

TERMS AND CONDITIONS OF SALE

OF

Capol (UK) Limited

1 DEFINITIONS

- 1.1 "Buyer" means the organisation or person who buys or agrees to buy the Goods from the Seller;
- 1.2 "Buyer's Purchase Order" means an order for Goods by the Buyer and acknowledged by the Seller in accordance with clause 2.2;
- 1.3 "Contract" means the contract between the Seller and the Buyer for the sale and purchase of Goods incorporating these Terms and Conditions;
- 1.4 "Delivery Date" means the date specified by the Seller when the goods are to be delivered;
- 1.5 "Goods" means the articles that the Buyer agrees to buy from the Seller;
- 1.6 "List Price" means the list of prices of the Goods maintained by the Seller as amended from time to time;
- 1.7 "Price" means the price for the Goods excluding VAT (if applicable) or any analogous sales tax, carriage, freight, postage or insurance costs;
- 1.8 "Seller" means Capol (UK) Limited, Unit 10 Pennine Business Park, Longbow Close, Huddersfield, HD2 1GQ
- 1.9 "Terms and 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;
- 1.10 It is expressly understood that neither the Buyer nor the Seller are consumers, as defined by the Unfair Contract Terms Act 1977;
- 1.11 Any reference to a statutory provision shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

2 CONDITIONS

- 2.1 These Terms and 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 any terms or conditions that the buyer may purport to apply under any purchase order, confirmation of order or similar document.

2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Terms and Conditions and shall only be accepted by means of the Seller's standard acknowledgement form.

2.3 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Terms and Conditions.

2.4 Any variation to these Terms and Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller.

3 PRICE AND PAYMENT

3.1 The Price shall be that in the Seller's current List Price, or such other price as the parties may agree in writing. The Price is exclusive of VAT or any analogous sales tax, carriage, freight, postage or insurance costs.

3.2 Where credit terms have been agreed by the Seller prior to acceptance of the Buyer's Purchase Order, payment of the Price and VAT and any other applicable costs shall be due within 20 days end of month. Otherwise payment shall be due prior to despatch of Goods.

3.3 Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 5.00% per annum above the base rate of Barclays Bank from time to time in force.

3.4 The Seller reserves the right to stop transit and or exercise a lien over the Goods in the event on non-payment.

4 THE GOODS

4.1 The quantity and description of the Goods shall be as set out in the Buyer's Purchase Order.

4.2 The Goods shall be required only to conform to the specification in the Buyer's Purchase Order. Photographs are for illustrative purposes only and may not exactly match the product itself.

5 DELIVERY OF THE GOODS

5.1 Unless otherwise agreed, delivery of the Goods shall take place at the address specified in the Buyer's Purchase Order on the Delivery Date and the Buyer shall be deemed to have accepted the Goods upon their delivery. The Buyer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.

5.2 The Delivery Date specified by the Seller is an estimate only. Time for delivery shall not be of the essence of the Contract.

- 5.3 If the Seller is unable to deliver the Goods for reasons beyond its control, then the Seller shall be entitled to place the Goods in storage until such times as delivery may be effected and the Buyer shall be liable for any expense associated with such storage. Notwithstanding Clauses 5.5 and 6.2 the Goods are at the Buyer's risk while in such storage.
- 5.4 The Buyer shall be entitled to replacement Goods where the Goods have been damaged during transportation. The Buyer must notify the Seller of the damage within 24 hours of delivery.
- 5.5 Risk shall pass on delivery of the Goods to the Buyer. Goods sold for export shall be at the Buyer's risk when they pass across a ship's rail or are loaded on board or on issue of Post Office receipt. The responsibility for insurance of goods in transit is that of the consignee.

6 TITLE

- 6.1 The Seller warrants that it has good title to the Goods.
- 6.2 Goods delivered shall be at the Buyer's risk until the time they are delivered.
- 6.3 Property in the Goods delivered shall not pass to the Buyer until the Buyer has paid all sums due to the Seller (a) in respect of the Goods and (b) on any other account.
- 6.4 Until property in the Goods passes to the Buyer in accordance with Clause 6.2 the buyer shall hold them as bailee for the Seller and shall store them separately from any similar Goods of the Buyer or any other person in such a way that they remain identifiable as the Seller's property.
- 6.5 The Buyer shall be at liberty and may in the ordinary course of its business sell and deliver the Goods comprised in this sale contract to any third party as our Bailee and in a fiduciary capacity and so that the entire proceeds of sale are held in trust for us and are not mingled with any other monies and shall at all times be identified as our monies. The Buyer agrees immediately upon being so requested by the Seller to assign to the Seller all rights and claims which the buyer may have against its customers arising from such sales until payment is made in full as aforesaid.
- 6.6 The Buyer's right to possession of the Goods Supplied by the Seller shall terminate if the buyer is declared bankrupt or makes any proposal to his creditors for any composition or voluntary arrangement or of the Buyer is a company or an administrator or administrative receiver or liquidator is appointed in respect of its business.
- 6.7 The Buyer hereby grants the Seller its agents and employees an irrevocable licence at any time to enter any premises where the Goods are stored in order to inspect them or where the Buyer's right to possession has terminated to recover them.

7 EXPORT CONTROL REQUIREMENTS

7.1 The Buyer undertakes to refrain from the following transactions under all circumstances:

7.1.1 transactions involving persons, organisations or institutions listed in sanction lists under the EC-Regulations or US export control laws and regulations.

