

WES Engineering Solutions Ltd

STANDARD TERMS & CONDITIONS OF SALE

Revision 3
January 2023

"The Company" is WES Engineering Solutions Ltd. The "Goods" means the products or services forming the subject matter of The Order. "The Customer" means the person, firm or company from whom The Company takes the order. The "Order" is the request of Goods by The Customer. The "Contract(s)" refers to the supply of Goods by The Company to The Customer.

1. General

- (a) These Conditions apply to all tenders and quotations made and all Orders and Contracts for the sale of Goods accepted by The Company. Special or additional terms of The Customer contained in his Order or otherwise shall be of no effect unless separately brought to our notice and accepted in our written acceptance.
- (b) Any variation or addition to any Contract shall only be binding upon The Company if contained in writing and signed on our behalf by a director or other duly authorised person. Contracts may be cancelled only with our written consent and on terms which indemnify The Company for all loss.

2. Documents and Specifications

- (a) Unless otherwise stipulated in our acknowledgement all catalogues, illustrations, drawings, estimates, dimensions or other specifications published or submitted with quotations by The Customer are not warranted or guaranteed and shall not form part of the Contract.
- (b) The Company reserve the right at any time to correct clerical or technical errors in the Contract documents.
- (c) The Customer shall furnish The Company with all necessary specifications with the Order. The Company take no responsibility for Goods manufactured, priced or delivered not in accordance with the Order or the specification unless The Customer's order and specifications are clear and correctly set out in our acknowledgement and any drawings submitted by The Company, which it is The Customer's duty to check.
- (d) All Orders are subject to our being able to obtain and use the necessary raw material.

3. Prices

- (a) All prices in our quotations and acknowledgements are according to specified incoterms exclusive of VAT. They are made up of the cost of raw material and basic conversion charges; in appropriate cases they include an additional charge for the cost of size, shape, special quality and other extras.
- (b) The Company reserve the right to increase the cost of the raw material element of Goods, delivery of which has not been accepted by The Customer for any reason within a period of 30 days from our receipt of The Customer's order, to the cost of such raw material on the London Metal Exchange on the date of the actual delivery.
- (c) The Company reserve the right to increase or decrease the basic conversion charges and additional charges comprised in our selling price of Goods, delivery of which has not been accepted by The Customer for any reason within a period of 30 days from our receipt of The Customer's order, to take account of variations in such charges at the date of actual delivery.
- (d) The Customer shall pay the selling price as so increased or decreased in accordance with paragraphs (b) and (c) of this Condition.
- (e) The cost of packaging, carriage, insurance and freight will be charged extra where appropriate.

4. Terms of Payment

- (a) Payment is due in full by the date specified in our acknowledgement or by the last day of the calendar month following the month in which the goods were despatched, or on the expiry of 30 days from the date on which The Company notify The Customer that the goods are ready for despatch, whichever is the earliest.
- (b) Where the Contract is to be or may be fulfilled in separate deliveries or parts, payment for each such delivery or part shall be made as if the same constituted a separate Contract.

5. Retention of Title

- (a) The Goods supplied by The Company shall remain the property of The Company until full payment is received by The Company for all Goods supplied under all Orders.
- (b) The Goods shall remain the property of The Company until The Customer has made full and unconditional payment to The Company of all sums due to it in respect of the Goods supplied.
- (c) Until payment is received in full by The Company, products shall be held by The Customer as Fiduciary agent for The Company and will be kept (at no cost to The Company) separately from all other Goods of The Customer or any third party in such a way that they remain readily identifiable as the property of The Company and The Customer shall not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods.
- (d) If payment becomes overdue, or on the occurrence of any termination event, The Company may, where permitted by law and after giving notice to The Customer, enter upon any premises where The Company reasonably believes Goods to be, or otherwise take action, to recover the Goods.
- (e) Prior to full payment of the purchase price, The Customer shall maintain the products in satisfactory condition and keep insured products shipped to The Customer by The Company under policies with such provisions, for such amounts and with such insurers as shall be satisfactory to us and shall hold the proceeds of the insurance in trust for The Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

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- (f) The Customer may use the Goods for its own use, or sell the Goods, as fiduciary agent for The Company, to a third party in the normal course of business by bona fide sale at market value, whereby proceeds of such storage, usage or sale of Goods as the case may be, shall, to the extent of the amount being owed by The Customer to The Company at the time of receipt of such proceeds, be held by The Customer on trust for The Company and specifically ascertained until payment in full for all payable debts from The Customer to The Company.
- (g) The parties having considered the question believe that the arrangement referred to herein is limited to the Retention of Title to the Company and not the creation of any Charge. However for the avoidance of any doubt the Customer shall properly deliver the prescribed particulars of this Contract to the Companies Registrar in accordance with the Companies Acts. Without prejudice to the other rights of the Company, if the customer fails to do so all sums whatever owed by the Customer to the Company shall forthwith become due and payable.

