

CONDITIONS OF SALE

1 INTERPRETATION

- 1.1 "Buyer" means the person who buys or agrees to buy the Goods from the Seller.
- 1.2 "Conditions" means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Seller.
- 1.3 "Contract" means the contract for the purchase and sale of the Goods.
- 1.4 "Goods" means the articles which the Buyer agrees to buy from the Seller.
- 1.5 "Price" means the price for the Goods excluding carriage, packing, insurance and VAT.
- 1.6 "Seller" means W.S. Westin Limited (Company No. 3892421) whose registered office is at Phoenix Mills, Leeds Road, Huddersfield, West Yorkshire HD1 6NG.

2 CONDITIONS APPLICABLE

- 2.1 These Conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions including without limitation any terms or conditions which the Buyer may purport to apply under any purchase order, confirmation of order or similar document.
- 2.2 The Buyer's order shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions.
- 2.3 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.
- 2.4 Any variation of these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller.

3 THE PRICE AND PAYMENT

- 3.1 The Price shall be the price specified in the Seller's quotation or, if no price has been quoted or the quotation is not accepted within 60 days, the price listed in the Seller's published price list current at the date of acceptance of the order or otherwise notified by the Seller to the Buyer.
- 3.2 Unless otherwise agreed in writing by the Seller, payment of the Price and VAT, together with any charges for carriage, packing and insurance, shall be due at the end of the month following the date of the Seller's invoice, and the time for payment shall be of the essence of the contract.
- 3.3 The Seller reserves the right to charge interest on overdue invoices from the date when payment becomes due from day to day until the date of payment at a rate of 4% above the base rate of Barclays Bank plc from time to time in force and such interest shall accrue at such a rate after as well as before any judgment.

4 THE GOODS

The quantity and description of the Goods shall be as set out in the Seller's quotation. The Buyer is responsible for the accuracy of any dimensions specified by him and relies on his own skill and judgment as to the fitness of Goods of those dimensions and for the purpose for which they are intended.

5 WARRANTIES AND LIABILITY

- 5.1 The Seller warrants that the Goods will be manufactured in a good and workmanlike manner and will at the time of delivery correspond to the description given by the Seller.
- 5.2 Save as aforesaid, and subject to Condition 5.4, all terms conditions and warranties whether express or implied by statute or at common law or otherwise relating to the fitness for purpose, merchantability, quality or condition of the Goods or any of the Goods are excluded to the fullest extent permitted by law.
- 5.3 Except in respect of death or personal injury caused by the negligence of the Seller, the Seller shall be under no liability whatever to the Buyer for any indirect or consequential damage, expense or loss (including without limitation loss of profit) which may be suffered by the Buyer as a result of any innocent misrepresentation or breach of contract by the Seller (whether caused by the negligence of the Seller its employees or agents or otherwise), and the Seller's liability for any such misrepresentation or breach shall not in any circumstances exceed the Price of the Goods thereby affected.
- 5.4 Where the Goods are sold by the Seller under a consumer transaction as defined by the Consumer Transactions (Restrictions on Statements) Order 1976, the statutory rights of the Buyer are not affected by these Conditions.

6 DELIVERY OF THE GOODS

- 6.1 All Goods are sold ex works and are deemed to have been delivered as soon as they have been loaded at the premises of the Seller on to the vehicle (whether provided by the Buyer or by the Seller or by a carrier appointed by either of them) on which they are to be carried to the Buyer's premises or other premises as nominated by the Buyer.
- 6.2 The time for delivery of the Goods is not of the essence of the Contract. Any delivery dates quoted or agreed by the Seller are approximate only, and the Seller shall not be liable for any delay in delivery of the Goods, howsoever and to whomsoever caused.

- 6.3 If the Buyer fails to take delivery of the Goods or to give the Seller adequate delivery instructions at the time stated for delivery, then, without prejudice to any right or remedy available to the Seller, the Seller may:

- 6.3.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs of storage, including the cost of insurance;
- 6.3.2 (if the Buyer's default continues for 28 days) sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the Price or charge the Buyer for any shortfall below the Price.

7 RISK AND PROPERTY

- 7.1 The risk in the Goods shall pass to the Buyer on commencement of the loading of the Goods on to the vehicle referred to in Condition 6.1, and for the avoidance of doubt the Seller shall not in any circumstances be liable for any loss of or damage caused to the Goods whilst in transit or during loading or unloading or for any delay in transit.
- 7.2 Without prejudice to Condition 7.1, if any Goods which have been carried to the Buyer's premises or other premises nominated by the Buyer by a carrier appointed by the Seller are lost or damaged in transit or during loading or unloading by such carrier or are delayed in transit, then provided that such loss, damage or delay is reported in writing both to the Seller and to the carrier:-
- 7.2.1 in the case of damage or partial loss: within three working days of the date on which the Goods (or as the case may be the remainder of the Goods) are received by the Buyer or his nominated agent;
- 7.2.2 in the case of delay or total loss: within three working days of the earliest date on which the Goods should have been received by the Buyer or his nominated agent in the normal course of events
- 7.2.3 the Seller will use its reasonable endeavours to assist the Buyer in securing such recompense as may be available from the carrier and/or from any insurer of the Goods.

- 7.3 Notwithstanding the passing of the risk in the Goods and the delivery of the same to the Buyer, the property in the Goods shall not pass to the Buyer but shall remain vested in the Seller until the Seller has received in cash or cleared funds payment in full of the Price of the Goods and all other Goods agreed to be sold by the Seller to the Buyer for which payment is then due.

8 INSOLVENCY OF BUYER

- 8.1 This Condition applies if the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation; or an encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Buyer; or the Buyer ceases or threatens to cease to carry on business; or the Seller reasonably apprehends that any of the aforesaid events is about to occur in relation to the Buyer and notifies the Buyer accordingly.

- 8.2 If this Condition applies 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 the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

9 FORCE MAJEURE

The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of the Seller's obligations in relation to the Goods if the delay or failure was due to any cause beyond the Seller's reasonable control including without limitation Act of God, explosion, flood, tempest, fire or accident; war or threat of war, sabotage, insurrection, civil disturbance or requisition; acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental parliamentary or local authority; import or export regulations or embargoes; strikes, lock-outs or other industrial action or trade disputes (whether involving employees of the Seller or of a third party); difficulties in obtaining raw materials, labour, fuel, parts or machinery; or power failure or breakdown in machinery.

10 RETURNS POLICY

- 10.1 Goods will not be accepted for return unless agreed in advance and a Returns Material Authorization has been issued to the Buyer by the Seller.
- 10.2 The Buyer must ensure that the returned goods are properly packed and are delivered to the Seller's premises using a reputable carrier. The Seller shall not be liable for any damage incurred during the return transit.
- 10.3 The Seller reserves the right to charge for carriage, re-stocking or remedial work required to bring the returned goods to a saleable condition.

11 PROPER LAW OF CONTRACT

The Contract is governed by the law of England and Wales and the Courts of Justice for England and Wales shall have exclusive jurisdiction to hear and determine any action in respect of the Contract.

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