



BSP Tex Ltd Terms & Conditions of Sale

DEFINITIONS

The "Seller" means BSP Tex Ltd. The "Buyer" means the person, firm or company whose order is accepted by the Seller. The "goods" means the goods or any part thereof which are the subject of the contract whatever their description.

EXTENT OF CONTRACT

No conditions other than specifically set forth in the Offer and Acceptance and herein shall be deemed to be incorporated in or to form part of the contract.

ACCEPTANCE

Unless previously agreed to the contrary or otherwise specified by the Seller in writing all quotations and tenders given by the Seller shall be accepted by the Buyer within 30 days from the date on which they are made. The Seller reserves the right to re-quote if not accepted by the Buyer within the specified time.

All orders placed by Buyers with the Seller shall be invitations to treat only and no contract, shall arise until the Seller has confirmed its acceptance of the order.

BUYER TO PROVIDE ALL INFORMATION

The Buyer must within a reasonable time provide the Seller with all information necessary to enable it to proceed with any order otherwise the Seller may, at its option cancel the order or charge the Buyer any additional cost incurred by the Seller in respect of the delay. In the event of cancellation by the Buyer or Seller the Buyer will be liable to the Seller for any loss (including consequential loss) incurred by the Seller.

SPECIFICATIONS

Unless specifically guaranteed in writing no weights, dimensions, capacities, performance ratings and other data specified or contained in catalogues, circulars, advertisements or other documents or illustrations shall be treated as contractual. The Seller reserves the right to make such changes in specifications as circumstances may require or will in their judgement be improvements. The Seller shall not be obliged to inform the Buyer of such changes in the specifications.

Where the Seller has a Service Manual relating to the use and maintenance of the goods, it shall be furnished free of charge to the Buyer not later than the commencement of the warranty period. Where the Buyer are equipment lessor's, they shall be under an obligation to furnish the persons to whom the goods are leased with such advice and instructions together with a copy of the Service Manual supplied to the Buyer by the Seller.

DRAWINGS ETC

All drawings, designs, jigs, fixtures and patterns and all copyright and other intellectual property rights therein shall remain the property of the Seller unless they have been supplied by the Buyer and accepted by the Seller for the purposes of the contract.

SUB-CONTRACTING

The Seller shall have the right to sub contract all or any of the work under this contract.

PRICES

Prices are quoted ex works from the Seller unless otherwise stated. The price of the goods shall be such price as is current at the date appearing on the Seller's Confirmation of Acceptance unless otherwise stated.

BSP TEX LTD, Unit 43, Claydon Business Park, Gipping Road, Great Blakenham, Ipswich, Suffolk, IP6 0NL, UK.
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PAYMENT

Payment shall be made by the Buyer in strict accordance with the contract terms notwithstanding any delay in despatch or performance by the Seller under this contract or any adjustment or correction which may be required to the goods. No claim by the Buyer shall entitle the Buyer to withhold payment of the whole or any part of the price on due date. The Seller may suspend performance of any contractual obligation (whether under this or any other contract) to the Buyer as long as any account of the Buyer (whether under this or any other contract) is overdue, any costs thereby incurred by the Seller shall be reimbursed by the Buyer. Unless otherwise stated interest on all sums overdue shall be charged at the rate of 2% above the Bank of England base lending rate until payment is received.

DELIVERY AND PASSING OF RISK

All delivery dates are estimates only and the time of delivery shall not be of the essence of this contract. The Seller will make every effort to make and despatch the goods in time to ensure delivery by the date specified but will not in any circumstances be liable for any loss or damage claimed to have arisen from any delay in delivery however caused.

In non-export contracts risk of loss or damage to the goods shall pass to the Buyer from the time they are despatched from the Seller's works or the works of their sub-contractors. In export contracts, risk of loss or damage to the goods shall pass to the Buyer from the time the risk is expressed to pass under the terms of such contracts as defined in accordance with "ICC Incoterms" as amended from time to time.

FREIGHT CHARGES

Any and all freight charges paid by the Seller shall be charged to the Buyer as an extra unless otherwise included in the selling price.

RETENTION OF TITLE

The Seller shall retain absolute ownership of the property in the Goods which shall not pass to the Buyer and the Buyer shall keep and retain the Goods as bailee for and on behalf of the Seller and shall deliver up the Goods to the Seller at the Seller's request until the Seller has received full payment of the price of the Goods and full payment of any other sums whatsoever which are outstanding from the Buyer to the Seller whether or not due and owing, and until such time the Buyer:

- a) shall insure the Goods against usual risks with an insurance office of repute.
- b) shall store separately the Goods or in some way ensure that the Goods are readily identifiable as the property of the Seller.
- c) irrevocably authorises the representatives of the Seller at any time in circumstances where the provisions of Conditions 17 may apply to enter upon the Buyer's premises where the Goods are or are thought by the Seller to be stored for the purpose of repossessing the Goods.
- d) shall keep and retain the Goods free from any charge lien or other encumbrance.

