

# NORDSON EFD INTERNATIONAL

## TERMS AND CONDITIONS OF SALE

- 1. Offer of Sale** — Any purchase order issued in response to this offer to sell is considered to be Buyer's acceptance of these Terms and Conditions of Sale. Seller hereby objects to any additional, different or conflicting terms or conditions set forth in Buyer's purchase order. No terms or conditions of Buyer's purchase order shall be effective unless expressly accepted by Seller in writing.
- 2. Prices, Taxes and Payment** — Prices will be those in effect on order date and are calculated on an Ex-Works (Incoterms 2000) basis excluding the cost of packaging, carriage, insurance and unloading. The Price and all other sums due under the Agreement are exclusive of value added tax (or any successor tax) which will be paid by the Buyer where applicable. Written or verbal quotation expires at the end of 30 days, unless otherwise agreed to by Seller in writing. Buyer shall provide Seller with a tax exemption certificate acceptable to the authorities imposing the same. Buyer agrees to pay for Products and any shipping or other charges in full (without any right of set-off, deduction or withholding whatsoever) on the terms set forth in Seller's invoice or other documents. The time for payment shall be time of the essence in this Agreement. Interest shall be payable by the Buyer on any money which is not paid by it to the Seller under the Agreement by the due date for its payment. Such interest shall accrue and be calculated on a daily basis at the rate of 1.5% above the base rate from time to time of Lloyds Bank plc for the period from the date on which it is actually paid. It shall be compounded monthly and payable on demand. If the Buyer fails to make payment of the full amount on the payment due date, the Seller reserves the right in its absolute discretion, and without prejudice to any of its rights or remedies, to suspend all further deliveries under the Agreement or any other agreement with the Buyer so long as the default continues and/or to charge the Buyer for costs incurred in respect of Products in the course of manufacture or ready for delivery on the date of such default or suspension.
- 3. Warranty** — Where warranties are made for specific Products, the terms of those warranties shall apply. For all other Products, Seller warrants only that a Product will be free from defects in materials and workmanship when products are installed and operated in accordance with factory recommendations and instructions. This warranty specifically excludes damages or wear to Products caused by misuse, abrasion, corrosion, negligence, accidents, faulty installation or by dispensing material incompatible with the Product. Any warranty claims must be made in writing within the warranty period. For any warranty claim made, the Buyer must afford the Seller a reasonable opportunity to inspect the Product(s) before any use is made of them or any alteration or modification is made to them by the Buyer, but in no circumstances may the Products be returned to the Seller by the Buyer without the prior written consent of the Seller.

The sole liability of Seller and the exclusive remedy of the Buyer arising out of the supply or use of a Product, whether arising under contract, tort (including negligence), strict liability or otherwise shall be the modification, adjustment, repair or replacement of the goods, or refund of the purchase price.

SELLER AND BUYER AGREE THAT, IN CONSIDERATION OF THE ABOVE EXPRESS WARRANTY, ALL OTHER WARRANTIES AND GUARANTEES, OTHER THAN TITLE, EITHER EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXCLUDED.

- 4. Delivery and Risk of Loss** — Unless different terms are stated by Seller on the face hereof, all prices are Ex-Works (Incoterms 2000) Seller's place of business. Method and route of shipment will be at Seller's discretion. Seller reserves the right to make delivery in installments, and all installments invoiced shall be paid for when due per invoice, without regard to the date of subsequent deliveries. Risk of loss or damage to Products shall pass according to the applicable shipping term.

