



Standard Sales Terms and Conditions

The Williams Brothers Corporation of America Standard Sales Terms and Conditions

1. **TERMS AND CONDITIONS.** Except where prohibited by law, these Terms and Conditions ("Terms") shall apply and are incorporated into every sale of Goods made by Seller to Buyer. These Terms prevail over Buyer's terms of purchase regardless of whether Buyer includes or references them on a purchase order, request for proposal/quote, order acknowledgment or otherwise, and any such Buyer terms are hereby rejected and objected to unless specifically accepted in writing by an authorized representative of Seller, with such exception stating that it will apply in place of all or a portion of these Terms. Buyer will be deemed to have assented to all terms and conditions contained herein upon issuance of a purchase order, payment for any part of the Goods, or Seller's issuance of an order acknowledgement, commencement of performance, or shipment of all or any portion of the Goods (each a "Acceptance of Order"). Any modifications to the Goods or an order requested after Acceptance of an Order may be made only by written acceptance of Seller, in its sole discretion, and subject to modification of price, delivery, and other relevant terms.
2. **DEFINITIONS.**
 - a. "Affiliate" of a party means an entity controlling, controlled by, or under common control with, that party.
 - b. "Buyer" means the party designated as such on the face of the purchase order, contract or agreement and includes its successors, permitted assigns and legal representatives.
 - c. "Contract" these terms, together with the written invoice, purchase order, contract or agreement which attaches, incorporates or otherwise references these Terms.
 - d. "Goods" means all of the goods, material, products, equipment, services, information, drawings and/or other items furnished or to be furnished by Seller under the Contract.
 - e. "Parties" means the Buyer and Seller.
 - f. "Seller" means Williams Brothers Corporation of America, or its subsidiary(ies) or affiliates(s) supplying the Goods.
3. **PRICE.**
 - a. Prices for Goods shall be as set forth on Seller's price list or as mutually agreed by the Parties in the Contract, subject to correction for any costs omitted or other reasonable corrections.
 - b. Price quotations shall be valid for a period of ten (10) days after they are made, unless otherwise set forth, in writing, on the quotation.
 - c. Except for pricing in an offered quotation, Seller's price lists are subject to change at any time prior to Seller's acceptance of an order.
 - d. Seller reserves the right to conduct a credit review of Buyer at any time. Seller may, in its sole discretion, modify or revoke the terms of any credit offered on the basis of a credit review. In such instances, Seller may require full or partial payment for Goods prior to shipment or commencement of the manufacturing process. Any delay resulting from a change in credit terms or delay in pre-payment by Buyer may result in a shipping delay, which delay will not subject Seller to any liability. Seller reserves the right, in its sole discretion, to require Buyer to provide letters of credit satisfactory to Seller prior to shipment of Goods.
 - e. Unless otherwise specified, prices for the Goods are in US dollars.
4. **TAXES.** Unless otherwise explicitly set forth in the Contract, Buyer's price shall be exclusive of, and Buyer will bear and pay any and all applicable taxes, excise, impost, duty or charges of any other kind imposed by any taxing authority, with the exception of taxes imposed on Seller's income, personnel, or personal property. If Buyer believes that the purchase of Goods by Buyer is exempt from taxation, Buyer must provide an exception certification for the jurisdiction where the Goods are to be delivered.

