

This document tells you the terms and conditions on which we supply any of the products listed in our brochures or on our website www.windandsun.co.uk, our quotation, or your written acceptance of our quotation.

Please read these terms and conditions carefully before ordering any products from us. You should understand that by ordering any of our products, you agree to be bound by these terms and conditions. Please retain a copy of these terms and conditions for future reference.

If you are ordering products from our sites, please note that once you click on the 'Submit order' that you are agreeing to these terms. Please understand that if you refuse to accept these terms and conditions, you will not be able to order any products from our site.

1 INTERPRETATION

In these Conditions, the following definitions apply:

"Business Day" means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;

"Conditions" means the terms and conditions set out in this document;

"Contract" means the contract between the Seller and the Buyer for the sale and purchase of the Goods created in accordance with Condition 2.2 and subject to these Conditions;

"Buyer" means the person who purchases the Goods from the Seller;

"Force Majeure Event" has the meaning given in Condition 10;

"Goods" means the goods (or any part of them) set out in the Order;

"Order" means an order placed by the Buyer with the Seller for Goods;

"Seller" means Wind and Sun Limited registered in England and Wales with company number 3403803, whose registered office is at Humber Marsh, Stoke Prior, Leominster, HR6 0NR;

"VAT" means value added tax;

"Warranty Period" means a period of 12 months from the date of delivery of the Goods

2 BASIS OF CONTRACT

2.1 By placing an order for our products, you warrant that you are legally capable of entering into binding contracts.

2.2 These Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practise or course of dealing.

2.3 An Order, either by the website or by telephone, shall only be deemed to be accepted when the Seller issues a written acceptance of the Order, at which point the Contract shall come into existence. The Seller, in its sole discretion, may elect not to accept an Order (or any part of an Order). It is the Buyer's obligation to ensure that the terms of an Order and any resulting Contract, are complete and accurate.

2.4 Without prejudice to Condition 3.1, each Order accepted in accordance with Condition 2.3 shall be a separate Contract.

2.5 The Contract constitutes the entire agreement between the parties and supersedes any previous arrangement, understanding or agreement between the Seller and the Buyer relating to the subject matter of the Contract. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in the Contract. If any recommendations or advice is given by the Seller to the Buyer in connection with the Goods, the Buyer acknowledges that this is

based on the information disclosed by the Buyer and/or the data sheets provided by the manufacturer of the Goods and the Seller shall not be liable for the reliance by the Buyer on any such recommendations/advice.

2.6 A quotation for the Goods given by the Seller shall not constitute an offer. A quotation shall only be valid if it is in writing and shall only be valid for a period of 30 days from its date of issue (or such other period the Seller may specify)("Validity Period"). Prices quoted are exclusive of VAT and any other taxes, duties, levies, delivery or similar charges. After the Validity Period, any quoted prices are subject to variation to take into account any increase in costs including but not limited to a change in exchange rates, manufacturer's prices and internal costs.

3 CONSUMER RIGHTS

3.1 If you are contracting as a consumer, you may cancel a Contract at any time within seven working days, beginning on the day after you received the Products. In this case, you will receive a full refund of the price paid for the Goods in accordance with our returns policy (set out in clause 5 below).

3.2 To cancel a Contract, you must inform us in writing. You must also return the Goods to us immediately, in the same condition in which you received them, and at your own cost and risk. You have a legal obligation to take reasonable care of the Goods while they are in your possession. If you fail to comply with this obligation, we may have a right of action against you for compensation.

3.3 Details of your statutory (legal) right of cancellation, and an explanation of how to exercise it, are provided in the Order Confirmation. This provision does not affect your other statutory (legal) rights as a consumer.

3.4 For the avoidance of doubt, the rights under this clause 3 only apply to those natural persons contracting as a consumer.

4 DELIVERY

4.1 If delivery is required, the Seller shall deliver the Goods to the location set out in the Order or such other location as the parties may agree in writing (the "Delivery Location") at any time after the Seller notifies the Buyer that the Goods are ready. It is the Buyer's obligation to accept delivery of the Goods at the Delivery Location at any time after the Seller notifies the Buyer that the Goods are ready.

