

# TERMS AND CONDITIONS FOR THE SALE OF GOODS

## 1. INTERPRETATION

1.1 In these Conditions the following words have the following meanings:

Word	Meaning
"the Buyer"	the person(s), firm or company who purchases the Goods from the Company;
"the Company"	[Belmont Precision Engineering Company Limited] registered no. 2486532;
"Contract"	any contract between the Company and the Buyer for the sale and purchase of the Goods, incorporating these Conditions; "Delivery Point" the place where delivery of the Goods is to take place under condition 4;
"Goods"	any goods agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them). In these Conditions references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

## 2. APPLICATION OF TERMS

- 2.1 Subject to any variation under condition 2.3 the Contract will be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.2 No terms or conditions endorsed upon, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document will form part of the Contract simply as a result of such document being referred to in the Contract.
- 2.3 These Conditions apply to all the Company's sales and any variation to these Conditions and any representatives about the Goods shall have no effect unless expressly agreed in writing and signed by a director of the Company.
- 2.4 No order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Buyer.
- 2.5 The Buyer must ensure that the terms of its order and any applicable specification are complete and accurate.

## 3. DESCRIPTION

- 3.1 The description of the Goods shall be as set out in the Company's quotation.
- 3.2 All drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of Goods described in them. They will not form part of this Contract.

## 4. DELIVERY

- 4.1 Unless otherwise agreed in writing by the Company delivery of the Goods shall take place at the Company's place of business.
- 4.2 Unless otherwise agreed in writing by the Company the Buyer will take delivery of the Goods within 7 days of the Company giving it notice that the Goods are ready for delivery. If the Buyer does not take delivery in accordance with this Clause 4.2 (in this respect time shall be of the essence) then:
  - 4.2.1 the Goods will be deemed to be delivered;
  - 4.2.2 The Company will be entitled to arrange suitable storage of the Goods in which event the Buyer shall pay to the Company such storage charges as the Company may incur or reasonably determine; and
  - 4.2.3 If payment for the Goods is not made when due, the Company shall be entitled to sell the Goods to a third party at such price as the Company shall in its discretion deem reasonable in the circumstances and to recover any resulting loss from the Buyer and shall not be obliged to account to the Purchaser for any amount received in excess of the Contract price.
- 4.3 Any dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence. If no dates are so specified, delivery will be within a reasonable time.
- 4.4 Subject to the other provisions of these Conditions the Company will not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor will any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 180 days.
- 4.5 If for any reason the Buyer will not accept delivery of any Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licenses or authorisations:
  - 4.5.1 risk in the Goods will pass to the Buyer (including for loss or damage caused by the Company's negligence);
  - 4.5.2 the Goods will be deemed to have been delivered; and
  - 4.5.3 the Company may store the Goods until delivery whereupon the Buyer will be liable for all related costs and expenses (including without limitation storage and insurance).
- 4.6 The Buyer will provide at its expense at the Delivery Point adequate and appropriate equipment and manual labour for loading the Goods.
- 4.7 If the Company delivers to the Buyer a quantity of Goods of up to 10% more or less than the quantity specified in the Contract the Buyer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for such goods at the pro rata Contract rate.

## 5. NON-DELIVERY

- 5.1 The quantity of any consignment of Goods as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.
- 5.2 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless written notice is given to the Company within 14 days of the date when the Goods would in the ordinary course of events have been received. Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

## 6. RISK / TITLE

- 6.1 The Goods are at risk of the Buyer from the time of delivery.
- 6.2 When the Goods are sold FOB or CIF (in each case as such terms are defined in the current version of Incoterms) risk shall pass to the Buyer when the Goods are placed on board ship notwithstanding that ownership of the Goods may not have passed to the Buyer and the Company shall be under no obligation to give the Buyer notice specified in section 32(3) of the Sale of Goods Act 1983.
- 6.3 Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
  - 6.3.1 the Goods; and
  - 6.3.2 all other sums which are or which become due to the Company from the Buyer on any account.
- 6.4 Until ownership of the Goods has passed to the Buyer, the Buyer must:
  - 6.4.1 hold the Goods on a fiduciary basis as the Company's bailee;
  - 6.4.2 store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
  - 6.4.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - 6.4.4 Maintain the Goods in satisfactory condition insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company; and
  - 6.4.5 hold the proceeds of the insurance referred to in condition 6.4.4 on trust for the Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.
- 6.5 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:
  - 6.5.1 any sale shall be affected in the ordinary course of the Buyer's business at full market value; and any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.
- 6.6 The Buyer's right to possession of the Goods shall terminate immediately if:
  - 6.6.1 the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into

liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/ or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or