Provided always that no circumstances have arisen where the provisions of Condition 17 may apply the Buyer shall be entitled to offer for sale and sell the Goods in the ordinary course of business as principal and not as agent at the best obtainable price and upon such sale the Seller shall be legally and beneficially entitled to the proceeds of sale and the Buyer shall pay such proceeds of sale into a separate account or otherwise shall ensure that all such proceeds of sale are kept by or on behalf of the Buyer in a separate and identifiable form. In particular but without prejudice to the generality of the foregoing the Buyer shall not pay the proceeds of sale into any bank account which is overdrawn.

Further forthwith upon receipt of the proceeds of sale the Buyer shall pay to the Seller any of the aforesaid sums outstanding to the Seller and shall not use or deal with the proceeds of sale in any way whatsoever until such sums have been paid. If the Buyer is in breach of Conditions 12.2.

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WARRANTY

The Seller undertakes at its option to repair or replace without charge the goods or any part or parts thereof manufactured by the Seller which shall be proved to the satisfaction of the Seller to be defective by reason solely of faulty materials or workmanship supplied or performed by the Seller, provided that:

- a) such defect arises within a period of six months (or in the case of second-hand goods within a period of one month) from the date of the goods leaving the Seller's works;
- b) written notice of complaint is given within fourteen days of discovery of the defect;
- c) if so, required the defective goods or part(s) thereof are returned carriage paid to the Seller's works or to such other place as the Seller may direct and shall in the event of replacement become the Seller's property;
- d) the defect has not been caused by carelessness, improper treatment or any wilful or negligent act of omission including inadequate lubrication or non-compliance with any instructions given by the Seller or any use of the goods with any parts other than those complying with the Seller's specifications;
- e) the Seller shall not be liable for the cost of removal of the defective part of the goods or the cost of fitting any new parts;
- f) the guarantee period shall be reduced by such proportion as shall be determined by the Seller in the event of the goods being used for more than one 12-hour shift per day;
- g) this undertaking shall not apply to parts considered as consumable and which may require renewal periodically under normal operating conditions or to parts which have been altered or repaired by the Buyer or to parts upon which the Seller's identification marks have been obliterated.

Goods repaired or replaced under this condition will be delivered by the Seller F.O.B. port of exportation, or carriage paid to the Buyer's address in the United Kingdom as the case may require.

In the case of goods or parts or components not manufactured by the Seller the Buyer shall be entitled to the benefit insofar as it may be transferred to the Buyer of any rights which the Seller may have against the supplier of such goods or parts or components in respect thereof and the Seller's liability in such cases is limited to making the benefit of such rights available to the Buyer to the extent aforesaid.

The Warranty given in this Condition 13 is in lieu of and excludes any warranty or condition, statutory or otherwise which would otherwise be implied.

LIABILITY

In no event shall the Seller be liable for any loss, injury or damage howsoever caused or arising EXCEPT for death or personal injury arising from the proven negligence of the Seller or one or more of the Seller's employees in the course of his or her employment.

The Seller accepts no liability nor responsibility for any consequential loss or damage howsoever caused.

The Buyer hereby indemnify and hold the Seller harmless in respect of any loss or damage whatsoever that may arise wholly or in part from the Buyer's act or omission in relation to the goods or any part thereof.

FORCE MAJEURE

The Seller shall have no liability or obligations to the Buyer if its performance of the contract is prevented or hindered by any cause whatsoever beyond the Seller's reasonable control and in particular but without prejudice to the generality of the foregoing by act of God, war, government control, restriction or prohibition of any other government act or omission whether local or national, fire, flood, subsidence, sabotage, accident, strikes or lock out or malicious or negligent act of a third party.

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WAIVER OR RIGHTS

The rights of the Seller or the Buyer shall not be prejudiced or restricted by any indulgence or forbearance extended by either party to the other and no waiver by either party in respect of any breach shall operate as a waiver in respect of any subsequent breach.

TERMINATION

If the Buyer shall commit any breach of the Conditions of this contract the Seller shall, without prejudice to any other rights, be entitled at its discretion to cancel this contract or stop any goods in transit.

If the Buyer is unable to pay its debts or enters into liquidation (other than for the purpose of effecting a reconstruction or amalgamation in such manner that the company resulting from such reconstruction or amalgamation if a different legal entity shall agree to be bound by and assume the obligations of the Buyer under the contract) whether compulsorily or voluntarily or compounds with or convenes a meeting of its creditors or has an administrative receiver appointed over all or any part of its assets or takes or suffers any similar action in consequence of a debt or ceases for any reason to carry on business, the Seller may terminate any contract for the supply of goods to the Buyer forthwith by notice in writing to the Buyer.

Termination of particular contract for the supply of Goods shall not affect the accrued rights of the parties arising in any way out of such contract as at the date of termination.

ASSIGNMENT

Unless all sums due in respect of the goods are paid to the Seller, the Buyer shall not assign any benefit under this contract without the consent in writing of the Seller.

NOTICES:

Any notice given under or pursuant to this contract shall be in writing and may be served by leaving it at or by sending it to the address specified for the relevant party in the contract or to such other address as may be notified by either party for the purpose. Any such notice shall be deemed to have been served on the day when in the ordinary course of the means of transmission it would first be received by the addressee in normal business hours.

APPLICABLE LAW

The contract is governed construed and applied in accordance with the laws of England and the parties submit to the exclusive jurisdiction of English Courts.

HEADINGS

The headings in these conditions are for convenience only and shall not affect the construction thereof.

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