6. Termination and Partial Deliveries

In the event of The Customer for any reason whatsoever failing within one calendar month to effect any payment which may be due under the or any Contract with The Company, or if he commits any breach of the Contract, or if he becomes insolvent or enters into a composition with or for the benefit of his creditors, or being a body corporate has a receiver appointed of its undertaking or assets or any part thereof, or save for the purpose of reconstruction or amalgamation, goes into liquidation, The Company shall thereupon be entitled, without prejudice to our other rights, forthwith to terminate the Contract or any unfulfilled part thereof, or at our option to make partial deliveries. In the event that payment has not been made for Goods received by The Customer, The Company may recover Goods immediately. For that purpose The Company may, where permitted by law and after giving notice to The Customer, enter upon any premises where The Company reasonably believes Goods to be, or otherwise take action, to recover the Goods.

7. Delivery

- (a) When delivery is arranged by The Company, The Customer shall be bound to accept delivery on arrival at his works, when risk shall pass to The Customer. The Customer must notify The Company and the carrier in writing (otherwise than upon the carrier's documents) of damage in transit, mis-delivery or quality discrepancy immediately on arrival. Goods accepted without checking must be signed for as "not examined" otherwise no claim whatsoever will be accepted. The Customer must notify The Company and the carrier in writing (otherwise than upon the carrier's documents) of non-delivery within 6 days where delivery is effected through the post or on our own vehicles, 10 days where delivery is effected by road or rail transport, in all cases from the date of despatch advised to The Customer.
- (b) Where delivery is arranged by The Customer, risk shall pass to The Customer on collection by the appointed Carrier.
- (c) Without prejudice to our other rights, should The Customer, for any reason fail to collect or take delivery of goods within 30 days of our notification that they are ready for collection or despatch, The Company shall be entitled at The Customer's risk and expense to store or effect storage of the goods elsewhere.
- (d) The Customer warrants that any necessary unloading facilities will be available at the place of delivery.
- (e) Where goods are sold FOB the risk in the goods shall pass to The Customer immediately the goods are over the ship's rail, and The Company shall be under no obligation to give The Customer the notice specified in Section 32(3) of the Sale of Goods Act 1893.

8. Faults and Defect and Exclusion of Liability

- (a) On arrival of Goods The Customer must immediately examine them and any visual faults or defects must be notified to The Company in writing within 3 days. Non-visual faults and defects must be notified within 30 days.
- (b) The Company shall not replace goods or make up shortages:-
 - i. If faults or defects are not notified in accordance with clause 7(a) or if damage in transit, mis-delivery or quantity discrepancy is not notified in accordance with clause 6(a).
 - ii. In respect of which The Customer or any third party has without The Company's previous written consent effected modifications or repairs;
 - iii. If the faults or defects were caused by incorrect or negligent handling, disregard of operating instructions, overloading, unsuitable work, faulty erection or any other default by The Customer or any third party;
 - iv. If the faults or defects were caused by fair wear and tear, accident, or any other matter beyond The Company's reasonable control occurring after the date of arrival.
- (c) The terms of this condition are in lieu of all conditions, warranties or other terms as to description, fitness for purpose, condition, merchantability, quantity or otherwise in respect of the Goods or packing, whether expressed in the Contract or implied by Common Law, custom or statute and notwithstanding that such purpose or condition may be, may become or may have been known to The Company. Apart from The Company's obligation to replace goods in accordance with the terms of this Condition, The Company accepts no liability either for faults or defects in goods or for any loss or damage to The Customer or others arising directly or indirectly from any breach by The Company of the terms of the Contract or of the general law, and

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defects in quality or dimension shall not be a grounds for the cancellation of the Contract or for the balance of the Contract by The Customer.