- 6.6.2 the Buyer suffers or allows any executive whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe/perform *any of his/its* obligations under the contract or *any other contract*, between *the* Company and the Buyer, or *is unable to pay its* debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or
- 6.6.3 the Buyer encumbers or in any way charges any of the Goods.
- 6.7 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
- 6.8 The Buyer grants the Company, its agents and employees a irrevocable license at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

## 7. PRICE

- 7.1 Unless otherwise agreed by the Company in writing the price for the Goods shall be the price set out in the Company's price list published on the date of delivery or deemed delivery. Any quotation supplied by the Company is provisional only. The price for the Goods shall be exclusive of any value added tax and all costs at charges in relation to the loading, unloading, carriage and insurance all of which amounts the Buyer will pay in addition when it is due to pay for the Goods.

## 8. PAYMENT

- 8.1 Payment of the price for the Goods is due on the last working day of the month following the month in which the Goods are delivered or deemed to be delivered.
- 8.2 Unless otherwise specified die, jig and tooling charges shall be borne by the Buyer. Dies, jigs and tools shall remain the property of the Company.
- 8.3 Time for payment shall be of the essence.
- 8.4 No payment shall be deemed to have been received until the Company has received cleared funds.
- 8.5 All payments payable to the Company under the Contract shall become due immediately upon termination of this Contract despite any other provision
- 8.6 The Buyer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such to be paid by the Company to the Buyer.
- 8.7 If the Buyer fails to pay the Company any sum due pursuant to the Contract the Buyer will be liable to pay interest to the Company on such from the due date for payment at the annual rate of 2% above the base lending rate from time to time of The Governor and Company of the Bank of Scotland, accruing on a daily basis until payment is made, whether before or after any judgment.

## 9. QUALITY

- 9.1 Where the Company is not the manufacturer of the Goods, the Company will endeavor to transfer to the Buyer the benefit of any warranty or guarantee given to the Company.
- 9.2 The Company warrants that (subject to the other provisions of these Conditions) upon delivery the Goods will:
- 9.2.1 be of satisfactory quality within the meaning of the Sale of Goods Act 1994; and
- 9.2.2 be reasonably fit for any particular purpose for which the Goods are being bought if the Buyer had made known that purpose to the Company at the time of entering into the Contract and the Company has confirmed in writing that it is reasonable for the Buyer to rely on the skill and judgment of the Company.
- 9.3 The Company shall not be liable for a breach of any of the warranties in condition 9.2 unless:
- 9.3.1 the Buyer gives written notice of the defect to the Company, and (if the defect is as a result of damage in transit) to the carrier, within 14 days of the time when the Buyer discovers or ought to have discovered the defect; and
- 9.3.2 the Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business for the examination to take place there.
- 9.4 The Company shall not be liable for a breach of any of the warranties in condition 9.2 if the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice.

## 10. LIMITATION OF LIABILITY

- 10.1 Subject to condition 9, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
- 10.1.1 any breach of these Conditions; and
- 10.1.2 any representative, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 10.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 10.3 Nothing in these Conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.
- 10.4 The Company shall not be liable for any claims under or in connection with the Contract and/or the Goods which arise out of the default and/or negligence of a manufacturing mill or any supplier to the Company.

## THE BUYER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF CONDITION 10.5

- 10.5 Subject to conditions 10.2, 10.3 and 10.4:
- 10.5.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the value of all sums paid by the Customer to the Company pursuant to this Contract in respect of the Goods to which the relevant claim relates; and
- 10.5.2 the Company shall not be liable to the Buyer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

## 11. SUB-CONTRACTING AND ASSIGNMENT

- 11.1 The Company may sub-contract the fulfillment of the Contract or any part thereof.
- 11.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.
- 11.3 The Company may assign the Contract or any part of it to any person, firm or company.

## 12. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer) if it is prevented from or delayed in the carrying on of its business due to the circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either Party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials. Provided that, if the event in question continues for a continuous period in excess of 30 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

## 13. GENERAL

- 13.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 13.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed several and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 13.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.
- 13.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.
- 13.5 The parties to this Contract do not intend that any term of this Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 13.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.