

## **General Terms and Conditions of Sale of Westlake Tapco Europe Ltd.**

### **1. General Provisions**

- 1.1 The following general terms and conditions of sale ("Sales Terms") shall apply to all contracts for the sale of goods ("Products") by **Westlake Tapco Europe Ltd.** (the "Supplier") to the Purchaser. If Supplier and Purchaser (also collectively referred to as the "Parties") have entered into any separate written contract relating to the sale of the Products, in particular a framework supply agreement or dealership agreement, these Sales Terms shall additionally apply to purchases under such agreement to the extent they are not inconsistent with it.
- 1.2 All other terms and conditions, in particular any terms and conditions referred to by the Purchaser in any request for quotation, purchase order or otherwise shall not apply. Fulfilment of Purchaser's order does not constitute acceptance of any of the Purchaser's terms and conditions by the Supplier.

### **2. Delivery**

- 2.1 The Products shall be delivered at the dates agreed between the Parties in writing. Unless otherwise agreed, delivery is made Ex Works Supplier's nominated facility (Incoterms®2020). If there is any conflict between a provision of the relevant Incoterm and a provision of these Sales Terms, the provision of the relevant Incoterm shall prevail.
- 2.2 For the avoidance of doubt, Supplier's compliance with any agreed delivery date shall in any event not be of the essence.
- 2.3 The Products may be delivered in advance of the agreed delivery date provided reasonable notice has been given to the Purchaser upfront. The Supplier is also entitled to make deliveries in instalments.
- 2.4 If the Supplier fails to deliver the Products by any reason for which Supplier is legally responsible (other than force majeure), the Purchaser is, after the lapse of a reasonable grace period of at least 14 working days commencing from the delivery date to no avail, entitled to demand compensation for damages proved to be occasioned by the delay. Such compensation shall amount to a maximum of 0.5% for each full week in excess of the above-mentioned grace period, but shall not exceed 5% of the value of that part of the entire delivery which, due to the delay, cannot be utilised. Any further liability of the Purchaser based on any delay with delivery (including any liability arising as a result of a termination of the Contract by the Purchaser due to the delay) is expressly excluded.

### **3. Prices and Payment**

- 3.1 Unless expressly stated otherwise, prices quoted for Products are net, ex-works and exclusive of VAT.
- 3.2 The Purchaser shall pay each invoice within the terms agreed as stated on the sales document after its date of issue and regardless whether delivery have already taken place respectively property has passed to the Purchaser.
- 3.3 Without limitation to Supplier's other rights and remedies pursuant to this Contract or the applicable law, any payment under this Contract which is not made by the Purchaser on its due date shall be subject to default interest at an annual rate of nine (9) per cent above the official bank rate of the Bank of England from time to time in force from the date such payment fell due to the date of actual payment, both before as well as after judgment.
- 3.4 The Purchaser shall not withhold payment of any amounts due and payable under this Contract by reason of any set-off of any claim or dispute with the Supplier, whether relating to Supplier's breach of this Contract or otherwise.

#### **4. Transfer of Title**

The Supplier shall retain title to the Products until it has received payment in full of all sums due and/or owing in connection with the supply of the Products. For these purposes Supplier has only received payment when irrevocably credited to its bank account. Until title to the Products has passed to the Purchaser, the Purchaser shall i) hold the Products on a fiduciary basis as Supplier's bailee, and act in a manner consistent with that status; ii) not remove or obscure any identifying mark or packaging on or relating to the Products; iii) store the Products in such a way that they are clearly identifiable as Supplier's property and maintain records, identifying them as Supplier's property; iv) provide to Supplier such information relating to the Products as Supplier may reasonably require from time to time, in respect of the persons to whom it sells or disposes of such Products, and the payments made by such person for such Products; v) maintain the Products in the condition in which they were delivered and keep insured against all risks from the date of delivery by the Supplier to the Purchaser.

#### **5. Quantity**

The Supplier will have fulfilled its contractual obligations provided that the quantity actually delivered is no greater than [10%] more or less than the quantity agreed between the Parties. The Purchaser shall pay for the actual quantity delivered.

