

STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS

1. Application of Conditions

- 1.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any quotation or offer of the Seller which is accepted by the Buyer, or any order of the Buyer which is accepted by the Seller.
- 1.2 These Conditions shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.

2. Interpretation

- 2.1 In these Conditions:-

"Business Day" means any day other than a Saturday, Sunday or bank holiday;

"the Buyer" means the person who accepts a quotation or offer of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller;

"Calendar Day" means any day of the year;

"the Contract" means the contract for the purchase and sale of the Goods under these conditions;

"these Conditions" means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller;

"the Delivery Date" means the date on which the Goods are to be delivered as stipulated in the Buyer's order and accepted by the Seller;

"the Goods" means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions;

"month" means a calendar month;

"the Seller" means Unicorn Gallery, a company registered in England under 5268998;

"writing" includes any communications effected by telex, facsimile transmission, electronic mail or any comparable means.

- 2.2 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

- 2.3 The headings in these Conditions are for convenience only and shall not affect

their interpretation.

3. **Basis of Sale**

- 3.1 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 3.2 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.
- 3.3 Sales literature, price lists and other documents issued by the Seller in relation to the Goods are subject to alteration without notice and do not constitute offers to sell the Goods which are capable of acceptance. An order placed by the Buyer may not be withdrawn cancelled or altered prior to acceptance by the Seller and no contract for the sale of the Goods shall be binding on the Seller unless the Seller has issued a quotation which is expressed to be an offer to sell the goods or has accepted an order placed by the Buyer by whichever is the earlier of:-
 - 3.3.1 the Seller's written acceptance;
 - 3.3.2 delivery of the Goods; or
 - 3.3.3 the Seller's invoice.
- 3.4 Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

4. **Orders and Specifications**

- 4.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller's authorised representative.
- 4.2 The specification for the Goods shall be those set out in the Seller's sales documentation unless varied expressly in the Buyer's order (if accepted by the Seller). The Goods will only be supplied in the minimum units (or multiples) stated in the Seller's price list or in multiples of the sales order as specified. Orders received for quantities other than these will be adjusted accordingly, illustrations, photographs or descriptions whether in catalogues, brochures, price lists or other documents issued by the Seller are intended as a guide only and shall not be binding on the Seller.
- 4.3 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or regulatory requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.
- 4.4 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller on the terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

5. Price

- 5.1 The price of the Goods shall be the price listed in the Product List current at the date of acceptance of the Buyer's order or such other price as may be agreed in writing by the Seller and the Buyer.
- 5.2 Where the Seller has quoted a price for the Goods other than in accordance with the Seller's published price list the price quoted shall be valid for 30 days only or such lesser time as the Seller may specify.
- 5.3 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 5.4 Except as otherwise stated under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in writing between the Buyer and the Seller, all prices (for orders of more than £50.00) are inclusive of the Seller's charges for packaging and transport within UK mainland.
- 5.5 The price is exclusive of any applicable value added tax excise, sales or taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Goods, which the Buyer shall be additionally liable to pay to the Seller.

6. Payment

- 6.1 Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.
- 6.2 The Buyer shall pay the price of the Goods (less any discount or credit allowed by the Seller, but without any other deduction credit or set off) within 14 days of the date of the Seller's invoice or otherwise in accordance with such credit term as may have been agreed in writing between the Buyer and the Seller in respect of the Contract. Payment shall be made on the due date notwithstanding that delivery may not have taken place and/or that the property in the Goods has not passed to the Buyer. The time for the payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 6.3 All payments shall be made to the Seller in Pounds Sterling at its office as indicated on the form of acceptance or invoice issued by the Seller.

7. **Delivery**

- 7.1 Delivery of the Goods shall be made by the Seller delivering the Goods to the place in the United Kingdom specified in the Buyer's order and/or the Seller's acceptance as the location to which the Goods are to be delivered by the Seller or, if no place of delivery is so specified, by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection.
- 7.2 The Delivery Date is approximate only and time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the Delivery Date upon giving reasonable notice to the Buyer.
- 7.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 7.4 If the Buyer fails to take delivery of the Goods or any part of them on the Delivery Date and/or fails to provide any instructions, documents, licences, consents or authorisations required to enable the Goods to be delivered on that date, the Seller shall be entitled upon given written notice to the Buyer to store or arrange for the storage of the Goods and then notwithstanding the provision of Condition 10.1 of these Conditions risk in the Goods shall pass to the Buyer, delivery shall be deemed to have taken place and the Buyer shall pay to the Seller all costs and expenses including storage and insurance charges arising from such failure.