4.2 If delivery is not required then the Buyer must arrange a suitable time for collection of the Goods from the Seller.

4.3 Unless otherwise agreed in writing all prices for overseas delivery are quoted FCA (Free Carriage at Sellers premises).

4.4 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location or on the Goods being collected.

4.5 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Seller shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.6 We shall not be responsible for any loss or damage caused by the fault of the carrier who transports the products. You agree that you shall not withhold sums due to be paid in respect of the products by reason of any such loss or damage.

4.7 If the Buyer fails to accept delivery of the Goods within 3 Business Days of the Seller notifying the Buyer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Seller's failure to comply with its obligations under the Contract:

4.7.1 Delivery of the Goods shall be deemed to have been completed at 9.00am on the third Business Day following the day on which the Seller notified the Buyer that the Goods were ready;

4.7.2 The Seller shall store the Goods until delivery takes place, and charge the Buyer for all related costs and expenses (including insurance); and

4.7.3 Without prejudice to conditions 4.7.1 and 4.7.2, the Seller may at its absolute sole discretion, cancel or suspend all further deliveries under the Contract or under any other contract between the Buyer and the Seller without incurring any liability to the Buyer, and all outstanding sums in respect of Goods delivered to the Buyer shall become immediately due.

4.8 Instances of shortages, non-delivery or damaged Goods should be notified to the Seller within 24 hours of receipt of the Goods or the scheduled delivery time. Goods should be returned in accordance with Condition 5 below.

4.9 The Seller may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

5 CANCELLATION AND RETURNS

5.1 If you are a consumer and return a product to us because you have cancelled the Contract between you and us within the seven working days cooling-off period (see clause 3.1 above), we will process the refund due to you as soon as possible and, in any case, within 30 days of the day you gave notice of cancellation. In this case, we will refund the price of the product in full, and any applicable delivery charges. However, you will be responsible for the cost of returning the Goods to us. For the avoidance of doubt, the rights under this clause 5.1 shall only apply to those persons who are natural persons contracting as consumers.

If you are not a consumer, then clauses 5.2 – 5.4 apply

5.2 Returns are only permitted with the prior written consent of the Seller. The Buyer must issue a returns authorisation number before any Goods are returned. This unique authorisation notice must be stated clearly on any returned Goods. To be eligible for a credit or refund, all returned goods must be returned to the Seller in an unused condition in their original packaging within 7 days of delivery stating the returns authorisation number. The Buyer shall bear the cost of returning the goods. If the returned Goods have been damaged, used or are not returned in their original packaging, the Seller reserves the right to withhold a percentage of the refund value if the returned Goods need to be reduced in price for resale.

5.3 There is a re-stocking charge payable for all Goods returned which will be the higher of 10% of the price of the returned Goods or £20.

5.4 Certain goods and large quantities of Goods ordered by the Buyer will be different from those normally ordered and stocked by the Seller and will need to be specifically ordered from the manufacturer. In these circumstances, the Seller will notify the Buyer that the Goods being ordered are non-returnable and non-refundable and that the Contract is not capable of being cancelled.

6 WARRANTY

6.1 The Seller warrants that on delivery, the Goods shall:-

6.1.2 Be free from material defects in design, material and workmanship;

6.1.3 Be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and

6.1.4 Be fit for any purpose held out by the Seller.

6.2 Subject to Condition 6.3, if: the Buyer gives notice in writing to the Seller during the manufacturer's Warranty Period within 3 Business Days of discovery that some or all of the Goods do not comply with the warranty set out in Condition 6.1; and the Seller is given a reasonable opportunity of examining such Goods; and the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Buyer's cost, the Seller shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

6.3 The Seller shall not be liable for Goods' failure to comply with the warranty set out in Condition 6.1 if:

6.3.1 The Buyer makes any further use of such Goods after giving notice in accordance with Condition 6.2; or

6.3.2 The defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practise; or

6.3.3 The Buyer alters or repairs such Goods without the written consent of the Seller; or

6.3.4 The defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.

6.4 Except as provided in this Condition 6, the Seller shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in Condition 6.1.

