



WILMAT LIMITED

STANDARD TERMS AND CONDITIONS OF SALE (WIL 2009)

1. General

- 1.1 These conditions will apply to any order and to any acceptance of an order. No variations or additions shall be effective unless agreed by the Company in writing. Any terms or conditions in a customer's order not agreed by the Company in writing shall have no effect.
- 1.2 Estimates do not constitute contractual offers and remain open to an order within 28 days. An offer or order is not deemed to be accepted without written confirmation on the Company's form of acceptance.
- 1.3 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

2. Customer Returns

- 2.1 The customer is legally bound to take the goods comprised in the contract and return of goods will not be accepted without the prior written consent by the Company. In no event will returns or cancellation be accepted on goods made to customer's order.
- 2.2 The customer will be responsible for the packing and carriage of any goods returned which will remain at the risk of the customer until actual receipt by the Company. The Company may in any event refuse to accept any goods which have deteriorated or have been damaged during return.

3. Cancellations

- 3.1 The customer may not cancel this contract except with the written consent of one of our Directors.
- 3.2 If we agree to a cancellation, you shall indemnify us in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by us as a result of cancellation, or alternatively (at our option) you shall pay to us the sum of 20% of the contract price representing liquidated damages to compensate us against all losses incurred as a result of the cancellation.

4. Risk

- 4.1 When carriage is arranged by the Company by its own transport or otherwise, delivery shall be deemed to take place at the moment when possession or control of goods are transferred to the customer or its agent before off-loading or otherwise. When carriage is arranged by the customer by its own transport or otherwise, delivery shall be deemed to take place when possession or control of goods are passed by the Company to the carrier or on the fifth day after the Company has given notice that goods are available for collection, whichever shall be the earlier.
- 4.2 Risk in respect of goods shall pass upon delivery.
- 4.3 The customer shall insure goods against loss or damage in their full invoice price in the joint names of the Company and the customer from delivery until payment in full has been made.

5. Deliveries

- 5.1 Estimated delivery dates (if any) are given in good faith but are not binding unless so confirmed in writing in the Company's acceptance of an order and in that event time shall not be of the essence of the contract.
- 5.2 Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the customer.
- 5.3 Where the contract provides for delivery by instalments (whether or not on specified dates) and the customer fails to take delivery of an instalment, the Company shall not in any event be bound to make up such instalment according to any informal or binding schedules, programme or timetable.
- 5.4 The customer may not refuse to take or accept delivery of any consignment on account of any alleged failure shortage or defect in that or any other delivery.
- 5.5 When the customer is to arrange carriage the customer shall ensure:
 - 5.5.1 that delivery takes place as soon as possible after the Company has given notice that a consignment is ready and in any event within five days of such notice and
 - 5.5.2 that the vehicle is suitable in all respects to carry the goods involved and the Company reserves the right to withhold delivery if in its opinion the vehicle is unsuitable in any respect.

6. Failure to accept delivery

- If the customer fails to accept delivery by the Company or to pick up goods within five days of notice as aforesaid (whichever may be the case):
- 6.1 The Company at its own initiative (and without prejudice to any rights against the customer) or at the request of the customer may store the goods at the risk of the customer and the customer shall pay upon demand the reasonable storage costs of the Company and all other expenses involved including insurance (at the Company's option) costs of re-delivery, loading and unloading and the goods may be re-invoiced at the rates ruling at the date of actual despatch.
 - 6.2 The Company may sell the goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the customer for the excess over the price under the contract or charge the customer for any shortfall below the price under the contract.

7. Carriage

Unless otherwise agreed in writing, costs of carriage will be borne by the customer and if arranged by the Company, will be included in the invoice.

8. Unloading

The customer shall provide adequate labour and facilities at the delivery point for unloading goods and shall indemnify the Company against all claims howsoever arising from unloading operations.

9. Quantities

By way of confirmation, orders are accepted on the basis that they constitute an unqualified order for the full quantity unless otherwise agreed by the Company in writing.

10. Prices

- 10.1 Price lists are subject to alteration at any time and quoted prices are estimates only. Unless fixed prices are expressly agreed in writing by the Company in its acceptance of an order, the price payable by the customer shall be at the Company's rates ruling at the date of despatch.
- 10.2 The Company may in any event by notice to the customer at any time before delivery increase the price of goods to reflect any increase in the cost to the Company which is due to any factor beyond the Company's control (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specification for goods requested by the customer or any delay caused by any instructions of the customer or failure of the customer to give the Company adequate information or instructions.
- 10.3 All quotations are strictly net ex works and no discounts will be allowed unless agreed in writing.
- 10.4 Prices are subject to the addition of VAT at the rates ruling at the date of tax point.
- 10.5 Prices in currencies other than pounds sterling are subject to variation in price based on the exchange rate applicable at the date of payment.
- 10.6 The customer shall pay or reimburse any tax levy or charge of whatever nature imposed by the authorities in any foreign country.
- 10.7 A minimum order charge of £80.00 will be made on orders under that figure.