8. **Risk and Property**

- 8.1 Risk of damage to or loss of the Goods shall pass to the Buyer on delivery.
- 8.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer 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.

9. **Assignment**

- 9.1 The Seller may assign the Contract or any part of it to any person, firm or company.
- 9.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.

10. **Right to Return the Goods and to Receive a Refund**

- 10.1 If the Buyer is not satisfied with any Goods purchased from the Seller, the Buyer may cancel the Contract and return the Goods to the Seller and obtain a refund of the price of the returned Goods, provided:-
 - 10.1.1 The Buyer informs the Seller of the decision to cancel the Contract within 14 Calendar Days of delivery of the Goods; and

- 10.1.2 The Goods are returned in their original condition; and
- 10.1.3 While the Goods remain in the Seller's possession the Seller is under a duty to ensure that the Goods are kept safe and secure.

11. **Guarantees**

The Seller provides no additional guarantees.

12. **Confidentiality, Publications and Endorsements**

12.1 The Buyer undertakes to the Seller that:-

12.1.1 the Buyer will regard as confidential the contract and all information obtained by the Buyer relating to the business and/or products of the Seller and will not use or disclose to any third party such information without the Seller's prior written consent provided that this undertaking shall not apply to information which is in the public domain other than by reason of the Buyer's default;

12.1.2 the Buyer will not use or authorise or permit any other person to use any name, trademark, house mark, emblem or symbol which the Seller is licensed to use or which is owned by the Seller upon any premises note paper visiting cards advertisement or other printed matter or in any other manner whatsoever unless such use shall have been previously authorised in writing by the Seller and (where appropriate) its Licensor;

12.1.3 the Buyer will use all reasonable endeavours to ensure compliance with this Condition by its employees, servants and agents.

12.2 This Condition shall survive the termination of the Contract.

13. **Communications**

13.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or sent by electronic mail:

13.1.1 (in case of communications to the Seller) to its registered office or such changed address as shall be notified to the Buyer by the Seller; or

13.1.2 (in the case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to the Seller by the Buyer.

13.2 Communications shall be deemed to have been received:

13.2.1 if sent by pre-paid first class post, two Business Days after posting (exclusive of the day of posting); or

13.2.2 if delivered by hand, on the day of delivery; or

13.2.3 if sent by fax or electronic mail on a Business Day prior to 4.00 pm, at the time of transmission and otherwise on the next Business Day.

13.3 Communications addressed to the Seller shall be marked for the attention of Mr T de Kretser.

14. **Force Majeure**

14.1 In the event that either party is prevented from fulfilling its obligations under this Agreement by reason of any supervening event beyond its control including but not limited to war, national emergency, flood, earthquake, strike or lockout (subject to Sub-clause 14.2) the party shall not be deemed to be in breach of its obligations under this Agreement. The party shall immediately give notice of this to the other party and must take all reasonable steps to resume performance of its obligations.

14.2 Sub-clause 14.1 shall not apply with respect to strikes and lockouts where such action has been induced by the party so incapacitated.

14.3 Each party shall be liable to pay to the other damages for any breach of this Agreement and all expenses and costs incurred by that party in enforcing its rights under this Agreement.

14.4 If and when the period of such incapacity exceeds 6 months then this Agreement shall automatically terminate unless the parties first agree otherwise in writing.

15. **Waiver**

No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

16. **Severance**

If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

17. **Third Party Rights**

A person who is not a party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

18. **Consumer Rights**

The provisions of these Terms and Conditions are in addition to and do not affect the Buyer's statutory rights as a consumer.

19. **Governing Law and Jurisdiction**

The Contract shall be governed by the laws of England and Wales and the parties submit to the exclusive jurisdiction of the English and Welsh courts.

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