#### **6. Quality of the Products**

- 6.1 The Supplier warrants that the Products shall at the time of delivery conform to the specifications agreed between the Parties. All other obligations of the Supplier with respect to the description, quality and fitness for purpose (if any) of the Products and accordingly all conditions, terms or warranties, implied by law or otherwise with respect to the description, quality or fitness of the Products for any particular purpose are explicitly excluded.
- 6.2 If the Products are proved not to conform with the agreed specifications at the time of delivery, Supplier undertakes to arrange for the repair or replacement of such Products free of charge, provided such Products have been paid for in full by the Purchaser.

#### **7. Intellectual Property**

- 7.1 The Supplier shall defend any suit or proceeding brought against the Purchaser insofar as it is based on the infringement by any of the Products as originally delivered hereunder of any intellectual property right in existence and registered as of the date of delivery of the Product in the United Kingdom (hereinafter "**Infringement Claim**"), provided that the Supplier is notified promptly in writing by the Purchaser of any such claim, and is given full authority, information and assistance for the defence. In addition to Supplier's obligation to defend, the Supplier shall subject to clause 8.2 below pay all damages finally awarded against the Purchaser. The Supplier shall have no liability to the Purchaser under this clause 7 to the extent that a claim is based on i) the use of Products delivered hereunder in connection or in combination with any equipment, devices or software not provided by the Supplier; ii) the use of Products in a manner for which the same were not designed or that is inconsistent with the terms of this Contract; or iii) any modification of Products not undertaken by the Supplier. The Supplier shall further have no liability to the Purchaser for any Infringement Claim based on Supplier's use or transfer of the Product delivered hereunder after Supplier's notice that the Purchaser shall cease use or transfer of such Product due to such claim.
- 7.2 In addition to the foregoing, if the Products are subject to a claim that they infringe intellectual property rights of any third party or, if in Supplier's reasonable judgment, are likely to become subject to a claim, the Supplier may at its option i) obtain a license for the Purchaser to continue the use or to sell the Product purchased from Supplier; ii) refund the purchase price paid to the Supplier for such Product, less a reasonable amount for use, damage, or obsolescence, and remove such Product; or iii) replace or modify the Product so as to be substantially functionally equivalent but non-infringing.
- 7.3. This clause 7 states the sole and exclusive liability of the Supplier and all conditions, terms or warranties implied by law or otherwise relating to an infringement of intellectual property rights are explicitly excluded.

## **8. Limitation of Liability**

- 8.1. Regardless whether such liability is based on contract, indemnity, tort, breach of statutory duty or otherwise, the Supplier shall in no event be liable to the Purchaser under the Contract or otherwise in connection with it (and including any negligent act or omission on its part) for any loss of profits or revenues, loss of use, cost of capital or business interruption, any indirect or consequential damages or incurring of liability for any the aforementioned heads of losses or damages suffered by third parties.
- 8.2. Furthermore, Supplier's maximum liability for all other damages shall in the aggregate and regardless of its legal basis be limited to the contract price.
- 8.3. Any claim (including any claim relating to product quality) by the Purchaser arising out of this Contract shall be provided to Supplier by written notice setting forth fully the facts on which it is based as soon as reasonable after the date when the facts were discovered or reasonably should have been discovered, but in any event no more than 24 months after the delivery date. Purchaser unconditionally waives any and all claims that are not made during such period and Supplier shall not be obliged to accept any such claims made after such period.
- 8.4. All of the aforementioned limitations of liability shall continue to apply in case of a termination of this contract, whether by way of repudiation or otherwise.
- 8.5. Nothing in this Contract shall limited the liability of a Party for: (a) death or personal injury caused by its negligence; (b) fraud or fraudulent misrepresentation; or (c) any other liability which cannot be validly limited or excluded at law.