6.5 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

6.6 These Conditions shall apply to any repaired or replacement Goods supplied by the Seller.

7 TITLE AND RISK

7.1 The risk in the Goods shall pass to the Buyer on completion of delivery.

7.2 Title to the Goods shall not pass to the Buyer until the Seller has received payment in full (in cash or cleared funds) for the Goods and any other goods or services that the Supplier has supplied to the Buyer in respect of which payment has become due.

7.3 Until title to the Goods has passed to the Buyer, the Buyer shall:

7.3.1 Hold the Goods on a fiduciary basis as the Seller's bailee;

7.3.2 Store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property;

7.3.3 Not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

7.3.4 Maintain the Goods in satisfactory Condition and keep them insured against all risks for their full price from the date of delivery;

7.3.5 Notify the Seller immediately if it becomes subject to any of the events listed in Condition 9.2; and

7.3.6 Give the Seller such information relating to the Goods as the Seller may require from time to time;

But the Buyer may resell or use the Goods in the ordinary course of its business.

7.4 If before title of the Goods passes to the Buyer the Buyer becomes subject to any of the events listed in Condition 9.2, or the Seller reasonably believes that any such event is about to happen and notifies the Buyer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Seller may have, the Seller may at any time require the Buyer to deliver up the Goods and, if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.

8 PRICE AND PAYMENT

8.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Seller's published price list in force as at the date of delivery.

8.2 The Seller may, by giving notice to the Buyer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

8.2.1 Any factor beyond the Seller's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

8.2.2 Any request by the Buyer to change the delivery date(s), delivery address, quantities or types of Goods ordered; or

8.2.3 Any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate or accurate information or instructions.

8.3 Our prices exclude VAT and are exclusive of the costs and charges of packaging, insurance and transport of the Products, which shall be paid by you when you pay for the Goods.

8.4 The Seller may invoice the Buyer for the Goods on or at any time after the completion of delivery.

8.5 With the exception of account customers (dealt with under clause 8.6), payment in full must be received by us before Goods shall be despatched. We accept most major Debit and Credit cards. We also accept payment by cheque as long as you write the valid cheque guarantee number, issue number, expiry date and your name and address on the back of the cheque. We are unable to despatch Goods until the cheque has cleared. Cheques should be made payable to Wind & Sun Limited. We also accept payment by bank transfer to the bank account nominated in writing by the Seller.

Account Customer

8.6 If you are an account customer, the Buyer shall pay the invoice in full, in pounds sterling, and within 30 days of the date of the invoice (subject to satisfactory trade and credit references). No early settlement discount is given unless otherwise agreed by the Seller in writing. Payment shall be made to the bank account nominated in writing by the Seller. Time of payment is of the essence. We may revoke credit immediately if you fail to make payment when due.

8.7 If the Buyer fails to make any payment due to the Seller under the Contract by the due date for payment (the "Due Date"), then the Buyer reserves the right to charge interest on the overdue amount at the rate of 3% per annum above the prevailing Bank of England base rate. Such interest shall accrue on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgement. The Buyer shall pay any interest charged with the overdue amount.

8.8 For the avoidance of doubt, without prejudice to Condition 8.7, if the Buyer fails to make any payment due to the Seller under the Contract by the Due Date, the Seller shall be entitled to cancel or suspend all further deliveries under the Contract or under any other contract between the Buyer and the Seller without incurring any liability to the Buyer, and all outstanding sums in respect of Goods delivered to the Buyer shall become immediately due.

8.9 The Buyer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Buyer shall not be entitled to assert any credit, set-off or counter-claim against the Seller in order to justify withholding payment of any such amount in whole or in part. The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.

9 BUYER'S INSOLVENCY OR INCAPACITY

9.1 If the Buyer becomes subject to any of the events listed in Condition 9.2, or the Seller reasonably believes that the Buyer is about to become subject to any of them and notifies the Buyer accordingly, then, without limiting any other right or remedy available to the Seller, the Seller may cancel or suspend all further deliveries under the Contract or under any other contract between the Buyer and the Seller without incurring any liability to the Buyer, and all outstanding sums in respect of Goods delivered to the Buyer shall become immediately due.