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- 5. PAYMENT TERMS.** Buyer shall pay the price of the Goods and all other invoiced amounts on net thirty (30) day terms, unless otherwise mutually agreed by the Parties in writing. Seller reserves the right to charge interest on all overdue balances, starting with the invoice date, at a rate of one and one-half percent (1.5%) per month compounded until the date payment is received in full. Buyer agrees to pay, without offset, all invoiced amounts within the time set forth in the payment terms. Seller may change payment or credit terms for unfulfilled orders if, in Seller's reasonable opinion, Buyer's financial condition, previous payment record, or relationship with Seller merits such change. Seller may suspend discontinue performance, without liability or penalty, if Buyer fails to pay any sum due, or if after five (5) days written notice Buyer has not cured any other failure to perform under the Contract or these Terms.
- 6. SECURITY INTEREST.** Seller retains a security interest in the Goods until payment. Buyer shall execute any paperwork required by Seller to effectuate and perfect any such security interest.
- 7. PACKAGING.** Seller shall pack all Goods to protect against damage or deterioration in shipping using its standard shipping practices or, if specified in the Contract, the packaging specifications of Buyer, provided, however, that the cost of all deviations from Seller's standard shipping practices shall be borne by Buyer.
- 8. SHIPPING AND DELIVERY.** Unless mutually agreed by the Parties in an express writing addressing shipping and delivery, all shipping will be *ex works* (EXW) as that term is defined by *INCOTERMS 2020*, unless Seller is required to complete certain export procedures, in which case all shipments shall be FCA Seller's facility. Delivery dates are approximate and not of the essence. Seller accepts no liability or responsibility for any delay in delivery or failure to deliver. Seller may, in its discretion and without any liability or penalty, make partial shipments of Goods. Each partial shipment will constitute a separate sale and Buyer shall pay for Goods shipped. If delays in shipments or delivery occur at the request of Buyer or as a result of Buyer's failure to accept delivery of any of the Goods, or provide appropriate instructions, documents, licenses, or authorizations for the Goods, then (a) risk of loss to the Goods shall pass to the Buyer, if it has not already; (b) the Goods shall be deemed to have been delivered; and (c) Seller, at its option, may store or arrange for storage of the Goods until Buyer picks them up, and Buyer shall be liable for all related costs and expenses for such storage.
- 9. INSPECTION.** Buyer shall inspect Goods within two (2) calendar days of receipt ("Inspection Period"). Buyer is deemed to have accepted all Goods unless it notifies Seller, in writing, of any Goods which fail to materially conform to those on Buyer's purchase order ("Nonconforming Goods") during the Inspection Period and furnishes written evidence or other documentation requested by Seller to support the assertion of nonconformity. If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) permit return of the Nonconforming Goods in exchange for a credit or refund of the price for such Nonconforming Goods, together with any reasonable shipping costs incurred in the return. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship the replacement Goods to Buyer, subject to the shipping terms set forth in these Terms and Conditions. **Buyer acknowledges and agrees that the remedies set forth in this section are Buyer's exclusive remedies for the delivery of Nonconforming Goods.**
- 10. LIMITED WARRANTY.**
 - a. Seller warrants that the Goods sold under these Terms will be free from defects in materials or workmanship for a period of one (1) year from the date of shipment.** The warranty set forth in this Section 3.a is exclusive and in lieu of all other warranties. All other warranties are disclaimed pursuant to the Warranty Disclaimer set forth below. Notwithstanding anything herein or in the Contract to the contrary, any warranty provided by Seller is contingent upon the proper use of the Goods by Buyer and does not cover any part of the Goods which has been modified without Seller's prior written consent nor will the warranty apply to any part of the Goods that are damaged as a result of causes other than those in the ordinary course of business including, without limitation, accident, abuse, misuse, misapplication, neglect, alteration, failure or fluctuation of electrical power, air conditioning, humidity control or other environmental conditions. Further, no warranty shall apply if Buyer fails to follow Seller's oral or written instructions as to storage, installation, commissioning, use, or maintenance of the Goods. **If no warranty is set forth in the Contract, then Seller disclaims all warranties pursuant to the Warranty Disclaimer set forth, below.** All warranties provided hereunder extend only to the Buyer and no other person or entity.

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b. Warranty and Conditions Disclaimer: *Except as otherwise set forth herein, Seller makes no express or implied warranties and hereby disclaims all express or implied warranties, obligations, conditions, representations, or liabilities, whether implied by operation of law or otherwise, including, without limitation, all implied warranties of merchantability and fitness or fitness for a particular purpose.*

11. CUSTOM GOODS. For Goods that are custom Goods to be manufactured to Buyer's specifications, Buyer must provide all drawings and specifications requested by Seller. If Seller presents drawings to Buyer for approval, such approval must be provided in writing and manufacturing will not commence until such approval is provided. Seller is not liable for any delays in manufacturing or shipping resulting from Buyer's delay in providing drawings, specifications, approvals or any other information reasonably requested and required by Seller.

