

**WR MATERIAL HANDLING LIMITED  
GENERAL TERMS AND CONDITION OF SALE**

**1. Interpretation**

1.1 In the Contract capitalised terms have the meanings ascribed to them where they are first defined in the Contract and in particular:

- 'Buyer'** means the person who agrees to purchase the Products and/or the Services from the Seller;
- 'Conditions'** means the terms and conditions of sale set out in this document.
- 'Contract'** means an agreement between the Parties for the Seller to supply Products and/or Services to the Buyer (The Contract includes these Conditions and, where applicable, shall also include: the Order; the Seller's acceptance of an Order; the Seller's Quotation);
- 'Contract Date'** means the date that the Parties agree the Contract in writing or in the event that the Seller and Buyer agree to the Contract on different dates, the Contract Date shall be the date that the last party agrees the Contract in writing;
- 'Delivery Address'** means the address for delivery of the Products and/or the supply of the Services which shall be the Buyer's principal place of business unless specified otherwise the Contract;
- 'Director'** means a person that has been appointed as a director of an entity and who is listed at Companies House as a current director of that entity;
- 'Estimated Delivery Date'** means the date on which the Seller estimates that the Products will be delivered and/or the Services will be supplied which may be set out in an Order;
- 'General Manager'** means a person that has been granted the title of General Manager by the Seller;
- 'Intellectual Property Rights'** means any and all intellectual property rights and industrial property rights of any nature whatsoever including without limitation patents, patent applications, copyright, know-how, technical and commercial information, design (whether registered or unregistered), design rights, website content, internet domain names, database rights, trade marks, service marks or business names, applications to register any of the aforementioned rights, trade secrets and rights of confidence, in each case in any part of the world and whether or not registered or registrable and including all reversions, extensions and renewals of any such rights;
- 'Manufacturer'** means the legal entity responsible for the manufacture of the Products supplied within the Contract;
- 'Order'** means any written order issued by the Buyer to purchase Products or Services from the Seller;
- 'Parties'** means the Seller and the Buyer;
- 'Products'** means the goods which the Seller has agreed to sell and the Buyer has agreed to buy;
- 'Seller'** means WR Material Handling Limited whose registered office is at Alexander House, Estate Road 8, Grimsby, North East Lincolnshire DN31 2TG
- 'Services'** means the services which the Seller has agreed to sell and the Buyer has agreed to buy.

**2. Basis of sale**

- 2.1 By placing an Order with the Seller or accepting the Seller's quotation the Buyer agrees to deal with the Seller on the terms of the Contract to the exclusion of all other terms, conditions, warranties or representations. In the event of conflict or inconsistency between the documents that form the Contract the following order of precedence shall apply: (1) these Conditions; (2) the Seller's acceptance of an Order; (3) the Seller's quotation; (4) the Order.
- 2.2 An Order shall not be binding on the Seller until it has accepted the Order in writing and communicated such acceptance to the Buyer.
- 2.3 No variation of the Contract shall be binding unless made in writing specifying both which clause is to be varied and full details of such variation and signed on behalf of each of the Buyer and a Director of the Seller.
- 2.4 The Seller's employees or agents are not authorised to make any representations concerning the Products and/or the Services beyond those contained in the Seller's pre-printed marketing materials and specification sheets. The only exceptions to this are where a General Manager or Director of the Seller confirms such representations in writing.
- 2.5 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Products or the provision of the Services which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.6 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 Seller shall be subject to correction without any liability on the part of the Seller.