11. Payment

- 11.1 Payment terms are net cash upon notice that goods are ready for delivery and payment is legally due and owing 48 hours after service of invoice.
- 11.2 Without prejudice to any other rights of the Company it may charge interest (both before and after any judgement) at the rate of 2.5% above bank rate per 4 weeks from the due payment date until date of payment on any payment overdue 30 days and interest shall accrue from day to day.
- 11.3 Payment shall not be deemed to have been made until payment in cash or cleared funds have been received by the Company.
- 11.4 The customer shall not be entitled to withhold payment of any sums due to the Company by reason of any disputed claim by the customer relating to any goods deliveries or work.
- 11.5 If the customer fails to make payment by the due dates then without prejudice to any other rights of the Company:
 - 11.5.1 the company shall be entitled to suspend all or any other deliveries or work under that or any other contract with the customer and in such event the customer shall not in any respect be released from his obligations to the Company under that or any such other contract.
 - 11.5.2 the Company shall be entitled to treat the relevant contract or any other contract with the customer as having been unlawfully terminated by the customer and to claim damages for breach of contract accordingly
 - 11.5.3 the Company shall be entitled to appropriate any payment made by the customer (on any account) to such goods under that or any other contract as the Company may think fit (notwithstanding any purported appropriation by the customer)
- 11.6 Prices are based on work being done during the recognised normal working hours and overtime work shall be charged at the Company's additional rates applicable at the time.

12. Title

- While any money remains owing by the customer to the Company on any account (whether due for payment or not):
- 12.1 Title to all goods shall remain vested in the Company notwithstanding delivery or passing of risk.
 - 12.2 The Company may recover and re-sell any goods and the customer shall deliver any goods to the Company upon demand. The Company may enter upon any premises of the customer or any third party where goods are stored to repossess goods whether or not they have been affixed to any property and/or to examine any goods
 - 12.3 The customer shall hold all goods as trustee for the Company, stored separately, properly protected and insured and clearly identified as the Company's property.
 - 12.4 The customer's authority to resell goods is not implied and any authority given by the Company is automatically revoked when any money owing to the Company becomes overdue for payment or on the occurrence of any event specified in condition 21.
 - 12.5 Any resale of goods by the customer will be as an agent for the Company and shall be on the condition that title does not pass to the purchaser except on the same basis as set out in this condition 12.
 - 12.6 The customer shall pay the proceeds of any resale of goods including proceeds of any insurance or factoring of debts into a separate interest bearing bank account for the Company and in the case of tangible or non-monetary proceeds shall keep the same stored separately, properly protected and insured and clearly identified as the Company's property.
 - 12.7 The customer may not pledge or in any way charge by way of security for an indebtedness any goods which remain the property of the Company but if the customer does so all monies owing by the customer to the Company shall (without prejudice to any other right or remedy or the Company) forthwith become due and payable.
 - 12.8 Nothing contained in this clause shall confer any right on the customer to return goods or to refuse or delay payment.

13. Acceptance

The customer will be deemed to have received inspected and accepted goods as satisfactory and complete in all respects unless written notice of any alleged non-delivery shortage or defect is given to the Company (a) in the case of alleged under delivery, shortages or damaged goods within 3 days from delivery and (b) in the case of alleged defects forthwith upon the same becoming apparent and in any event within 7 days from delivery or (if the defect is covered by guarantee) within the periods specified in the guarantee (see conditions 15.1).

14. Complaints

- 14.1 The Company shall be given every facility to examine at the delivery address goods the subject of any complaint and to take them back to the Company's premises.
- 14.2 If requested by the Company, the customer at his risk will return to the Company carriage paid goods the subject of complaint. The Company will be under no obligation whatsoever in respect of goods which have deteriorated or been damaged during return transit.
- 14.3 In no event will the Company be liable in respect of goods:
 - 14.3.1 which are used for any purpose other than that for which supplied
 - 14.3.2 which have been damaged or altered in any manner after delivery
 - 14.3.3 which have been rendered defective by lack of maintenance in accordance with recommendations or instruction in the operating handbook or by unfair or improper use.

14.4 Subject to the receipt of due notice under condition 13 the Company may at its option either replace or make up or repair free of charge any goods for which the Company accepts responsibility as being incomplete or defective or may refund the price or give credit therefore.

15. Specification, Warranties and Liability

15.1 Subject to conditions 13 and 14, the Company warrants goods manufactured by Wilmat in accordance with the terms of the Company's form of guarantee in force from time to time; provided always that the warranty does not extend to and the Company shall not be liable for goods or parts manufactured by a third party.

15.2 The customer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including all applicable drawings and specifications) submitted by the customer and for giving the Company any necessary information relating to goods within a sufficient time to enable the Company to perform the contract in accordance with its terms.

15.3 The Company reserves the right to make any changes in the specification of goods without notice.

15.4 So far as and to the fullest extent permitted by law all conditions and warranties whether express or implied and whether arising by statute customer of the trade or at common law are excluded and the Company shall not be liable for loss of profit injury damage or any consequential or special loss or damage sustained by the customer howsoever arising and in no event shall the Company's liability exceed the contract price.

