

**THE CUSTOMER SHOULD PAY SPECIFIC ATTENTION TO CONDITIONS 4, 5, 7, 8, 9, 10 & 11****1. INTERPRETATION**

The following definitions, unless the context requires otherwise, and rules of interpretation in Condition 1 shall apply to these Conditions:

**Account:** the credit account (if any) provided to the Customer by Search;

**Additional Terms:** any terms varying or adding to the Conditions that are included within the order acknowledgement or otherwise agreed in writing by Search;

**Contract:** any contract between Search and the Customer for purchase of Goods in accordance with and subject to these Conditions and the Additional Terms;

**Customer:** the person that enters into a Contract, in accordance with the Conditions, to purchase Goods from Search;

**Goods:** any goods Search agrees in a Contract to supply to the Customer;

**Price:** is defined in Condition 6.1; and

**Search:** William G Search Limited, a company registered in England and Wales (CRN: 407145) whose registered office is at Market Works, Whitehall Road, Leeds LS12 6EP.

1.1 References to the masculine include the feminine and the neuter, and the singular include the plural and, in each case, vice versa. Reference to a statute or statutory instrument is a reference to it as it is in force for the time being and includes reference to any amendment, extension, application or re-enactment and includes any subordinate legislation made under it.

1.2 Headings do not affect the interpretation of the Conditions.

**2. APPLICATION OF TERMS**

2.1 Subject to Condition 2.2, the Conditions apply to all Contracts to the exclusion of all other terms and conditions. No terms or conditions of the Customer (whether endorsed on, delivered with, or contained in the Customer's purchase order or other documents) shall form part of any Contract and any attempt by the Customer to exclude, vary or limit any Conditions shall be void.

2.2 Any variation to the Conditions, and any representations about the Goods, shall have no effect and shall not form part of the Contract unless expressly agreed in writing by Search.

2.3 Search may provide the Customer with an oral or written quotation. A quotation so provided is an invitation to treat by Search to supply the Goods, subject to the Conditions, to the Customer. A quotation is valid for 30 days from its date, provided that Search has not previously withdrawn it.

2.4 An acceptance of a quotation or the placing of an order by the Customer shall be deemed to be an offer, subject to the Conditions, to purchase the Goods stated therein from Search.

2.5 No quotation accepted or order placed by the Customer shall be deemed to be accepted by Search until Search confirms acceptance orally or in writing or, if earlier, delivers the Goods.

2.6 No binding Contract will come into existence until an order acknowledgement is given by Search in accordance with Condition 2.5 or, if earlier, by Search delivering the Goods.

**3. DESCRIPTION**

3.1 The quantity and description of the Goods is set out in Search's quotation and/or order acknowledgement and the Contract. All descriptions, drawings, specifications, technical data and illustrations and any advertising or other materials issued by Search, or contained in Search's brochures or website, are approximations and for information purposes only, should not be relied on by the Customer as precise or construed literally and shall not form part of the Contract.

3.2 Search reserves the right to change any descriptions, drawings, specifications, technical data, illustrations, brochures, advertising materials, its website and any other materials provided at any time without notice.

**4. DELIVERY**

4.1 Unless otherwise agreed in writing by Search, delivery of the Goods shall take place at Search's place of business or the delivery address set out in the Contract and/or in the Account application form (“Delivery Point”).

4.2 Delivery shall be completed when the Customer takes delivery of the Goods at the Delivery Point. Search will take reasonable steps to deliver the Goods by the date specified by Search or, if none is specified, within a reasonable period of time. However, any such specified date is an estimate only and it is hereby expressly agreed that time for delivery shall not be of the essence. Search will notify you as soon as reasonably practicable of any change in the delivery date.

4.3 Search may deliver the Goods by separate instalments, which shall be invoiced and paid for separately and in accordance with the provisions of the Contract. Each separate instalment shall be a separate Contract. No cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.

4.4 The Customer shall, at its expense, provide adequate and appropriate equipment and manual labour (if appropriate) for unloading the Goods at the Delivery Point. The Customer must inspect and check the Goods on delivery to ensure that they conform to the Contract and the Customer's requirements. At the time of unloading the Customer or an authorised representative of the Customer must sign the delivery note (or the equivalent documentation of a carrier) to confirm that the Goods are as ordered and undamaged.

4.5 Search's record of the delivery date and quantity and description of Goods delivered to the Customer shall be conclusive evidence of such, unless the Customer can provide conclusive contrary evidence.

