concerning it whereupon the obligation of the party giving the notice so far as it is affected by the Force Majeure shall be suspended during but not longer than the continuance of the Force Majeure. The affected party shall use all reasonable diligence to remove the effects of the Force Majeure as quickly as possible. The term Force Majeure as employed in this contract should be deemed to include but shall not be limited to any war, riot, act of God, fire, flood, government regulation or act, any natural or accidental disaster, any strike, lockout or industrial dispute or shortage of raw materials or fuel or any breakdown of machinery or any other cause outside the reasonable control of the party suffering such Force Majeure, but not in any circumstances including financial inability. If a party is rendered unable wholly or in part by Force Majeure substantially to carry out its obligations under this contract for a period of one year or more, then either party may declare the contract to be abandoned forthwith by written notice to the other party to that effect.
15. **Fees & Expenses.** The Sellers shall be entitled to recover from the Buyer all fees and expenses (whether or not formal legal action is instituted) incurred as a result of any breach of these terms by the Buyer or need to enforce same or in any other way arising in connection with these Conditions of Hire.
16. **Aggregate Liability.** The Aggregate liability of the Sellers (whether in contract or for negligence or breach of statutory duty or otherwise howsoever) to the Buyer for any loss or damage of whatsoever nature however caused shall be limited to and in no circumstances shall exceed the cost of the equipment paid to the Sellers in relation to the equipment cost.

17. **Export Control.** Overseas sales arranged by the Buyer are subject to the terms and conditions listed herein. Attention is drawn to the fact that the Sellers bear no responsibility for any charges, fees, or fines, V.A.T. or duty payments imposed by any authority their agents or shipping agent in the UK or overseas. Further it is the obligation of the Buyer to ensure that all overseas import/export duties have been paid to the appropriate authorities and the Buyer is responsible for any fines which may be imposed by any authority on the equipment which has been impounded due to the Buyer's negligence or wilful acts. In addition the Buyer's attention is drawn to the existence of various statutes governing customs regulations in particular the Export of Goods (Control) Order 1994 with regard to equipment which may be subject to security control. Details are available from HMSO Publication centre, P O Box 276, London, SW8 5DT. Should the Buyer abandon the Seller's equipment anywhere in the UK or overseas or should the equipment be impounded by any customs authorities in the UK or overseas prior to payment in full the Buyer will still be liable for payment of the goods in full. The Buyer is prohibited from reselling the said equipment to any country embargoed by the Department of Trade and Industry or the Bureau of Export Administration. According to United Kingdom and United States law.
18. **Miscellaneous.**
- (a) If any of these conditions or any part of one of these conditions is rendered void by any legislation to which it is subject it shall be void to that extent and no further.
  - (b) Any waiver, indulgence or forbearance by either party of any of these Terms and Conditions or any breach thereof shall apply only in the particular instant or instances in which such waiver, indulgence or forbearance occurs, and shall not affect or impair the further continuance in force of such terms and conditions, or the right of either party to avail itself of such terms and conditions upon any subsequent breach or breaches thereof.
  - (c) The exercise or implementation of or reliance upon any terms and conditions by the Sellers shall not give rise to any right by the Buyer to cancel any contract with the Sellers.
  - (d) If any provision of these Terms and Conditions are found by a court or other competent authority to be void and unenforceable, such provisions shall be deemed to be deleted from the Terms and Conditions and the remaining provisions shall remain in full force and effect.
19. **Right of 'Set-Off'.** The Seller is irrevocably and unconditionally authorised at any time and from time to time without notice to the Buyer to apply by way of set off any amount due and payable to the Seller under these Terms and Conditions against any other sums due and owing to the Buyer by the Sellers, provided that any such amounts are not the subject of a bona fide dispute between the Buyer and the Sellers.
20. **Governing Law.** Any contract between the Buyer and the Sellers shall be governed by and construed in accordance with the Laws of England and the Buyer agrees to be subject to the exclusive jurisdiction of the English Courts.

*Wachs UK Sales Terms and Conditions Revised 9/2/15*