**3. Sale and Purchase**

- 3.1 The Buyer agrees to purchase the Products and/or the Services from the Seller and the Seller agrees to sell the Products and/or the Services to the Buyer on the terms of the Contract save as expressly amended in writing by the Seller in accordance with these Conditions.
- 3.2 The Buyer shall not be entitled to cancel in whole or in part any Order which the Seller has accepted. In the event of the Seller allowing the Buyer to cancel any such order, the Seller reserves the right, without prejudice to any other right or remedy, to apply a cancellation charge up to the price payable under the Contract to compensate the Seller for expenses incurred and loss of profit.
- 3.3 If the Products are to be manufactured or any process is to be applied to them by the Seller in accordance with the specifications submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any Intellectual Property Rights of any other person or any other liability whatsoever which results from the Seller's use of the Buyer's specifications or from the sale or supply of such Products by the Seller pursuant to the provisions of clause 4.5 below.
- 3.4 The Seller reserves the right to make any changes in the specifications of the Products which are required to conform with any applicable safety or other requirements or which do not materially affect their quality of performance.

#### 4. Delivery

- 4.1 Unless it is specified in a Contract that the Buyer will collect the Products, the Seller shall use its reasonable efforts to deliver the Products to the Buyer and/or provide the Services for the Buyer at the Delivery Address on or around the Estimated Delivery Date. Time of delivery shall not be of the essence. The Estimated Delivery Date shall be extended if the Buyer has failed to give the Seller all information necessary to enable the Seller to supply the Products or if the Buyer has failed to carry out any other obligation in relation to the Contract, by the number of days delay caused by such failure. The Seller shall not be liable for late delivery or performance.
- 4.2 The Seller shall be entitled to deliver the Products and/or provide the Services in instalments in which case each instalment shall be treated as an entirely separate Contract and any default or breach by the Seller in respect of any such instalment shall not entitle the Buyer to cancel any other instalment or treat the Contract as a whole as repudiated.
- 4.3 Upon the Buyer taking possession of the Products, the Buyer shall confirm its acceptance or rejection of the Products. The Buyer may only reject the Products if they: (i) do not accord in all material respects to the specifications agreed with the Seller or if the Products are damaged and (ii) cannot be repaired. The signature of the Buyer (or its representative) upon the delivery note or similar document shall be conclusive evidence of delivery and acceptance by the Buyer that the Products have been received in perfect condition.
- 4.4 If the Products have not been delivered despite receipt by the Buyer of the invoice from the Seller relating to them, then the Buyer shall notify the Seller within three days after the date of such invoice.
- 4.5 If the Buyer fails to take delivery of the Products or fails to give the Seller adequate delivery instructions before the Estimated Delivery Date, then without prejudice to any other right or remedy available to the Seller, the Seller may:
- 4.5.1 store the Products until actual delivery is made and charge the Buyer for the costs (including insurance) of storage, transport and loading; and/or
- 4.5.2 sell the Products (whether or not such Products were manufactured by the Seller pursuant to the provisions of clause 3.3 above) to a third party in any country at the best price readily obtainable and charge the Buyer for any shortfall between the price agreed in an Order and the price achieved on the sale to a third party;
- 4.5.3 charge the Buyer interest (both before and after any judgement) on the price payable for the Products under the Contract at 4% over the base rate from time to time of Barclays Bank Plc from the Estimated Delivery Date to the date of actual delivery, alternative sale or alternative supply.

#### 5. Installation of the Product and Services

- 5.1 If specified in the Contract, or the Seller's standard documentation for the Products that the Seller is to install the Products then, as soon as reasonably possible after their delivery, the Seller shall install them at the Delivery Address.
- 5.2 The Buyer shall give full access to the Delivery Address to the Seller for the purpose of installing the Products and/or providing the Services, shall undertake any preparatory work specified by the Seller in the Contract or in the Seller's standard documentation and shall compensate the Seller for any additional costs which the Seller incurs by reason of the Buyer's failure to properly undertake any such preparatory work.
- 5.3 The Seller shall procure that its employees who install the Products or provide the Services comply with all reasonable safety, security and other regulations which are in force or apply at the Delivery Address and which have been notified to the Seller and its employees and the Buyer shall indemnify the Seller against any loss which the Seller may suffer or incur as a result of any injury to its employees or damage to or loss of its property whilst at the Delivery Address resulting from anything other than the negligence of the Seller or its employees or any

non-compliance by the Products with the warranty set out in clause below.

