

Terms and Conditions of Sale

- 1 General
- a) All orders are accepted and goods supplied, subject to the following expressed terms and conditions which shall apply to the exclusion of any conditions of order or purchase of the *Customer* or any other standards specifications or particulars adopted by the *Customer*.
- b) No amendment, alteration or attempt to override these conditions shall be binding on the *Company* unless confirmed in writing by a Director of the *Company*.
- 2 Definitions
- a) The "*Company*" means Wiltan Limited (Company Registration No 1892920)
- b) The "*Customer*" means the person or company to whom the *Company* may agree to sell Goods in accordance with the *Company's* standard conditions of sale.
- c) The "*Goods*" means the articles of things or services or any parts of them to be provided by the *Company* in accordance with *Company's* standard conditions of sale.
- 3 Specification Instruction or Design
- a) The *Customer* shall be responsible to the *Company* for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the *Customer* and for giving the *Company* any necessary information relating to the goods at the time of placing the order.
- 4 Price
- a) Unless specifically agreed by the *Company* in writing prices do not include VAT or delivery charges to the *Customer*.
- b) The price and all taxes (including VAT) duties and charges shall be paid in full (less any discount agreed) on the due date without any further deductions, set off or counter claims.
- c) All bank charges etc are for the account of the *Customer*.
- 5 Quotations
- a) All tenders or quotations by the *Company* are valid for thirty days only from the date thereof, unless otherwise stated, but the *Company* reserves the right to withdraw the tender or quotation within the said thirty days.
- b) No quotation or tender by the *Company* nor the publication by the *Company* of any other document shall place the *Company* under any duty or liability to the *Customer* and whilst all care will be taken in the production of such tender and/or other document as aforesaid the accuracy thereof is not guaranteed and the same shall not form part of the Sale Contract between the *Company* and the *Customer*, nor be deemed to be a representation inducing the *Customer* into or finalise the Sale Contract.
- 6 Subcontract
- a) The *Company* reserves the right at any time to subcontract part or parts or all of the manufacturing processes
- b) Where any work is subcontracted, the *Company* warrants to undertake all electrical, mechanical and dimension checks required to meet the agreed *Customer* specification
- b) Delivery
- a) The delivery dates stated in the Quotation/Sale Contract are only approximate and not conditions of the Sale Contract.
- b) Except in an Export Sale on FOB terms the *Company* has the absolute right to select the method and route of carriage of the *goods*.
- c) Delivery to an independent carrier for pre-paid carriage to the place of delivery shall be deemed to be delivery of the *goods* to the *Customer* and the performance of the *Company's* duties hereunder.
- d) If the *Customer* fails to accept delivery of the *goods* (or in the case of an Export Sale to accept the shipping documents) then the *goods* shall be stored by the *Company* at the cost and expense of the *Customer*. After a period of fourteen days has elapsed after the failure by the buyer to accept delivery of the *goods* (or accept the documents) the *Company* shall have the power (but no duty) to sell the *goods* for the account of the *Customer* and apply the proceeds of sale in diminution of any amount due to the *Company* from the *Customer* hereunder or any other amounts whatsoever due to the *Company* from the *Customer*.
- e) In the event of shortages or damage in transit claims must be sent in writing to the *Company* within three days specifying the of delivery shortages or damages in transit and the *Company* reserves the right to inspect the *goods* before any resale or use is made thereof or any alteration or modification is made thereto by the *Customer*.
- f) In the event of Non-delivery claims must be sent in writing within seven days of the *Company's* advice note or invoice or other notification of despatch.
- c) Risk and property/retention of title
- a) The risk of the goods shall pass to the *Customer* when the *goods* are delivered to the *Customer's* premises. The risk in the new product shall be at all times the *Customer's*.
- b) Despite the above the *goods* shall remain the sole and absolute property of the *Company* as legal and equitable owner until such time as payment for the goods has been received in full.
- c) The *Company* shall have legal and beneficial ownership of any new product into which the *Goods* are converted or which result from the mixing or incorporation of such *Goods* with or into any other *Goods*.
- d) The *Customer* shall distinguish and keep and store the goods distinguished as the property of the *Company* and hold the same as bailee for the *Company*.
- e) The *Customer* may as Agent or trustee for the *Company* sell the goods and for any new product only by way of bona fide at full market value whereupon the property in the items of such goods shall pass from the *Customer* to the ultimate purchaser but the benefit of such sale and the proceeds of any such sale shall become the beneficial property of the *Company* and be held by the *Customer* as agent and in trust for the *Company* absolutely.
- f) If the *Customer*:-
- Defaults in any payments on its due date of any sum due to the *Company* under any contract or otherwise.
 - Has a receiver of its assets or business or any part thereof appointed