9.2 For the purposes of Condition 9.1, the relevant events are:

9.2.1 The Buyer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply; or

9.2.2 The Buyer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Buyer is a company) these events take place for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer; or

9.2.3 Being an individual, the Buyer is the subject of a bankruptcy petition or order; or

9.2.4 Being a company, an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Buyer; or

9.2.5 Being a company, a floating charge holder over the assets of the Buyer has become entitled to appoint or has appointed an administrative receiver;

9.2.6 A creditor or encumbrancer of the Buyer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or

9.2.7 A person becomes entitled to appoint a receiver over the assets of the Buyer or a receiver is appointed over the assets of the Buyer; or

9.2.8 Any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Condition 9.2.1 to 9.2.7 (inclusive); or

9.2.9 The Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;

9.2.10 The financial position of the Seller deteriorates to such an extent that in the opinion of the Buyer the capability of the Seller adequately to fulfil its obligations under the Contract has been placed in jeopardy; or

9.2.11 Being an individual, the Buyer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

10 LIMITATION OF LIABILITY

10.1 Subject to clause 10.3, if we fail to comply with these terms and conditions, we shall only be liable to you for the purchase price of the Goods and, if you are a consumer and subject to clause 10.2, any direct losses that you suffer as a result of our failure to comply (whether arising in contract, delict (including negligence), breach of statutory duty or otherwise) which are a directly foreseeable consequence of such failure.

10.2 Subject to clause 10.3, we will not be liable for losses that result from our failure to comply with these terms and conditions that fall into the following categories:

10.2.1 Loss of income or revenue;

10.2.2 Loss of business;

10.2.3 Loss of profits;

10.2.4 Loss of funding or lending;

10.2.5 Loss of anticipated savings;

10.2.6 Loss of data; or

10.2.7 Waste of management or office time.

However, this clause 10.2 will not prevent claims for loss of or damage to your tangible property that are foreseeable or any other claims for direct loss that are not excluded by categories 10.2.1 to 10.2.7 inclusive of this clause 10.2.

10.3 Nothing in this agreement excludes or limits our liability for:

10.3.1 Death or personal injury caused by our negligence;

10.3.2 Fraud or fraudulent misrepresentation;

10.3.3 Any breach of the obligations implied by section 12 of the Sale of Goods Act 1979;

10.3.4 Defective products under the Consumer Protection Act 1987; or

10.3.5 Any other matter for which it would be illegal for us to exclude or attempt to exclude our liability.

11 FORCE MAJEURE

11.1 The Seller shall not be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of Sellers or subcontractors.

11.2 If a Force Majeure Event prevents the Seller or Buyer from carrying out its obligations under the Contract for a continuous period of more than 30 Business Days, either party may cancel the Contract immediately by giving written notice to the other party. All outstanding sums in respect of Goods delivered to the Buyer shall become immediately due.

12 DATA PROTECTION

12.1 The Buyer agrees that its details, including, without limitation, its name, address and payment record may be submitted to a credit reference agency, and that any personal data it provides to the Seller will be processed by the Seller or on behalf of the Seller in connection with the Contract.

12.2 The Seller (and anybody it appoints on its behalf) may use the Buyer's personal data for internal purposes, for example, market research and record keeping.

12.3 The Seller may use the Buyer's personal data to send the Buyer details of other products or services the Seller offer.

13 GENERAL

13.1 The Seller may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract. The Buyer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Seller.

13.2 Subject to Condition 13.4, any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this Condition, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery, commercial courier, fax.

13.3 Subject to Condition 13.4, any notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Condition 13.2; if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax one Business Day after transmission.

13.4 Conditions 13.2 and 13.3, shall not apply to the service of any proceedings or other documents in any legal action.

13.5 Cancellation of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Conditions which expressly or by implication survive termination of the Contract shall continue in full force and effect.

13.6 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

13.7 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

13.8 A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

13.9 A person who is not a party to the Contract shall not have any rights under or in connection with it.

13.10 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.