# NORDSON EFD INTERNATIONAL

## TERMS AND CONDITIONS OF SALE

5. **Delay in Performance** — Seller shall not be in default nor liable for any expense, loss or damage occasioned by a delay in performance due to causes beyond its control, including but not limited to labour disputes, floods, fire, transportation delays, inability to obtain materials, or manufacturing equipment breakdown. In the event of such delay, the price and other affected terms of the purchase order shall be adjusted to reflect the impact of any delay. If no delivery date is part of this agreement, then delivery shall be subject to reasonable production scheduling by Seller.
6. **Laws & Regulations** — Products are manufactured in compliance with all applicable requirements of the Fair Labor Standards Act of 1938, as amended, and any regulations or orders issued thereunder. Operational compliance with local laws and regulations is the responsibility of Buyer. In the event a Product cannot be so operated and noncompliance is solely Seller's failure, Seller shall repair, replace or modify the Product to permit Buyer to achieve compliance or refund the purchase price.
7. **Hazardous Waste Regulations** — Seller cannot accept return of any dispense valve that has been used, nor any fluid reservoir (such as tanks, cartridges and retainer assemblies, or liquid manifolds) that has been contaminated by any fluid. In the case of dispense valve repair, the return valve must be completely clean and free of fluid contamination. If incoming inspection determines that there is evidence of fluid contamination of any part, that part will be immediately returned to the shipper. If disposal is required by the Seller, complete disposal charges will be billed back to the Buyer.
8. **Indemnification** — If Seller's Product has been modified or altered in any way by any party other than Seller after shipment, or if any party other than Seller has misused, misapplied, damaged or been guilty of negligence in relation to a Product, Buyer agrees to hold Seller harmless and indemnify it against any loss, cost, damage or liability paid or incurred by Seller: (a) from any and all third party claims; or (b) resulting from any recall, inspection, testing replacement or corrosion of any Product; or (c) resulting from the violation of any law, regulation, rule, order or restriction of any governmental authority resulting from or incident to the sale of a Product to Buyer; or (d) resulting from any actual or alleged infringement of any patent, copyright or similar common or civil law right of third party resulting from sales of a Product to Buyer; and any costs of defense, attorney's fees inspector's fee and/or costs of testing incidents to any of the foregoing.

Seller agrees to indemnify Buyer from and against all claims, demands and suits based on allegations that the Product designed and manufactured by Seller constitutes an infringement of any patent, if Seller is notified promptly of the assertion of any such allegation, and if Seller is given authority to defend the same and reasonable information and assistance for the defense of the same. Upon notification of an infringement claim, Seller reserves the right to do any of the following, at no cost to the Buyer:

- a. Procure for the Buyer the right to continue using the Product; or
- b. Replace the same with non-infringing Product; or
- c. Modify the Product so that it becomes non-infringing.

Seller does not assume liability for the infringement of any method and/or process patent or for infringement of any patent covering articles manufactured or produced by Buyer. As to any Product furnished by Seller manufactured in accordance with designs proposed by Buyer, Buyer agrees to indemnify Seller against all claims, demands and suits based against Seller for any patent infringement.

# NORDSON EFD INTERNATIONAL

## TERMS AND CONDITIONS OF SALE

9. **Limitation and Exclusions of Liability** — All warranties, representations, guarantees, conditions and terms, other than those expressly set out in the Agreement whether express or implied by statute, common law, trade usage or otherwise and whether written or oral are hereby expressly excluded to the fullest extent permissible by law, in particular, but without limitation, any specification, operational limitation or performance criteria demonstrated or given by the Seller (whether on the quotation referred to in the Agreement or otherwise), assistance in selecting or testing coatings, adhesives or other materials from third parties or other advice or recommendations given by the Seller or its employees or agents (whether as to the storage, installation, application or use of the Product(s) or otherwise) are based on its experience and are such as the Seller has obtained in the particular circumstances of the demonstration or expects to obtain under the conditions of its standard tests at its works but are not guaranteed or warranted in any way. The Seller's maximum aggregate liability under, arising from or in connection with the Agreement shall be limited to a sum equivalent to the purchase price. The Seller shall not be liable for any claim whether arising in contract, tort (including negligence) or otherwise, for consequential, economic, or other indirect loss or for losses calculated by reference to profits, contracts, business, goodwill, income or production. The Buyer accepts that the limitations and exclusions set out in the Agreement are reasonable having regard to all the circumstances including, without limitation, the purchase price. Notwithstanding anything to the contrary in the Agreement, nothing in the Agreement shall exclude, restrict or limit the Seller's negligence.
10. **Governing Law** — Any contract resulting from this offer to sell shall be construed in accordance with English law and the parties irrevocably submit to the non-exclusive jurisdiction of the English courts to settle any disputes which may arise in connection with the Agreement. The parties do not intend any term of the Agreement to be enforceable pursuant to the Contracts (Rights of Third Parties) Act of 1999.