4.6 If the quantity of Goods delivered to the Customer is up to 5% more or less than the quantity ordered the Customer must notify Search, is not entitled to reject all or any of the Goods for this reason and shall pay for any surplus or shall be issued with a credit note for any shortfall at the pro rata Contract rate.

4.7 If for any reason the Customer fails to accept delivery of any of the Goods within 2 calendar days of the date of the notification by Search that the Goods are ready for

delivery then, except where this failure is caused by Search's failure to comply with the Conditions or by an event beyond the Customer's control:

(a) Search may store the Goods until actual delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance costs); and

(b) Search shall have no liability to the Customer for late delivery.

4.8 If the Customer has not taken delivery of the Goods within 14 calendar days of the date of the notification by Search that the Goods are ready for delivery, Search may, after giving the Customer reasonable prior written notice, resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage, insurance and selling costs, account to the Customer for any excess over or charge the Customer for any shortfall in the Price.

**5. RISK/TITLE**

5.1 The risk in the Goods shall pass to the Customer on delivery. Title in the Goods shall not pass to the Customer until Search has received (in cash or cleared funds) from the Customer:

(a) the full Price for the Goods plus VAT; and

(b) all other sums which are due to Search from the Customer.

5.2 Until title in the Goods passes (as set out in Condition 5.1) the Customer shall:

(a) hold the Goods on a fiduciary basis as Search's bailee;

(b) store the Goods (at no cost to Search) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as Search's property;

(c) not remove, destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

(d) maintain the Goods in satisfactory condition, keep them insured on Search's behalf for their full Price against all risks from the date of delivery and provide Search with a copy of the insurance policy on request;

(e) notify Search immediately if any of the events listed in Condition 5.3 occur; and

(f) deliver up the Goods to Search on demand.

5.3 The Customer's right to possession of the Goods shall end immediately if it has a bankruptcy order made against it or otherwise takes the benefit of any statutory provision for the time being in force for the relief of bankruptcy or the Customer fails to observe or perform any of its obligations under the Contract.

5.4 Search shall be entitled to recover payment for the Goods notwithstanding the fact that title in any of the Goods has not passed from Search to the Customer.

5.5 If before title to the Goods passes to the Customer any of the events listed in Condition 5.3 occur or Search reasonably believes any such event is about to occur and notifies the Customer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy of Search, Search may at any time require the Customer to deliver up the Goods.

5.6 If Search repossesses any Goods or the Customer delivers up any Goods, in accordance with Condition 5, the Contract for those Goods shall be rescinded.

**6. PRICE**

6.1 Unless otherwise agreed by Search in writing and subject to Condition 6.2, the price for the Goods shall be the price stated in the quotation or order acknowledgement provided by Search to the Customer in accordance with Conditions 2.3 and 2.5, together with any VAT and delivery costs (“Price”).

6.2 The Price is based on the cost of materials, labour, sub-contracts, transport, taxes and duties and all other relevant costs at the date of the quotation and/or order acknowledgement. Search reserves the right to vary the Price, by giving notice to the Customer prior to delivery, to take account of any variation (howsoever arising) in these costs or the imposition of any new taxes or duties between the quotation or order acknowledgement date and the delivery date.

**7. PAYMENT**

7.1 Unless otherwise agreed in writing, for Customers with an Account that has not reached its credit limit each invoice submitted by Search shall be paid within 30 days of the end of the month following the month of invoice. For Customers without an Account, or with an Account that has reached its credit limit, the Price shall be paid at the time of the order or on receipt of Search's invoice as directed by Search. Time for payment shall be of the essence.

7.2 Search reserves the right to exercise its absolute discretion and cancel the Account by notice.

7.3 Search reserves the right to suspend the Account if it decides, for whatever reason, that it requires further security from the Customer for the performance and discharge of the Customer's obligations under any Contract or for any other reason it considers reasonable. The Customer agrees to use its best endeavours to ensure any additional security required by Search (including, but not limited to, a third party providing a guarantee) is provided. Search may decide to reinstate the Account if the Customer provides the additional security required or meets any other conditions required to be satisfied by Search.

7.4 If Search exercises its right to cancel or suspend the Account, in accordance with Conditions 7.2 and 7.3 respectively, all sums owed to Search by the Customer at the date of cancellation or suspension shall be payable on demand and Search may continue trading with the Customer on the basis set out in Condition 7.1 for Customers without an Account.

