



## **WILFRID SMITH LIMITED**

### **STANDARD CONDITIONS OF SALE**

1. Sellers reserve the right to adjust the price of any goods supplied during the period of this Contract in the event of any variation in the cost of raw materials, labour charges or any other cost or expense of the sellers in performing this Contract.
  
2.
  - (a) Conditionally upon Buyers performing their obligations hereunder, Sellers shall make every reasonable effort to despatch the goods on or before the date provided in this Contract for despatch.
  
  - (b) Sellers shall not be liable for delay in performance, defective performance or inability to perform in whole or in part their obligations under this Contract where the same is occasioned by any cause whatsoever in any way beyond their or their suppliers' or contractors' control including (but not in any way limited to) strikes, industrial disputes, governmental regulations, embargoes, acts of God, or inability on the Sellers' part to obtain materials.
  
  - (c) If performance by Sellers is delayed by reason of any cause specified or referred to in paragraph (b) above they shall notify Buyers and the time for performance by Sellers of such of their obligations the performance of which is so delayed shall be extended for the period of such contingency and the Buyers shall be bound to accept such delayed delivery. If by reason of any such cause Sellers are unable to perform the Contract in whole or in part for a period in excess of 90 days then to the extent only that Sellers are unable to perform, the Contract may at the option of either party exercisable in writing at any time during the continuation of such contingency be terminated without liability on the part of either party but will remain in full force and effect as regards the remainder thereof (if any).
  
  - (d) Deliveries of part(s) of the Goods may at any time be made at Sellers' option.
  
  - (e) The Goods shall be at Buyers' risk from the date of delivery thereof to Buyers or their agents.

3. Buyers' exclusive remedy and the limit of Sellers' liability for any and all loss and/or damage (howsoever caused) resulting from the Goods or any defects in the Goods for which Sellers might be liable shall be for the purchase price of the Goods with respect to which the claim is made. In no event shall Sellers be liable for any incidental or consequential loss expense or damage whatsoever. Buyers shall indemnify and keep indemnified Sellers against all and any liability of Sellers to any third party arising out of the Goods or the use thereof.
4. Defects as to specification, quantity, delivery or otherwise in respect of any consignment shall not entitle Buyers to terminate this Contract which shall continue fully effective until delivery of the last consignment, but subject to this and these Conditions, without prejudice Buyers rights in respect of the defective consignment.
5.
  - (a) Notwithstanding any other provision of this Contract (express or implied) property in the Goods shall not pass to Buyers until all indebtedness from time to time owing by Buyers to Sellers has been paid in full and until such payment property in and legal and beneficial ownership of the Goods shall remain vested in Sellers as security for such indebtedness. Nothing contained in this condition shall affect the passing of risk in the Goods which shall pass at the time provided in the foregoing conditions.
  - (b) Until property has passed to Buyers under the preceding paragraph, Buyers shall have possession of the Goods as bailee only and (subject as hereinafter provided) may sell the Goods in the ordinary course of their business. Save as aforesaid except with the prior written consent of Sellers Buyers shall not (and shall not purport to) sell, mortgage encumber or part with possession of the Goods nor allow any lien or encumbrance to arise over the same unless and until property has passed to Buyers under this Condition.
  - (c) In the event that Buyers do dispose of the Goods to some third party prior to property passing to Buyers then (without prejudice to the other rights of Sellers), Sellers shall be legally and beneficially entitled to all of the Buyers' rights against such purchaser of the Goods and shall be legally and beneficially entitled to all proceeds of sale of the Goods which shall be held by Buyers on trust for Sellers.
6. Buyers shall comply strictly with the payment terms under this Contract. Time for payment under this Contract and for the opening of any Letter of Credit or for making any other arrangements for payment hereunder shall be of the essence of this Contract. Sellers may at any time in their sole discretion limit or cancel the credit of Buyers and may likewise require payment of all or any part of the Contract Price to be made in cash in advance of despatch of the goods. Sellers shall be under no liability to

ship or deliver the goods unless and until the Buyers have discharged all their obligations to Sellers under the Contract and on any other account.

7. Buyers in purchasing the goods are deemed to be relying on their own skill and knowledge. Save as expressly provided in this Contract no statutory or other warranty condition description or representation of any kind whatsoever including (but not limited to) any such as to merchantability or fitness for any purpose on the part of the Sellers is given or implied by this Contract nor is any such warranty condition description or representation to be taken to have been given or implied from anything said or written in the negotiations between Sellers and Buyers or their respective representatives prior to this Contract.

8. (a) Within fourteen days of the delivery of any consignment of goods Buyers shall give notice in writing to Sellers of any matter or thing by reason whereof they allege that such goods are not in accordance with this Contract. If Buyers shall fail to give such notice such goods shall be deemed to be in all respects in accordance with this Contract.

(b) Without prejudice to Condition 6 (above) no condition, warranty or provision express or implied by statute or otherwise shall render the Sellers liable for any loss or damage arising from any defect which would not be apparent on any reasonable examination of the goods supplied under this Contract.

9. If Buyers shall make default in or commit any breach of any of their obligations to Sellers or if Buyers (or when the Buyers are a firm, any partner in that firm) shall at any time become bankrupt or shall have a receiving order or administration order made against them or shall be made notour bankrupt or shall make any composition or arrangement with or for the benefit of their creditors or shall make any conveyance or assignment for the benefit of their creditors or shall purport to do so or any application shall be made under any bankruptcy act for the time being in force for sequestration or their estate or a trust deed shall be granted by them on behalf of their creditors or if Buyers being an incorporated body any resolution or petition to wind up their business shall be passed or presented otherwise than for reconstruction or amalgamation or if a receiver or manager of the Buyers' undertaking property or assets or any part thereof shall be appointed or if Buyers shall be insolvent or shall be unable or be deemed unable or shall admit their inability to meet their commitments promptly as and when due Sellers may (without prejudice to any other right or remedy which it might have) forthwith determine this Contract by notice in writing.

10. If and to the extent that any provision or any part of any provision of this Contract (which - for the avoidance of doubt - includes these conditions) is illegal, void or unenforceable then such provision or part thereof (as the case may be) shall be deemed to be severable from the remaining provisions or parts of the relevant provision (as the case may be) all of which shall remain in full force and effect.

11. This Contract shall be subject to and construed in accordance with English Law. The Seller and the Buyer irrevocably submit to the non-exclusive jurisdiction of the English Courts for the settlement of disputes arising out of or in connection with this Contract.

May 2015

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