 - Has any judgement or order of any court (including the Westminster Small Claims Court or any Court of Arbitration) entered or made against it and does not satisfy or pay out the same within seven days of it being made.
 - Has any distress pending diligence or execution levied or threatened against it or any of its assets or
 - Passes (or has presented) any resolution or petition for a winding up (otherwise than for the purposes of an amalgamation reconstruction or reorganisation).
- The *Customer's* right to sell the goods and the new product shall automatically terminate.
- g) If in the opinion of the *Company* the *Customer* threatens to do or suffer any of the matters in sub clause g) set out above the *Company* by notice forthwith terminate the Buyer's right to sell the Goods and the new product.
- h) Anytime prior to full payment (whether or not the payment is overdue) the *Company* may (without prejudice to any of its other rights) retake possession of the goods and may enter on the *Customer's* premises by its employees or agents for that purpose.
- d) Terms of Payment
- a) Subject to credit being approved and unless otherwise expressly agreed, accounts are due for payment according to the agreed terms stated in the *Customer's* credit facility letter and by the due date shown on the invoice.
- b) Failure to pay for any goods shall entitle the *Company* to suspend further deliveries on the same order and on any other order from the *customer* without prejudice to any other right the *Company* may have.
- c) If payment is not made in full accordance with sub-clause 7a) above the *Company* may charge interest on any overdue accounts at the rate of 5% above Barclays Bank Limited base rate per month.
- e) Indemnity
- a) To the extent that the same is permissible under the provisions of the Unfair Contract Terms Act 1977 the *Customer* will indemnify and hold harmless the *Company* from and against all claims demands actions costs and liabilities in respect of all personal injury death damage to property and loss of any kind direct or indirect or consequential arising out of or in connection with the use handling and storage of the Goods or any other goods supplied by the *Company* to the *Customer*.
- b) Where the *Company* supplies or offers goods in accordance with the *Customer's* own design(s) or specification(s) then the *Customer* shall fully indemnify the *Company* against all claims action penalties costs and expenses to which the *Company* may become liable arising wherefrom involving infringement of a patent registered design trade mark or trade name.
- f) Force Majeure
- The *Company* shall not be liable for the cancellation by it of any order or any unfulfilled part thereof for effecting partial delivery or performance if performance by the *Company* is prevented or delayed whether directly or indirectly by any cause whatsoever beyond the reasonable control of the *Company* (including but without prejudice to the generality of the foregoing strikes, lockouts, labour disturbances or trade disputes, civil commotion's fire, ice fog, or floods, breakdowns military or aircraft damage bombardment explosion shortage of raw material force Majeure delay of deliveries from the *Company's* suppliers inability unwillingness or failure of the *Company's* suppliers to furnish supplies or delays or failures of delivery or performance by any person which delivery or performance is necessary to the seller to perform any obligations hereunder), whether such cause exists or was foreseeable at the date of acceptance of the *Customer's* order by the *Company* or not and without prejudice to the generality of the foregoing any cause shall be deemed to prevent, hinder or delay the *Company* if the *Company* is thereby prevented, hindered or delayed from fulfilling other commitments whether to the *Customer* or to third parties.
11. Applicable Law
- Any contract incorporating these conditions shall in all respects be governed by and construed in accordance with English Law and the *Customer* hereby submits to the non-exclusive jurisdiction of the English Courts.
12. Assignment
- This contract is personal to the *Customer* and may not be assigned without prior written consent of the *Company*.
13. Warranties
- a) Subject to the terms of this Contract the *Company* hereby warrants this to the extent that the same is permissible under the provisions of the Unfair Contract Terms Act (1977):
- Save for the warranties set out in sub-section 12(2) of the Sale of Goods Act 1893 (as amended) all guarantees warranties conditions and liabilities of the *Company* whether the same arise under any terms hereof otherwise and whether such guarantees warranties or terms are expressed or implied whether by statute or otherwise are here excluded.
 - The *Company* shall be under no liability in respect of any loss or damage whether direct indirect or consequential howsoever arising which may be suffered by the *Customer*.
 - If notwithstanding the provisions of sub section (i) and (ii) the *Company* is held responsible for any loss or damage suffered by the buyer the liability of the *Company* shall in no case exceed the purchase price of the goods.
- b) To the extent that the same is permissible under the provisions of the Unfair Contract Terms Act (1977) no claim by the *Customer* against the *Company* shall be valid unless
- The *Company* receives written notice of such claim within 7 days of the date of delivery of the existence of the alleged facts giving rise to the claim.
 - Prior to the return thereof to the *Company* the Goods have been stored in suitable condition to prevent any significant deterioration.
 - The Goods or such part of them as is relevant have not been fabricated processed or otherwise interfered with by or for the buyer.

Wiltan

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