7.5 No payment shall be deemed to have been received until Search has received cash or cleared funds and all sums payable to Search under a Contract shall become due immediately on its termination, howsoever arising.

7.6 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by Search to the Customer.

- 7.7 Without prejudice to any of its other remedies, if any amount due from the Customer is not paid in accordance with the Conditions, or if any of the events set out in Condition 5.3 occur, Search may do all or any of the following:
- with notice suspend or cancel delivery of the Goods under the Contract, and any other Contract, until the Customer pays the outstanding amount(s) in full;
  - appropriate any payment made by the Customer under any other Contract to pay for any outstanding amounts as Search may, in its sole discretion, think fit;
  - charge interest at the annual rate of 4% above the base rate of HSBC Plc.
- 7.8 On termination of the Contract, howsoever caused, the rights of Search in this Condition 7 shall remain in effect.
- 8. CANCELLATION**
- 8.1 If the Customer cancels the Contract before delivery of the Goods the Customer shall pay Search such amount as Search considers reasonable in the circumstances.
- 8.2 Any amounts payable by the Customer under Condition 8.1 shall be invoiced by Search within 14 days of the cancellation date and shall be payable by the Customer in accordance with Condition 7.
- 9. SEARCH'S WARRANTIES**
- 9.1 Subject to Conditions 9.2 to 9.6, Search warrants that at the time of delivery and for a period of 6 months from the date of delivery the Goods shall:
- conform in all materials respects with their description or the manufacturer's specification;
  - be of satisfactory quality;
  - be fit for any purpose Search says the Goods are fit for or for any reasonable purpose for which the Customer use the Goods;
  - be free from material defects in design, material and workmanship;
  - comply with all applicable statutory and regulatory requirements for selling the Goods in the United Kingdom.
- 9.2 Subject to Conditions 9.3 to 9.6, if the relevant Goods do not conform with the warranty provided by Search in Condition 9.1 Search shall repair or replace such Goods (or the defective part) or issue a full or partial refund or credit note for the Goods to the Customer provided that the Customer:
- gives written notice to Search of the breach of warranty as soon as possible after the Customer discovers that the Goods do not conform with the warranty; and
  - gives Search a reasonable opportunity, after receiving the notice, to examine the relevant Goods and the Customer (if asked by Search) returns the defective Goods (or the relevant part) to Search's premises at the Search's cost.
- 9.3 Condition 9.2 shall not apply if the breach of Condition 9.1 arises as a result of normal wear and tear, the Customer's negligence or failure to comply with the Conditions or failure to follow Search's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or the Customer makes any further use of the Goods after giving notice to Search in accordance with Condition 9.2 or the Customer alters, modifies, mishandles or repairs such Goods.
- 9.4 Any Goods that are returned by the Customer pursuant to Condition 9.2 shall belong to Search unless Search repairs such Goods in accordance with Condition 9.2.
- 9.5 These Conditions shall apply to any repaired or replacement Goods supplied by Search.
- 9.6 Search's reasonable opinion as to the cause of the defect shall be final and binding unless the Customer can provide conclusive evidence to the contrary.
- 10. CANCELLATION RIGHTS**
- 10.1 Notwithstanding any other provisions of these Conditions, the Customer may amend or cancel any order for Goods (whether or not confirmed) at any time within 7 working days beginning with the day after the day on which Search accepts the order in accordance with Condition 2.5 or the Customer receives the Goods.
- 10.2 To amend or cancel any order, the Customer must inform Search of such amendment or cancellation in writing and, if the Goods have been delivered, return the Goods in their delivered condition immediately at the Customer's cost and risk.
- 10.3 The Customer's liability to Search for amending or cancelling an order in accordance with Condition 10.1 shall be limited to paying Search all costs reasonably incurred in fulfilling the order up to the date of receipt of the Customer's notice of amendment or cancellation. However, where the amendment or cancellation is due to Search's failure to comply with the Conditions the Customer shall have no liability to Search for such.
- 10.4 Condition 10.1 will not apply where the Goods have been installed prior to the Customer seeking to cancel the order or where the Goods have been made to measure or created, altered or modified to accord with the Customer's particular requirements.
- 10.5 Any amounts payable by the Customer under Condition 10.3 shall be invoiced by Search within 14 days of the cancellation date and shall be payable by the Customer in accordance with Condition 7.
- 11. LIMITATION OF LIABILITY**
- 11.1 The Customer should ensure that the Goods meet its requirements and are suitable for its purposes and should notify Search as soon as possible if this is not the case or if the Customer believes that the Goods do not comply with the warranty contained in Condition 9.1.