12. REMEDIES AND LIMITATIONS ON WARRANTIES.

a. Notice. Seller is not liable for a breach of warranty unless such breach is material and (i) Buyer provides written notice of the claimed breach of warranty ("Notice of Claimed Defect") within ten (10) days after Buyer discovers, or should have discovered, the alleged breach; (ii) Seller reasonably verifies Buyer's claim that the Goods fail to meet the warranty provided. Time is of the essence and Buyer's failure to provide Notice of Claimed Defect of any alleged breach within the required time will release and discharge Seller from any obligation or liability for the breach of warranty. Seller shall not be liable for a breach of warranty if: (i) Buyer makes any further use of the Goods after giving Notice of Claimed Defect.

b. Remedy. If the conditions of Section 11.a are satisfied, Seller will, in its sole option, either (a) credit Buyer's account for the purchase price paid for the Goods, excluding any taxes paid, (b) repair any defective Goods or (c) furnish replacement Goods. If required by Seller, the Goods alleged to be defective will be returned to Seller, at its direction and expense, for examination. If Seller discovers that any Goods so returned are not covered by warranty, Seller reserves the right to charge Buyer for all transportation costs and expenses incurred by Seller in examining, processing, or handling such Goods. The remedies set forth herein shall be the sole and exclusive remedies available to Buyer.

13. LIMITATION OF LIABILITY. *UNDER NO CIRCUMSTANCES AND IN NO EVENT will Seller be liable to Buyer or any third party for any of the follow classes, categories, or types of damages: indirect, incidental, punitive, special, multiplied consequential, or liquidated damages of any kind, including without limitation any loss of use, profits, revenue, or production, whether based upon warranty, contract, strict liability, tort (including negligence) or any other cause of action regardless of whether such damages were foreseeable and whether or not Seller had been advised of the possibility of such damages, and notwithstanding the failure of any agreed or other remedy of its essential purpose. Further, under no circumstances and in no event will Seller be liable for any claims arising in connection with the design, manufacture, sale, transportation, installation, use, or repair of any components incorporated into the Goods for which Seller is not the manufacturer of the components. Buyer hereby acknowledges and agrees that under no circumstances, and in no event, shall Seller's liability for the duration of the Contraction, including any renewal terms, if any, exceed the amounts paid to Seller for the Goods or \$10,000, whichever is less.*

14. DEFAULT OR DELAY. Seller will not be liable for any default or delay in the production or delivery of any Goods when such default or delay results either directly or indirectly from: (a) accidents to, or breakdowns or mechanical failure of, Seller's plant machinery or equipment; strikes or other labor troubles or labor shortages; fire; flood; war; acts of the public enemy; acts of God; delays by any supplier; difficulties in obtaining raw materials; delays in transport or lack of transportation facilities; embargoes; shortages of, or reductions in, energy sources; priorities, allocations, limitations, restrictions or other acts required or requested by Federal, Provincial/State or local governments, or any subdivision, bureau or agency thereof; or (b) any other cause beyond the control of Seller. Seller shall not be liable for any loss, cost, penalty or any consequential, incidental, or other damages of any kind occasioned by or arising or resulting from any default or delay in delivery by Seller, whether or not said loss, cost, penalty or damage was reasonably foreseeable.