#### 6. Prices and Payment

- 6.1 Subject to the provisions of clause 6.4 the price of the Products and/or the Services shall be the price expressly quoted in writing by the Seller or otherwise shall be the Seller's list price at the Contract Date.
- 6.2 Unless otherwise stated in the Contract or in any price list of the Seller, all prices are given by the Seller on a delivered basis, excepting spare parts quotations, where prices are quoted "ex-works" e.g. net of delivery and VAT.
- 6.3 The price is exclusive of any applicable VAT, which the Buyer shall be additionally liable to pay to the Seller.
- 6.4 The Seller reserves the right to increase the price of the Products and/or the Services in the event of and to take account of any change (between the Contract Date and the actual delivery date) in:
- 6.4.1 the exchange rate of Sterling to Euro (the figures quoted in the Financial Times shall be used for the purposes of determining the appropriate currency exchange rates); and/or
- 6.4.2 The interest rate used as the basis for calculating the cost of borrowing charges levied by a legally bound third party source of finance which is being used to settle the debt arising from this contract; and/or
- 6.4.3 any Federal German or United Kingdom Government raised import levies
- 6.4.4 any other legally required taxation (including VAT), or insurances.
- 6.5 The Seller shall be entitled to invoice the Buyer for all amounts due under the Contract on or at any time after delivery of the Products and/or provision of the Services unless the Products are to be collected by the Buyer or the Buyer fails to take delivery of them, in which case the Seller shall be entitled to invoice the Buyer at any time after the Seller has notified the Buyer that the Products or Services are ready for collection/ or performance or (as the case may be) the Seller has tendered delivery of the Products or Services.
- 6.6 The Buyer shall make Payment to the Seller, in sterling, in respect of all invoices in full and without any deduction or set off (whether in relation to such invoice or otherwise) within the time specified in the Contract. Time of payment shall be of the essence.
- 6.7 All payments shall be applied to invoices and to Products and/or Services listed in such invoices in the order determined in its discretion by the Seller.
- 6.8 If full payment (including any instalment) is not received by the Seller by the due date then without prejudice to its rights the Seller shall be entitled:
- 6.8.1 to recover the entire price; and/or
- 6.8.2 to charge interest (both before and after any judgment) at the rate of 4% over the base rate from time to time of Barclays Bank Plc on all amounts outstanding to the Seller by the Buyer whether or not under the Contract and whether or not such sums have become due; and/or
- 6.8.3 to require the immediate return to the Seller of all Products agreed to be sold by the Seller to the Buyer in which the property has not passed to the Buyer in accordance with the provisions of clause 9 below and the Buyer hereby agrees to reimburse to the Seller upon demand the Seller's costs or expenses in recovering such Products; and/or
- 6.8.4 to suspend work on Services and/or further delivery of Product
7. Warranty and Liability
- 7.1 The Seller warrants that the Services will be provided with reasonable skill and care and that the Products will give the rates of performance quoted by the Seller and will be free from defects in material and workmanship for the periods set out below commencing from the date of delivery provided that:
- 7.1.1 the Seller shall be under no liability in respect of any defects in the Products arising from any drawing, design or specifications supplied by the Buyer;
- 7.1.2 the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage or negligence by the Buyer or persons using the Products, abnormal working conditions, failure to follow the Seller's or Manufacturers instructions (whether oral or in writing) or misuse;