15.5 Any advice or recommendation given by the Company or its employees or agents to the customer or its employees or agents as to the storage, application or use of goods which is not confirmed in writing by the Company is followed or acted upon entirely at the customers own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.

16. Intellectual Property and Tooling

16.1 The property in all design rights, copyright, trade secrets, and all confidential information in respect of all drawings, prints, technical specifications database and IT information including all subsequent modifications and adaptations prepared, manufactured or supplied by the Company shall vest in and remain the property of the Company, and the customer undertakes that it will not disclose to any other person or use the same other than for the purpose of the contract and that it will at the request of the Company at any time immediately deliver the same to the Company together with all copies thereof in its possession or control.

16.2 The customer shall indemnify the Company against all loss or damage to the Company's tangible property which is at any time in the customers possession or control.

17. Safety of Goods

17.1 The customer shall forthwith provide the Company with all information relating to any defects or safety hazards in goods of which it has or of which it becomes aware or of which it ought reasonably to have become aware.

17.2 The customer shall provide any person who uses or may use goods with any information (including instructions) provided by the Company which affects or may affect the safe use of goods and shall comply with all reasonable requirements of the Company to ensure the safety of goods or of any such person.

18. Customers Special Requirements

So far as and to the fullest extent permitted by law the Company shall not be responsible or liable in any respect for goods produced in accordance with a customers specification and the customer will indemnify the Company from and against all liability, actions, proceedings, costs, claims, demands, damage, expenses, loss or injury in respect thereof howsoever arising.

19. Indemnity

So far as and to the fullest extent permitted by law the customer shall indemnify the Company from and against all liability, loss, damage, injury, cost, expenses, claims and demands arising from any cause other than negligence or breach of contract by the Company and in particular without prejudice to the generality of the foregoing from alleged infringement of patent, registered design or other industrial or commercial property right.

20. Force Majeure

The Company shall not be liable to the customer or be deemed to be in breach of the contract by reason of any delay in delivery or any delay in performing or any failure to perform any of the Company's obligations if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control: Act of God, explosion, flood, tempest, fire or accident, war or threat of war, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, regulations, bye-laws, prohibitions or measure of any kind on the part of any governmental, parliamentary or local authority; import or export regulations or embargo's; strikes, lockouts or other industrial actions or trade disputes (whether involving employees of the Company or of a third party); difficulties in obtaining raw materials, labour, fuel, parts or machinery; power failure or breakdown in machinery.

21. Termination

Without prejudice to any of its other rights the Company may without liability terminate a contract or suspend further deliveries and work:

- 21.1 if the customer shall commit any breach of this or any other contract with the Company including failure to make any payments on the due dates.
- 21.2 If being an individual the customer shall die or have a receiving order made against him or commit any act of bankruptcy or become insolvent.
- 21.3 If being a Company the customer shall call any meeting of its creditors or have a receiver or administrator of all or any of its assets appointed or enter into liquidation or become subject to a winding up order of the Court.
- 21.4 If the customer compounds with or negotiates for any composition with its creditors or permits any judgement against it to remain unsatisfied for 14 days.
- 21.5 If any distress execution or other legal process shall be levied upon the customer.
- 21.6 If the customer ceases or threatens to cease to carry on business.
- 21.7 If the Company reasonably considers that any of the events mentioned above is about to occur and notifies the customer accordingly

22. Sub-Contractors

The Company reserves the right to sub-contract all or any part of the job.

23. Severance

These conditions are considered to be reasonable in the circumstances and the trade. Any avoidance or restriction or limitation upon them or their effect by statute shall be limited to the condition or the part of the condition and the issue to which it specifically relates and applies.

If any condition or part of a condition or limitation of liability is found to be invalid and would be valid if modified by extension of time or otherwise it shall at the option of the Company take effect with such modification or amendment as may be necessary to make it valid and effective. If the Company and its discretion decides that the effect of any such avoidance restriction or limitation is to defeat the original intention of the parties the Company may without liability terminate the contract.

24. Jurisdiction

The contract between the Company and the customer shall be deemed to have been made in England and shall be governed in all respects by English law. The customer shall submit to the jurisdiction of the English courts provided that the Company at its option may bring any legal proceedings against the customer in the courts of any other country.

25. Waiver

No indulgence granted or delay permitted by the Company shall constitute any bar to its Enforcement of its rights at any time and no waiver in respect of any breach shall operate as a waiver in respect of any other or subsequent breach.

26. Notices

26.1 Any notice (including without limitation invoices or other documents) may be sent by post, email or facsimile or delivered to the Company at its registered office or to the customer at any address which it may have used on correspondence with the Company (or if the customer is a Company) at its registered office or may be served personally on any Director or the Secretary of the customer.

26.2 A notice by first class post shall be deemed served on the next day after posting.

26.3 A notice by email or facsimile shall be deemed served at the time of sending