15. RETURNS OF GOODS. No Goods are to be returned to Seller without Seller's prior written authorization.

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- 16. BUYER'S AGREEMENT TO DEFEND.** To the extent that any Goods are manufactured or provided by Seller to meet Buyer's specifications, instructions, or any other requirements, Buyer agrees to defend, indemnify and hold Seller harmless from and against any and all loss, cost, damage, liability or expense (including, without limitation, any penalties or punitive damages, attorneys' fees and expenses and costs of suit) arising out of the manufacture, sale or use of such Goods, including, without limitation, claims of actual or alleged infringement on any patent or copyright, or any actual or alleged unfair competition resulting from similarity in design, trademark or appearance.
- 17. SANCTIONS STATUS.** Buyer represents and warrants that neither Buyer nor any of its subsidiaries, owners, directors, officers, employees, agents, or contractors (collectively "Buyer Entities") are (i) the target of any executive orders or sanctions regulations administered by the United States Department of the Treasury's Office of Foreign Assets Control ("OFAC"), or any decree, ordinance or legally binding order, rule or requirement of the United Nations or under the laws of the European Union ("EU"), or EU member State and any other state and/or authority related to trade sanctions, trade embargoes and other foreign trade controls, export controls, non-proliferation, anti-terrorism and similar laws (collectively, "Sanctions Regulations"); or (ii) included on any suspended, denied, debarred, or otherwise ineligible list published by the US or other applicable jurisdiction (collectively, the "Sanctions List"). If Seller becomes aware that Buyer or its parent company or owner is included on any Sanctions List or is the target of any Sanctions Regulations, Seller shall have the unilateral right to terminate this Contract or take any other action Seller considers appropriate to remain compliant with applicable Sanctions Regulations. In the event of such termination or other action, Seller will be relieved of all liability and obligations of any kind hereunder, including but not limited to performance, shipment, reimbursement, credit, service, or repair.
- 18. TERMINATION.** In addition to all other remedies, Seller reserves the right to terminate the Contract, without liability or penalty, with immediate effect upon written notice on the occurrence of any of the following: (i) insolvency of Buyer; (ii) the filing of an involuntary petition of bankruptcy by Buyer; (iii) the filing of an involuntary petition to have Buyer declared bankrupt; (iv) the appointment of a receiver or trustee for Buyer; (v) the execution by Buyer of an assignment for the benefit of creditors; or (vi) Buyer fails to perform, or breaches any of the terms of the Contract. Buyer is liable for Seller's damages in connection with such breach or failure to perform including consequential damages reasonably foreseeable by Buyer or of which Buyer was apprised by Seller, provided, however, the Buyer shall not be responsible for delays or defaults occasioned by fires, Acts of God, wars, riots, but in the event of such occurrence, Seller reserves the right to cancel the Contract without liability.
- 19. INTELLECTUAL PROPERTY RIGHTS.** Unless otherwise specifically agreed to in writing by Seller, all drawings, techniques, processes, inventions, patents, patent applications and other intellectual property (i) now owned by Seller, (ii) created hereafter by Seller outside the scope of the Purchase Order or the agreement under which a Purchase Order is submitted (the "Agreement") or (iii) created by Seller or created jointly by Seller and Buyer in connection with the Purchase Order or Agreement (collectively, "Seller's Intellectual Property") shall be and remain Seller's property. Seller grants no license or other right to Buyer in Seller's Intellectual Property, whether now owned or hereafter created. Unless otherwise specifically agreed to in writing by Buyer, all drawings, techniques, processes, inventions, patents, patent applications and other intellectual property owned by Buyer on the effective date of the Purchase Order ("Buyer's Intellectual Property") shall be and remain the property of Buyer.
- 20. MISCELLANEOUS TERMS**
- a. Waiver.** Failure, delay, or waiver by either party of any of the terms or conditions herein shall not operate as or be considered to be either a waiver or forfeiture of such rights by such party of any other term of condition hereof, or of any subsequent breach by either party.
- b. Force Majeure.** Seller shall not be liable to Buyer or any third party for any claimed damage, loss, or penalty arising from or relating to any failure or delay in any performance of any contractual obligations, including notice of delay, if such delay or failure is due, in whole or in part, to any acts or circumstances beyond the reasonable control of Seller including, without limitation: the elements, acts of nature, acts of God, acts or



omissions of the Buyer, acts of any civil or military authority, civil unrest, war, invasions or hostilities, terrorist threats or acts, riots, national emergency, revolution, insurrection, epidemic, concerted labor action, labor difficulties, default or failure of any lower tier supplier, unavailability of supplies or sources of energy, any communication or power failure, or restraints or delays in transportation. The anticipated delivery date shall be deemed extended for a period of time equal to the time lost due to any delay excusable by this provision.

- c. Assignment.** Neither party may assign, delegate, or otherwise transfer all or any part of its rights or obligations hereunder without the prior written consent of the other party. Any such attempted assignment, delegation or transfer will be null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.
- d. Compliance with Law.** Buyer shall comply with all applicable laws, regulations, and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer. Buyer assumes all responsibility for shipments of Goods requiring any government import clearance. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.
- e. Confidential Information.** All non-public, confidential or proprietary information of Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party. This provision shall be in addition to and shall not supersede any existing agreement relating to confidentiality between the Parties. This obligation of confidentiality and nonuse shall survive completion or termination of the Contract.
- f. Governing Law.**

 - i. The United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed and does not apply.
 - ii. For sales to Buyers in the United States, these Terms and all Contracts shall be governed by the laws of the State of Virginia, without reference to choice of law or conflicts of law. Any and all disputes related to the interpretation or enforcement of this agreement will be brought in the state or federal courts located in Warren County, Virginia, and the parties hereby acknowledge and consent to the jurisdiction of such court. Buyer hereby waives any and all objections that it might otherwise have as to personal jurisdiction or venue in any of the above tribunals.
 - iii. For sales to Buyers located outside of the United States, these Terms and Conditions and all Contracts shall be governed by the International Dispute Resolution provision below.
 - iv. Any controversy or claim arising out of or relating to the Contract, or any breach thereof, must be commenced within one (1) year after the cause of action has accrued or it shall be deemed waived.
- g. Complete Agreement.** These Terms and Conditions, and any Contract which attaches, incorporates, or otherwise references these Terms and Conditions, together set forth the entire understanding between the parties with respect to the subject matter hereof and supersede all other prior negotiations, commitments between the parties, whether written or oral. These Terms and Conditions shall apply and constitute a