7.1.2 illegal transactions involving embargoed countries.

7.1.3 transactions subject to permits, in particular export permits however not having been granted such permits.

7.1.4 transactions related to nuclear, biological or chemical weapons or transactions related to any other military end-use and for which the required permits have not been granted

8 GUARANTEE

8.1 Where the Goods have been manufactured by the Seller and are found to be defective, the Seller shall repair, or in its sole discretion, replace defective Goods free of charge, subject to the following conditions:

8.1.1 the Buyer notifying the Seller of the defect within 5 days of the defect becoming apparent;

8.1.2 such notice being served within 90 days of delivery;

8.1.3 the defect being due to the faulty design, materials or workmanship of the Seller.

8.2 Any Goods to be repaired or replaced shall be returned to the Seller at the Buyer's expense.

8.3 Where the Goods have been manufactured and supplied to the Seller by a third party, any warranty granted to the Seller in respect of the Goods shall be passed on to the Buyer.

8.4 Subject to the Seller's liability under Clause 6 and subject to Clause 9, the Seller shall be under no liability whatever to the Buyer for any loss (including loss of profit), costs, damages, charges or expenses incurred by the Buyer or for any loss or damage to or caused by the Goods.

8.5 Subject to this Clause 7 and to Clause 9, all other warranties, conditions or terms whether made expressly or implied by common law or by statute relating to use, quality, and/or fitness for purpose are excluded.

9 LIMITATION OF LIABILITY

- 9.1 Subject to Clauses 9.2 and 9.3, in the event of any breach of these Terms and Conditions by the Seller the remedies of the Buyer shall be limited to damages which shall in no circumstances exceed the Price of the Goods.
- 9.2 Nothing contained in these Terms and Conditions shall be construed so as to limit or exclude the liability of the Seller for death or personal injury as a result of the Seller's negligence or that of its employees or agents.
- 9.3 Nothing contained in these Terms and Conditions shall be construed so as to limit or exclude the liability of the Seller for breach of the warranties contained in Clause 6 or for breach of warranty as to title and quiet possession implied by the Sale of Goods Act 1979 where such Act applies to the Contract.

10.0 COMPLIANCE WITH STATUTORY AND REGULATORY REQUIREMENTS, INDEMNIFICATION

- 10.1 Unless otherwise agreed in written form, the customer shall be responsible for compliance with applicable statutory and regulatory requirements (including but not limited to requirements relating to the import, transport/shipping, storage, export, resale/distribution, application and use of the goods). The customer shall ensure to be and to remain fully informed about all applicable registration, information, and/or notification obligations and will ensure compliance with any such obligations, including but not limited to obligations relating to the import, transport/shipping, storage, export, resale/distribution, application and use of the goods. The customer guarantees to comply with all applicable statutory and regulatory requirements during our business relationship and to indemnify us against and hold us harmless from any claims or damages based on a breach of this obligation.

11 FORCE MAJEURE

- 11.1 Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and the party shall be entitled to a reasonable extension of its obligations.

12 SCHEDULES AND RELEASE INSTRUCTIONS

- 12.1 Where contracts are placed for bulk quantities for despatch as released by the Buyer, it must be understood that the Buyer thereby authorises the Seller to produce the complete quantity in bulk. The Buyer will accept and pay for all

goods covered by his release instructions but in any event Buyer's release instructions must call for delivery of the complete quantity within a period of 12 months from the date of the contract. In the event of a balance remaining unreleased after this period the Seller is entitled to deliver such balance and to render an invoice on completion for payment in accordance with the Seller's normal Terms of Payment. Where orders with schedules and/or release instructions are accepted, then this will only be done on the same conditions as those which apply to other orders.

13 PACKING

13.1 Normal packing is free of charge. If special packing is required this will be charged. Packing cases and materials are not returnable.

14 SAMPLES

14.1 The Seller accepts no responsibility for Buyer's samples or drawings in the Seller's possession. If these are required to be returned the request must be made when such samples or drawings are supplied.

15 CLAIMS AND RETURNS

15.1 Claims arising from goods damaged, wrongly delivered, not delivered or short delivered must be notified to us within 10 days of despatch date. Under no circumstances must goods be returned without first receiving authority to do so. We disclaim any responsibility for any goods shipped without this authority.

16 PUBLICATIONS

16.1 Whilst every effort is made to ensure that all information contained in the Seller's publications is accurate and up to date, no responsibility can be accepted for errors or unavailability of products. All literature is subject to alteration without notice.

17 DEFAULT

17.1 In instances of default in payment bankruptcy or in the case of a company having a receiver appointed or entering into liquidation other than for amalgamation or reconstruction purposes the Seller reserves the right to cancel further shipment. In the event of any of the forgoing instances occurring while the Goods are in storage pursuant to Clause 5.3 the Buyer remains liable for the costs of storage but shall not be permitted to take delivery of the Goods from the place of storage.

18 SEVERANCE

18.1 If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid illegal or unenforceable provision eliminated.

19 GOVERNING LAW AND JURISDICTION

19.1 These Terms and Conditions shall be governed by and construed in accordance with the Law of England and Wales and the parties hereby submit to the exclusive jurisdiction of the Courts of England and Wales.