- (d) Without prejudice to the generality of the foregoing:-
- i. The Company shall not be liable for any consequential loss or damage suffered by The Customer's, including but without limitations, delay, loss of production, loss of profits or loss of or damage to other property or goods, nor shall The Company's be liable for any loss or damage capable of being covered by insurance;
 - ii. The Company shall not be liable for damages in excess of the total price stated in the Contract, even if The Customer's loss or damage results from fundamental breach or repudiation and even if further performance of Contract is frustrated. The Customer shall also indemnify The Company against all actions, claims or demands by third parties in tort or otherwise arising directly or indirectly in connection with faults or defects in the goods to the extent that the same exceeds the limitations of liability aforesaid.
- (e) The provisions of this Condition 8 shall apply, subject to any relevant limitations imposed by the Unfair Contract Terms Act 1977.
- (f) The Company reserves the right to deliver goods to within +10% or -10% of the quantity or weight specified in The Customer's Order, and payment shall be made for the actual quantity supplied pro rata.

9. Indemnity

The Company shall not be liable for, and The Customer shall indemnify The Company against all claims by any person in tort or for infringement or alleged infringement of industrial property rights directly connected with goods manufactured by The Company or with work done by The Company on Goods in accordance with The Customer's specifications or with the sitting or installation of Goods.

10. Legal Construction

The Contract and these Conditions shall in all respects be construed and operate in conformity with English Law. If any of these Conditions or any part thereof is rendered void or unenforceable by any legislation to which it is subject, it shall be so void and unenforceable to that extent only.

11. Data Protection notices to Partnerships and Sole Trader Debtors

- i. The Company may transfer information about The Customer to our bankers, in order for them to provide their services to The Company and other customers of theirs and to help them to (a) obtain credit insurance (b) undertake assessment and analysis (including credit scoring, market, product and statistical analysis (d) securitise debts and (e) protect their interest.
- ii. The Company or The Company's bankers may make credit reference agency searches in respect of The Customer and its principals. Please note that credit reference agencies make a record of searches which may be used to prevent fraud or money laundering or by other subscribers to make credit decisions about The Customer.
- iii. The Company's bankers may give information about The Customer and its indebtedness to the following for the purposes stated:
 - a Any other divisions or associated companies of theirs – for the business purposes of such divisions or companies;
 - b The Company or their insurers – to quote for and issue any credit policy or to deal with any claims;
 - c Any advisers acting on The Company's or their behalf – so the advisers can carry out their services;
 - d Any business to whom The Customers indebtedness or The Company's financing arrangements with them may be transferred – to facilitate such transfer;
 - e To any person to whom they have a duty of disclosure or to whom the law permits disclosure;
- iv. The Company's bankers may make decisions about The Customer solely using an automated decision making process, such as credit scoring; however they will tell The Company (and in turn The Company will tell The Customer) if they make a significant decision only using such a process. Through The Company, The Customer can then request a review of their decision using other means;
- v. The Company's bankers may monitor and/or record The Customer's phone calls to them for training and/or security purposes.
- vi. The Company will provide The Customer with details of our bankers on request, including a contact telephone number from where The Customer can obtain details of the credit reference agencies used by them and any third parties to whom information is transferred.

12. Privacy Notice

(a) What information do we collect about you?

- i. We collect information about you when you send us an enquiry or place an order for our products or services.
- ii. The personal information we collect about our business customers is normally your name, job title and email address along with any other information we need to process your order effectively. If you are a private individual placing an order we may also require your address and payment details.
- iii. Website usage information is collected via cookies.
- iv. CCTV images are collected at our factory.

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13. **What do we use this information for?**

- i. We use this information to send you a quote, process your order and manage your account.
- ii. We may also send you company news and information about our products and services if you have given us your consent. You have the right to opt-out of these communications at any time. We will never share your details with anyone outside the WES Group for marketing purposes.
- iii. Our website cookies help us to improve your online experience by monitoring general visitor behaviour, visit www.aboutcookies.org for more information on cookies. You can set your internet browser not to accept cookies or you can remove cookies from your browser. In this case some features of our website may not function correctly.
- iv. CCTV images are used for the purposes of crime prevention.

14. **Access to your information**

- i. You have the right to request a copy of all the information we hold about you. If you would like a copy of some or all of the information we hold about you please send us an email to sales@wesltd.com.

15. **Changes to our privacy policy**

- i. We will review this policy regularly and make any necessary changes to keep it up to date.