binding obligation on the parties on the earlier of delivery of signed acknowledgment, commencement of performance or shipment according to schedule of all or any portion of the Goods covered under this Contract, by Seller. Buyer acknowledges that it is not relying upon, and has not been induced by, any representation, warranty, statement made by, or other information provided by Seller in connection with its decision to purchase or use the Goods, other than those set forth in this Agreement.

- h. Typographical Error.** Any typographical, clerical, or other error or omission in any quotation, price list, acceptance of order, invoice, or other document issued by Seller is subject to correction without liability on the part of Seller.
- i. Amendment.** Neither these Terms nor the Contract may be modified without written agreement of the Parties
- j. Severability.** If any provision herein or in a Contract is held by a decision maker or court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of the Terms and Conditions or Contract shall not be affected thereby and shall continue in full force and effect the same as if the invalid or unenforceable provision had not been included in the first instance.
- k. Successors.** This Agreement shall be binding upon and inure to the benefit of all successors and permitted assigns.
- l. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in these Terms or the Contract shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
- m. No Third-Party Beneficiaries.** This Contract is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms or the Contract.
- n. Notices.** All notices, request, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the sales confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this subsection 19.m.
- o. Language and Translation of Documents.** All documents related to the Goods, including but not limited to manuals, etc. ("Documents") will be provided to the Buyer in the English language. If Buyer requests the Seller to provide a translation of any of the Documents into another language, Buyer will make such request to Seller in writing. All costs and expenses incurred in connection with the translation of the Documents shall be borne by Buyer.
- p. International Dispute Resolution Provision.** Any dispute, controversy or claim arising out of, in relation to, or in connection with the Terms or the Contract or the operation/activities carried out under the Terms or the Contract, including without limitation any dispute as to the existence, construction, validity, interpretation, enforceability or breach of the Terms or the Contract (hereafter "Dispute") shall be subject to arbitration if no settlement of the Dispute is reached within sixty (60) days. Failing settlement of the Dispute by direct negotiations, either party may initiate binding arbitration by giving notice to the other party. The Arbitration will be administered by the American Arbitration Association (hereafter "AAA") through its International Centre for Dispute Resolution (hereafter "ICDR") using the UNCITRAL rules. The place of arbitration shall be Washington D.C., US and the language to be used in the arbitral proceedings shall be English. If the claim under Dispute is one million or less U.S. Dollars or other currency equivalent, then the arbitration shall be

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conducted by a sole arbitrator. The arbitrator shall be appointed in accordance with the procedure specified in the UNCITRAL rules. If the claim under dispute is over one million U.S. Dollars or other currency equivalent, then the arbitration shall be conducted by three arbitrators. The arbitrators shall be appointed in accordance with the procedure specified in the UNCITRAL rules. The Parties agree that all documents considered relevant by the submitting party shall be submitted with the respective statement of claim/defense, and any counterclaim/reply. Neither party may compel the other to produce additional documents. However, the arbitrator(s) shall have discretion, on the arbitrator's own motion or at the request of a party, to request the submission of additional documents for the arbitral tribunal. The Parties agree to limit the number of witnesses each may call to give evidence on its behalf to two witnesses of fact and one expert witness. The Parties agree that the dispute should be resolved as speedily as possible. Therefore, any time limits specified in the Arbitration Rules shall be strictly complied with and the award should be issued by the arbitrator(s) within three (3) months of the commencement of the proceedings, or as soon thereafter as possible. The arbitrator(s) shall give a reasoned award in writing and the award shall be final and binding. The Parties expressly agree to exclude any right of appeal or (except for enforcement or confirmation) reference to any court. Unless the Parties to this Agreement agree in writing otherwise, the Parties hereby agree to forego any claim for, and the arbitrator(s) shall have no power to award, damages for consequential loss or punitive damages. The award may be enforced by judgment or otherwise in any court having jurisdiction over the award or over the person or the assets of the owing party. Applications may be made to such court for judicial recognition of the award and/or an order of enforcement, as the case may be.