- 7.1.3 the Seller shall be under no liability for any costs or claims that arise from the Buyer or any third party incorrectly carrying out any modification, alterations, repair, maintenance or service of the Products or installing any spare parts that are not of matching quality of the Manufacturer's branded or recommended parts;
- 7.1.4 the Seller shall be under no liability if the Buyer has failed to have the Products serviced in accordance with the Sellers reasonable instructions and Manufacturers recommendations;
- 7.1.5 all maintenance has been undertaken by following the relevant Manufacturer's maintenance and servicing schedules using the Manufacturer's branded or recommended parts or parts of matching quality to the Manufacturer's branded or recommended parts;
- 7.1.6 the Seller shall be under no liability if the total price of the Products has not been paid by the due date for payment;
- 7.1.7 any such defect in or failure to meet any such specification by the Products shall be notified to the Seller in writing as soon as reasonably possible after the Buyer discovers such defect or non-conformity; and
- 7.1.8 the above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller and which the Seller hereby assigns to the Buyer so far as it is able.
- 7.2 The warranty in clause 7.1 shall apply for the following periods:
- 7.2.1 in the case of Products with a powered drive unit, the earliest of 2000 operating hours or a period of twelve months unless specified otherwise in the Contract;
- 7.2.2 in the case of Products termed as Hand Pallet Trucks for a period of twelve months;
- 7.2.3 in the case of spare parts (either as new or replacement), the earlier of 1000 operating hours or a period of six months.
- 7.3 In the event of any valid claim under clause 7.1 above being made by the Buyer, the Seller shall be entitled to supply replacement Services and/or to replace or repair the Products (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Products and/or the Services (or a proportionate part of the price as appropriate) but the Seller shall have no further liability to the Buyer. Any component or parts replaced by the Seller shall become the property of the Seller.
- 7.4 There are no warranties, conditions, guarantees or representations, as to quality or fitness for a particular purpose of the Products or the provision of the Services or other warranties, conditions, guarantees or representations whether express or implied, oral or in writing, except as expressly stated in the Contract. Accordingly, all terms that are capable at law of being excluded (including those contained in the Consumer Rights Act 2015) are excluded from this Contract.
- 7.5 The Seller does not exclude or limit liability for any death or personal injury or for any other losses that cannot be excluded at law arising from use or supply of the Products or the provision of the Services to the extent that it results from the proven negligence of the Seller or its employees.
- 7.6 Except pursuant to sub-clause 7.5 above, the Seller shall not in any event be liable for any indirect, special or consequential damages, howsoever arising (including but not limited to loss of anticipated profits) in connection with or arising out of the furnishing, functioning or use of the Products, or any item provided or Services, and shall not be liable for any other damages except as provided in the Contract.
- 7.7 Except pursuant to sub-clauses 7.5 above in no event shall the Seller's liability in respect of any of the Products or Services exceed the price paid for those Products or Services.
- 7.8 Except pursuant to sub-clause 7.5 above, no action, regardless of form, arising out of the transactions under the Contract may be brought by the Buyer more than two years after the cause of action has accrued.
- 8. Third Party Rights**
- 8.1 The Seller shall at its expense defend any action against the Buyer and pay all damages and costs awarded against the Buyer (except to the

extent that the Buyer is entitled to recover such sums under any policy of insurance) based on a claim that any of the Products constitute an infringement of any Intellectual Property Rights belonging to any third party ("a Claim") provided that:

- 8.1.1 the Seller shall be notified promptly in writing by the Buyer of any notice of a claim;
- 8.1.2 the Seller shall have the sole control of the defence of any action on a Claim and all negotiations for settlement or compromise.
- 8.1.3 the Buyer shall allow its name to be used in proceedings if necessary and provide all reasonable assistance in defending any action; and
- 8.1.4 the Buyer shall take all steps reasonably possible to mitigate or reduce any damages and costs which may be awarded against it as a result of a Claim.
- 8.2 If a Claim is successful or the Seller considers that it is likely to be successful, the Seller may, at its option or as part of a settlement or compromise, procure for the Buyer the right to continue using the Products, modify the Products so that they are non-infringing or terminate the Contract in so far as it applies to those Products subject to the Claim, in which latter case the Seller shall refund to the Buyer the price paid for such Products less depreciation on a straight line basis over the life of the Products as determined by the Seller.
- 8.3 In no event shall the Seller have any liability under this clause with respect to any Claim based on the use of the Products in combination with any other product or equipment not supplied by the Seller.
- 8.4 This clause states the entire obligation and liability of the Seller with respect to infringement of Intellectual Property Rights and misuse of confidential information.