## **9. Force Majeure**

- 9.1. The Supplier shall not be liable for its failure or delay in performing any of its contractual obligations if such failure or delay is caused by circumstances beyond his reasonable control, including but not limited to industrial action, fire, flood, wars, armed conflict, terrorist act, riot, civil commotion, malicious damage, explosion, unavailability of fuel, pandemic (regardless of whether already ongoing), or governmental or other regulatory action (hereinafter collectively referred to as "Force Majeure Event").
- 9.2. The delivery obligations of the Supplier will be suspended to the extent and during the time its ability to fulfil such obligations is affected by a Force Majeure Event. The Supplier shall accordingly be entitled to an extension of time for performance which is reasonable, and in any event equal to the period of delay caused by the Force Majeure Event.
- 9.3. The Supplier shall notify the Purchaser when such circumstances cause a delay or failure in performance and when they cease to do so. If the notice is not received by the Purchaser within a reasonable time after the Supplier knew or ought to have known of the impediment, the Supplier shall (subject to any limitation of liability agreed in the Contract) be liable for damages resulting from the non-receipt by the Purchaser.
- 9.4. If a Force Majeure Event continues for a period of more than six (6) months, either party may terminate the affected Contract by written notice to the other party.

## **10. Termination**

This Contract may be terminated immediately by a Party (without prejudice to its other rights and remedies) if the other Party is in breach of any material term of this Contract and fails to remedy such breach within thirty (30) days after its receipt of written notice of such breach from the non-breaching Party.

## **11. Notices**

Any notice given under this Contract must be in English and in writing and sent by letter or by email or delivered by hand to the other Party's representatives. The notice will be effective as follows: (i) in the case of a letter, on the third day after posting; (ii) in the case of an email, on receipt of an automated delivery receipt, confirmation of receipt from the relevant server or a reply email acknowledging receipt; (iii) if the notice is delivered by hand to the other Party's representative, it will be effective immediately upon delivery.

## **12. Waiver**

No delay or omission by a Party in exercising any right or remedy under this Contract or law shall operate as a waiver. Any waiver shall take effect only if it is in writing and signed by the authorised representatives of the waiving Party.

## **13. No Assignment**

The Purchaser is not entitled to transfer any of its rights, claims and/or obligations under this Contract to any third party.

## **14. Severability**

The provisions of this Contract are severable. Any provision held to be invalid or unenforceable shall not invalidate the remaining provisions. If one Party gives notice to the other of the possibility that any provision or part of any provision of this Contract is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **15. Entire Agreement and Non-Reliance**

- 15.1 This agreement contains the entire agreement between the Parties concerning its subject matter and supersedes any other agreements or statements pertaining to the same subject matter, except those agreements or statements expressly referenced in this Contract as included.
- 15.2 Subject to fraud, neither Party relies on and shall accordingly have no claim arising out of or related to any pre-contractual statement of the respective other Party or anyone acting on its behalf whatsoever. For the purposes of this provision, pre-contractual statements include any undertakings, representations, promises, assurances of any nature whatsoever, relating to the subject matter of this contract, and made by any person at any time before the date of the conclusion of this contract. This clause 15.2 shall not apply in relation to written statements made by either Party before the contract conclusion as a reply to enquiries raised by the respective other Party.

## **16. Written Form**

No amendment of this Contract shall be valid unless it is in writing and signed by the authorised representatives of each Party.

## **17. Exclusion of Third Party Rights**

Unless expressly provided in this Contract, no term of this Contract is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party to it.

## **18. No Partnership**

Nothing in this Contract is intended to or shall operate to create a partnership or joint venture between the Parties, or to authorise either Party to act as agent for the other and neither Party shall have authority to act in the name of or on behalf of the other, or to enter into any commitment or make any representation or warranty or otherwise bind the other in any way.

## **19. Governing Law**

This Contract, including non-contractual disputes or claims arising out of or in connection with it, is governed by the laws of England and Wales.

## **20. Exclusive Jurisdiction**

The Parties irrevocably and unconditionally agree that the courts of England and Wales shall have exclusive jurisdiction to settle and resolve any dispute between the Parties arising out of or in connection with this Contract (including any non-contractual disputes or claims).