

MAGNUM MATERIALS LIMITED
CONDITIONS OF SALE OF GOODS

1 Definitions

- 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 'Delivery Date' means the date specified by the seller when the goods are to be delivered.
- 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 Magnum Materials Limited

2 Conditions applicable

- 2.1 These conditions shall apply to all contracts for sale of goods by the Seller to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which 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 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 to these conditions.
- 2.4 Any variation to these conditions (including any special terms and conditions agreed between parties) shall be inapplicable unless agreed in writing by the Seller.

3 The Price and Payment

- 3.1 The Price of the Goods shall be the price stipulated in the Seller's published price list current at the date of order of the Goods. The Price is exclusive of VAT, which shall be due at the rate ruling on the date of VAT invoice.
- 3.2 Payment of the Price and VAT shall be due on the last working day of the month following the invoice date. Time for payment shall be of the essence.
- 3.3 We understand and will exercise our statutory right to claim interest and compensation for debt recovery costs under the late payment legislation if we are not paid according to the agreed credit terms.
- 3.4 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 8% above base rate from time to time in force and shall accrue at such a rate after as well as before judgement.

4 The Goods

- 4.1 The quality and description of the Goods shall be set out in the Seller's published price list.
- 4.2 The Seller reserves the right to supply material from any source and change Supplier without prior notice, provided it conforms to the quality and descriptions set out in the Sellers published price list.
- 4.3 The Buyer shall take delivery of the Goods tendered notwithstanding that the quantity so delivered shall either by greater or less than the quantity purchased provided that:
4.3:1 such discrepancy in quantity shall not exceed 5%
4.3:2 the Price shall be adjusted pro rata to the discrepancy.
- 4.4 All terms, conditions and warranties (whether implied or made expressly) whether by the Seller or its servants or relating to the quality and/or fitness for purpose of the goods or any of the goods are excluded.

5 Warranties and liability

The Seller warrants that the Goods will at the time of delivery correspond to the description given by the Seller.

6 Delivery of the Goods

- 6.1 Delivery of the Goods shall be made to the Buyers address and the Buyer shall make arrangements necessary to make delivery of the Goods whenever they are tendered for delivery.
- 6.2 The Seller shall not be liable for any loss or damage whatever due to failure by the Seller to deliver the Goods (or any of them) promptly or at all,

7 Acceptance of the Goods

- 7.1 The Buyer shall inspect the Goods on delivery and **shall within 3 days of delivery notify the Seller of any alleged defect**, shortage in quantity, damage or failure to comply with description or sample. The Buyer shall afford the Seller an opportunity to inspect the goods within a reasonable time following delivery and before any use is made of them. If the Buyer shall fail to comply with these provisions the Goods shall be conclusively presumed to be in accordance with the contract and free from any defect or damage which would be apparent on a reasonable examination of the Goods and the Buyer shall be deemed to have accepted the Goods
- 7.2 The Seller shall be under no obligation to take back any materials, which have been cut to the Buyer's specific requirements. The buyer will be charged 25% of invoice value for any materials returned in this way.
- 7.3 After acceptance the Buyer shall not be entitled to reject Goods, which are not in accordance with the Contract.
- 7.4 No Goods delivered to the Buyer, which are in accordance with the contract, will be accepted for return without the prior approval of the Seller (in accordance with the Seller's returns authorisation procedure and) on terms to be determined at the absolute discretion of the Seller.

8 Title and risk

- 8.1 The Goods shall be at the Buyer's risk as from delivery.
- 8.2 In spite of delivery having been made property in the Goods shall not pass from the Seller until:
8.2:1 the buyer shall have paid the Price plus VAT in full; and
8.2:2 no other sums whatever shall be due from the Buyer to the Seller.
- 8.3 Until property in the Goods passes to the buyer in accordance with clause 8.2 the Buyer shall hold the Goods and each of them on a fiduciary basis as bailee for the Seller. The Buyer shall store the Goods (at no cost to the Seller) separately from all other goods in its possession and marked in such a way that they are clearly identified as the Seller's property.
- 8.4 Notwithstanding that the Goods (or any of them) remain in the property of the Seller the Buyer may sell or use the Goods in the ordinary course of the buyer's business at full market value for the account of the Seller. Any such sale or dealing shall be a sale or use of the Seller's property by the Buyer's own behalf and the Buyer shall deal as principle when making such sales or dealings. Until property in the Goods passes from the Seller the entire proceeds of sale or otherwise of the Goods shall be held in trust for the Seller and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as the Seller's money.
- 8.5 The Seller shall be entitled to recover the price (plus VAT) notwithstanding that property in any of the Goods has not passed from the Seller.

9 Remedies of Buyer

- 9.1 Where the Buyer rejects any Goods then the Buyer shall have no further rights whatever in respect of the supply to the Buyer of such Goods or the failure by the Seller to supply Goods which confirm to the contract of sale.
- 9.2 Where the Buyer accepts or has been deemed to have accepted any Goods from the Seller shall have no liability whatever to the buyer in respect of those Goods.
- 9.3 The Seller shall not be liable to the buyer for late delivery or short delivery of the Goods.
- 9.4 The Seller shall be under no liability whatsoever to the Buyer for any indirect loss and/or expense (including loss of profit) suffered by the Buyer arising out of a breach by the Seller of this contract.
- 9.5 In the event of a breach of this contract by the Seller the remedies of the Buyer shall be limited to damages. Under no circumstances shall the liability of the Seller exceed the Price of the Goods.
- 9.6 The Buyer may not withhold payment of any invoice or other amount due to the Seller by reason of any right of set-off counterclaim, which the Buyer may have or allege to have, or for any reason whatsoever.

10 Proper law of contact

This contract is subject to the law of England and Wales.

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