

## Lapmaster Wolters Limited - Terms And Conditions Of Sale

LAPMASTER WOLTERS LIMITED ("SELLER") WILL ACCEPT BUYER'S ORDER REFERRED TO ON THE ACCOMPANYING QUOTATION ON CONDITION THAT BUYER ASSENTS TO THE TERMS SET FORTH BELOW AND ON THE ACCOMPANYING AND WAIVES ANY DIFFERING TERMS. SUCH ASSENT AND WAIVER IS EVIDENCED EITHER BY BUYER'S PURCHASE ORDER (ANY CONTRARY TERMS OR CONDITIONS OF WHICH SHALL BE DISREGARDED) OR BY ACCEPTING DELIVERY OF THE FIRST SHIPMENT HEREUNDER.

1. **Payment and Shipping Terms.** Terms are net 30 days Ex-works, unless expressly provided to the contrary on the accompanying quotation. Any amount not timely paid shall bear a late charge of two percent (2%) for each month or fraction of a month computed on the outstanding balance until paid in full; provided, however, that such late charges shall not exceed the maximum amount allowed by law.

2. **Title and Risk of Loss.** Title to products shall pass only upon payment of the full purchase price. Notwithstanding the foregoing, all risk of loss shall be borne by Buyer from the time of delivery of the products by Seller to a public carrier or other manner of transportation.

3. **Tooling.** Charges for tools, dies and other equipment cover only a portion of their cost and ownership and sole right to possession and use thereof shall not pass to Buyer but shall remain in Seller.

4. **Cancellation.** Seller at its option and in addition to its other remedies may without liability cancel this order or refuse shipment, if a) Buyer is in default in any payments or other performance due Seller under this or any other agreement b) Buyer becomes insolvent or a petition in bankruptcy is filed with respect to Buyer or (c) causes beyond Seller's control make it impossible to assure its timely performance. Buyer may cancel the remaining unfilled portion of its order only upon written consent of Seller and payment of the full price for that portion of the order that Seller has substantially completed at time of cancellation plus reasonable cancellation charges which shall include the full profit plus all costs incurred in connection with the cancelled portion of the order such as overhead and administrative costs, commitments made by Seller as a consequence of Buyer's order and the cost of all work-in-progress. Cancellation charges shall not exceed the purchase price of the cancelled portion of the order.

5. **Price.** Seller reserves the right to correct quantities or prices due to typographical, clerical, or mathematical errors. The price stated in Seller's quotation or acknowledgment is based upon Seller's current costs. If costs increase during the life of this order, Buyer will be notified of any adjustment of the price; provided, however, that no price adjustment will be made without Buyer's agreement on orders for delivery within 30 days of the date of a price quotation. Buyer shall reimburse Seller for any excise, sales, use or other taxes incident to this transaction for which Seller may be liable or which Seller is required by law to collect.

6. **Delivery.** Delivery dates are estimates only. Seller shall not be liable for any total or partial failure to deliver or for any delay in delivery or production due to causes beyond its control, including but not limited to acts of God, acts of Buyer, war or civil unrest, priorities, fires, strikes, natural disasters, delays in transportation, or inability to obtain necessary labour or raw materials. Seller shall not be liable in any event for any special, indirect or consequential damages on account of failure or delay in performance regardless of the cause.

7. **Assurance of Performance.** If Buyer is delinquent in payment at any time, or if in Seller's judgment, Buyer's credit becomes impaired or unsatisfactory, Seller may, in addition to its other, remedies cancel Buyer's credit, stop further performance, and demand cash, security or other adequate assurance of payment satisfactory to it.

8. **Limited Warranty.** Seller warrants for a period of one-year following original shipment by Seller, that its products are free from defects in material or workmanship furnished by Seller. Seller will repair or at its option replace free of charge any product found by it within one year of original shipment to be defective in breach of said warranty upon return thereof transportation prepaid to the location specified by Seller. No returns will be accepted without prior written authorization by Seller. The foregoing is Seller's sole warranty and Buyer's exclusive remedy and **IS IN LIEU OF ALL OTHER WARRANTIES, REPRESENTATIONS OR GUARANTEES, EXPRESS OR IMPLIED WHICH ARE HEREBY EXCLUDED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** Without limiting the foregoing, in no event shall Seller be liable for loss of use or profits or for any other special indirect or consequential damages, or for defects in design or engineering whether performed by it or by others, or for any amounts in excess of Seller's net price of the product in question whether such amounts are claimed to result from breach of contract or warranty, negligence, strict liability or otherwise.

9. **Production Performance Estimates.** Any production or performance standards requested by the Buyer will be assessed on merit. No such estimates are guaranteed.

10. **Compliance with Warnings and Indemnification.** In those instances in which Seller provides health or safety information, warning statements, and/or instructions in connection with the installation, use or maintenance, including preventive maintenance, of its products (and Seller assumes no obligation to do so), Buyer agrees to comply with all such information, warnings and instructions. Buyer further agrees to communicate all such information, warnings and instructions to its employees, agents and subcontractors, and to subsequent buyers and users of those products.



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**11. Repairs: Contract Lapping & Polishing Services.** Seller shall have no liability whatsoever for spoilage or damage to any products, parts or stock furnished for lapping or polishing or repair. In addition to the specific exclusions in paragraph 8 above, Seller's liability shall be limited to cases of its negligence, and then only to the extent of cancellation of its charges for any contract lapping or polishing services.

**12. Confidentiality.** All technical and commercial information and ideas which Seller has supplied or shall supply Buyer, but excluding information in the public domain or properly in Buyer's possession in tangible form before receiving such information from Seller, ("confidential information") is proprietary to Seller and is disclosed to Buyer in confidence for the limited purpose of assisting Buyer in the evaluation or use of Seller's products. Buyer shall not without Seller's prior written consent, disclose or make available such confidential information to any other person or use such confidential information except for such limited purpose. All confidential information shall be returned to Seller on demand, and, in any event, when no longer needed by Buyer in connection with Seller's products. In addition to Seller's other remedies, Buyer agrees that any benefit or property derived by Buyer from any unauthorized use of confidential information shall be the sole and exclusive property of Seller.

**13. Shortages.** Claims for shortages must be made within five days after receipt of goods. All other claims must be made within 30 days of shipping date (except for warranty claims, which are governed by Paragraph 8 above).

**14. Patents.** Buyer will protect and indemnify Seller against all claims arising out of patents, designs, trade secrets, copyrights, or trade names with respect to products manufactured wholly or partially to Buyer's designs or specifications, including any costs, expenses, loss, attorneys' fees, settlement payments, or damages.

**15. Export Regulations.** Buyer will not export any technical data, or commodities that are controlled by the Export Administration Act or Regulations in violation thereof.

**16. Amendments.** No addition to, modification or revision of the terms and conditions contained herein shall be valid unless in writing, and signed by duly authorized representative of Seller.

**17. Applicable Law and Jurisdiction.** The Contract shall be governed by the laws of England. The Uniform Laws on the International Sale of Goods laid down in the 1980 United Nations Convention shall not apply unless expressly agreed between the parties in writing.

**18. Paragraph Captions.** The paragraph captions are for convenience only and are not part of these terms and conditions and should not be construed as binding or limiting in any way the scope or context of the provisions hereof.