- 11.2 Subject to Conditions 4, 9 and 12, Condition 11 sets out the entire financial liability of Search (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of any breach of the Contract, any use made or resale by the Customer of any of the Goods, or of any product incorporating any of the Goods and any representation, statement, tortious act or omission, including negligence, arising under or in connection with the Contract.
- 11.3 Subject to Conditions 11.4 and 11.5 and Search agreeing otherwise in writing:
- Search shall not be liable to the Customer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract; and
- Search's total liability in contract, tort (including breach of statutory duty or negligence), misrepresentation, restitution or otherwise arising out of or in connection with the performance or contemplated performance of the Contract shall be limited to £50,000 unless the Price is greater than £50,000, in which case Search's liability shall be limited to the Price.
- 11.4 Conditions 11.2 and 11.3 do not prevent the Customer from claiming foreseeable loss of or damage to the Customer's physical property and nothing in these Conditions limit in any way Search's liability for:
- death or personal injury caused by Search's negligence; or
  - fraud or fraudulent misrepresentation; or
  - any breach of the obligations implied by section 12 of the Sale of Goods Act 1979; or
  - losses for which it is prohibited by section 7 of the Consumer Protection Act 1987 to limit liability; or
  - any other matter for which it would be illegal or unlawful for Search to exclude or attempt to exclude liability.
- 11.5 Nothing in these Conditions affects the Customer's legal rights. Advice about your legal rights is available from your local Citizen's Advice Bureau or trading standards office.
- 12. FORCE MAJEURE**
- 12.1 Search reserves the right to defer the date of delivery, cancel the Contract or reduce the volume of the Goods (in each case without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond its reasonable control including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, labour disputes (other than in relation to Search's own workforce) or restraints or delays affecting suppliers or carriers, or inability or delay in obtaining supplies of adequate quality, provided that, if the event in question continues for a continuous period in excess of 60 days, the Customer shall be entitled to give notice in writing to Search to terminate the Contract.
- 13. GENERAL**
- 13.1 The Customer warrants that it has the necessary authority to enter into the Contract. The Customer warrants that all the information provided to Search is true and accurate and acknowledges that Search is relying upon such information in relation to the supply of Goods.
- 13.2 If there are any differences between the information within the quotation and the order acknowledgement in respect of any Contract the latter shall prevail.
- 13.3 Each right or remedy of Search under the Contract is without prejudice to any other right or remedy of Search whether under the Contract or not.
- 13.4 All intellectual property rights, including, without limitation, copyright and trademarks, and all other rights in any documents or materials provided by Search to the Customer under the Contract shall belong to Search.
- 13.5 The Customer shall not disclose any confidential information or commercial know-how provided by or relating to Search except as permitted by law.
- 13.6 If any Condition is found by any court to be wholly or partially illegal, invalid, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, unenforceability or unreasonableness be deemed severable and the remaining Conditions, and the remainder of such Condition, shall continue in full force and effect. In the event that such court decides that such Condition is not severable, the parties agree to substitute such Condition with a legal, valid, enforceable and reasonable Condition which achieves, to the greatest extent possible, the same commercial effect as the original Condition.
- 13.7 Failure or delay by Search to enforce, or partially enforce, any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract. Any waiver by Search of any breach of, or any default under, any provision of the Contract by the Customer shall be in writing and shall not be deemed to be a waiver of any subsequent breach or default and shall in no way affect the other provisions of the Contract.
- 13.8 No provisions of the Contract are enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to the Contract.
- 13.9 All notices sent by the Customer to Search must be sent to Search at its registered address (as detailed in Condition 1) or by email ([conditions@wgsearch.co.uk](mailto:conditions@wgsearch.co.uk)) or facsimile or as otherwise agreed by Search. Search may send notices to the Customer at the email or postal address, or by facsimile to the number, provided by the Customer to Search.
- 13.10 All communications between the parties about the Contract, including any notices to be sent or received under the Contract, must be in writing. Notices shall be deemed served on delivery if delivered by hand, 48 hours after posting if sent by post, and on completion of transmission if sent by email or facsimile.
- 13.11 The formation, construction, performance, validity and all aspects of the Contract shall be governed by the law of England and Wales and the parties submit to the exclusive jurisdiction of the English courts.