**9. Risk and Title**

- 9.1 Risk of loss of or damage to the Products shall pass to the Buyer when the Buyer or its agent takes possession of the Products and the Buyer shall insure the Products from that time until ownership of and title to them passes to the Buyer.
- 9.2 Notwithstanding delivery and the passing of risk in the Products to the Buyer, nor any other provisions in the Contract, the Seller shall retain ownership of and title to the Products until:
- 9.2.1 full payment is received by Seller for the Products; and
- 9.2.2 full payment is received by the Seller for all of the products that the Seller has supplied to the Buyer.
- 9.3 Until ownership of and title to all Products owned by the Seller passes to the Buyer, the Buyer shall hold such Products separately from those of the Buyer and third parties and in trust for the Seller. The Buyer shall keep the Products belonging to the Seller under its possession or control and shall keep them properly stored, protected and insured and identified as the Seller's property. The Buyer shall be entitled to resell or use such goods in the ordinary course of its business but shall account to the Seller for the entire proceeds of sale or for any insurance proceeds.
- 9.4 For the avoidance of doubt, the Products and all other goods supplied to the Buyer by the Seller shall be presumed to belong to the Seller unless the Buyer can prove otherwise.
- 9.5 Until ownership of and title to any Products owned by the Seller passes to the Buyer (and providing the goods are still in existence and have not been resold), the Seller shall be entitled at any time to repossess them and shall be fully indemnified by the Buyer for doing so. The Buyer hereby grants the Seller or its authorised representative a licence to enter any premises where Products belonging to the Seller are stored at any time using reasonable force (which may include breaking locks) for the purpose of repossessing the Products that have been delivered to the Buyer, with or without any materials attached to them.
- 9.6 The Seller shall be entitled to use or dispose of such Products as it wishes. Unless the Seller expressly elects otherwise, any contract between it and the Buyer for the supply of Products shall remain in existence, notwithstanding any exercise by the Seller of any of its rights under this clause.

9.7 The Buyer shall not be entitled to pledge or in any way charge by way of security for indebtedness any Products that remain the property of the Seller. However, if the Buyer does so, all monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

**10. Laws and Regulations**

10.1 The Buyer shall comply with all laws and regulations relating to the ownership and use of the Products including health and safety requirements.

**11. Termination**

11.1 The Seller shall be entitled to terminate the Contract forthwith by notice in writing to the Buyer if:

11.1.1 the Buyer commits an irremediable breach of the Contract, persistently repeats a remediable breach or commits any remediable breach and fails to remedy it within 30 days of receipt of notice of the breach requiring remedy of the same; or

11.1.2 the Buyer (being a company) is unable to pay its debts within the meaning of s.123 of the Insolvency Act 1986 or shall convene a meeting to its creditors or if a proposal shall be made for a voluntary arrangement within Part 1 of the Insolvency Act 1986 or a proposal for any other composition, scheme or arrangement with (or assignment for the benefit of) its creditors or a receiver, administrative receiver or similar officer is appointed over all or a substantial part of the undertaking or assets of the Buyer or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the Buyer (whether by the presentation of a winding up petition or otherwise) or for the making of an administration order (other than for the purposes of reconstruction or amalgamation); or

11.1.3 the Buyer (being an individual) is unable to pay his debts within the meaning of s.268 of the Insolvency Act 1986 or a petition is presented for his bankruptcy or the Buyer makes an arrangement or compromise for the benefit of his creditors whether pursuant to the provisions of Part VIII Insolvency Act 1986 or otherwise; or

11.1.4 the Buyer (being a partnership) is unable to pay its debts or a petition is presented for the winding up of the Buyer under the provisions of the Insolvent Partnerships Order 1994 whether or not involving individual insolvency or petitions against any partner or if the Buyer enters into any composition, scheme of arrangement or voluntary arrangement including the business and assets of the Buyer or the share of any partner or in the event of any action for a partnership account and/or a winding up of or a dissolution of the Buyer under the Partnership Act 1890 or if any of the states of affairs or events described in clause 11.1.3 exist or occur to or in relation to any of the partners or if the Buyer is dissolved; or

11.1.5 the Buyer ceases or threatens to cease to carry on business; or

11.1.6 there is at any time a material change in the management, ownership or control of the Buyer; or

11.1.7 the Buyer is resident in a jurisdiction other than England and Wales and an event similar to any of those specified in clauses 11.1.2 to 11.1.4 inclusive occur to or in relation to the Buyer, or

11.1.8 if the Seller reasonably apprehends that any of the events specified in clauses 11.1.2 to 11.1.7 inclusive is about to occur or has a reasonable belief that the Buyer is unlikely to pay its debts as they fall due and notifies the Buyer accordingly.

11.2 In the event of termination by the Seller pursuant to clause 12.1 above then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under it without any liability to the Seller and, if the Products have already been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary and the Seller shall be entitled to charge interest (both before and after any judgement) at the rate of 4% over the base rate from time to time of Barclays Bank

PLC from the time of such cancellation or suspension until the Seller receives payment

**12. Force Majeure**

12.1 The Seller reserves the right to defer the delivery or to cancel the Contract or reduce the volume of the Products or level of the Services ordered by the Buyer if it is prevented from or delayed in the carrying on its business due to circumstances beyond its reasonable control including without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

**13. Anti-Corruption and Bribery Act**

13.1 The Buyer undertakes that it will comply with applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption but not limited to the Bribery Act 2010. Any breach of Clause 14 will be deemed as a material breach of the Contract.

**14. General**

14.1 The remedies available to the Seller under the Contract shall be without prejudice to any other rights, either at common law or under statute, which it may have against the Buyer.

14.2 The failure or delay of the Seller to enforce or to exercise, at any time or for any period of time, any term of or any right, power or privilege arising pursuant to the Contract does not constitute and shall not be construed as a waiver of such term or right and shall in no way affect either party's right later to enforce or exercise it nor shall any single or partial exercise of any remedy, right, power or privilege preclude any further exercise of the same or the exercise of any other remedy, right, power or privilege.

14.3 The invalidity or unenforceability of any term of, or any right arising pursuant to the Contract shall not in any way affect the remaining terms or rights which shall be construed as if such invalid or unenforceable term or right did not exist.

14.4 Any notice or written communication required or permitted to be served on or given to either party under the Contract shall be delivered by hand or sent by recorded delivery mail to the other party at its address set out in the Contract or to such other address which it has previously notified to the sending party and shall be deemed to have been given when actually received or, if sent by recorded delivery mail 4 days after the date of posting.

14.5 The Contract is personal to the Buyer and the Buyer may not assign, transfer, sub-contract or otherwise part with the Contract or any right or obligation under it without the prior written consent of the Seller.

14.6 Clause headings are purely for ease of reference and do not form part of or affect the interpretation of the Contract

14.7 The Contract contains all the terms agreed by the Parties relating to the subject matter of the Contract and supersedes any prior agreements, understandings or arrangements between them, whether oral or in writing, and no representation undertaking or promise shall be taken to have been given or been implied from anything said or written in negotiations between the Parties prior to the Contract except as set out in the Contract. In particular but without prejudice to the generality of the foregoing the Buyer acknowledges that it has not been induced to enter into the Contract by any representation or warranty other than those contained or referred to in clause 7 of these Conditions. The Buyer irrevocably and unconditionally waives any right it may have to claim damages for and/or to rescind the Contract as a result of any misrepresentation whether or not contained in the Contract unless such misrepresentation was made fraudulently.

14.8 The construction, validity, and performance of the Contract is governed by the law of England that the Parties accept the jurisdiction of the English Courts.