



BW Fabrications Ltd Terms and Conditions

Unless otherwise agreed in writing by the Company these Conditions shall override any terms and conditions stipulated or incorporated or referred to by the buyer whether in the order or in any negotiations and all other warranties, conditions or liabilities expressed or implied by Law are hereby expressly excluded as far as exclusion is permitted under the Supply of Goods (Implied Terms) Act 1973 and the Unfair Contract Terms Act 1977.

1) DESCRIPTION

The right is reserved to vary, modify and improve the design specification or finish of the goods without notice unless a written undertaking to the contrary has been given by the company.

2) PRICES

All prices and costs quoted are subject to VAT at the rate prevailing unless otherwise stated. The quoted price for the goods or services provided by the Company may be varied by additions upwards by the Company in accordance with the market conditions at the date of actual supply and the buyer shall pay such additions in addition to the quoted price.

Without prejudice to the generality of the foregoing market conditions shall include any increase in the cost of labour and/or materials and/or operations and/or transport. A small order handling charge may be made when the order value is less than fifty pounds. Work produced by the Company at the buyer's request, whether experimental or otherwise will be charged in full.

Quotations are based on the current cost of production and are subject to amendment on or after acceptance by the buyer to meet any recognised adjustments in such costs.

3) DELIVERY

Any date or time named by the Company for delivery is given and intended as an estimate only and the Company shall not be liable to make good any damage or loss whether arising directly or indirectly out of any delay in delivery.

In the event of deferment or non-acceptance of delivery after the buyer has been notified that the goods are ready for despatch the Company reserves the right to charge the buyer a demurrage charge of 2.5% of net invoice value per month and to levy any re-delivery charge as an additional cost.

4) RISK

Where delivery of the Goods specified is:-

- a) Ex the works of the Company, the risk of the goods shall pass to the buyer as soon as such goods are loaded on transport taking the same from the Company's work
- b) To be effected at a designated site or place, the risk therein shall pass to the buyer upon their arrival at

such site or place and before the goods are unloaded provided that the Company shall only repair or replace free of charge goods damaged or lost in transit upon such terms provided the buyer gives the Company written notification of such damage or loss with 24 hours of transport by the Company's vehicle or in the case of transport by carrier within such time as will enable the Company to comply with the carrier's conditions of carriage as affecting loss or damage in transit.

If the contract shall include the installation of equipment the risk of the goods included in such equipment shall pass to the buyer on arrival on site and prior to unloading unless otherwise agreed in writing.

5) TITLE

The title in the goods does not pass until they have been paid for in full. If they are re-sold before they have been paid for then the Company retains the right to recover the goods and/or pursue proceeds of sale. The Company reserves the right to enter any premises where the goods may be held to recover goods that have not been paid for in full and shall be deemed to have an irrevocable licence to peacefully enter such premises for this purpose such entry to be afforded upon demand.

All goods supplied are used with the express Agreement of the Company but such Agreement may be withdrawn upon written notice from the Company if payment is withheld. The buyer is fully responsible for the safe keeping of the equipment and for all third party claims resulting from its use.

6) PAYMENT

- a) For non-account customers (unless agreed otherwise in writing), 50% Deposit at time of order, 50% Final settlement due on day of completion.
- b) Terms of payment for account customers are strictly net payable within 28 days of the date of invoice. The right is reserved to charge interest at the rate of 3% per month for any outstanding balance for each month or part thereof that payment is overdue and the Company reserves the right to withhold its services for guarantee or chargeable maintenance calls in any equipment supplied by the Company if any payment or part payment for any goods or service is outstanding.
- c) If it shall be necessary after the due date for any invoice to be passed to a Solicitor for recovery then upon receipt by the Customer of a Solicitor's letter, an additional fee shall be recoverable to include a minimum sum of £50 plus VAT to cover administrative and Solicitor's costs incurred in the recovery in addition to any costs which might subsequently be awarded by the Court.

7) WARRANTY

- a) Subject as hereinafter provided the Company will replace at its own cost all goods of its own manufacture or its workmanship which is or shall become faulty by reason only of the use of the defective materials or by reason of defective workmanship within a period of twelve calendar months from the date of supply provided that the buyer has notified the Company in writing of the fault within that period.
- b) Liability under this warranty shall cease in any of the following cases: -
The buyer having failed to pay in full any invoice for goods delivered by the Company within the time stipulated by these conditions, the Company's representatives being denied full and free right of access to the goods, the buyer permitting persons other than the employees or agents or those approved or authorised by the Company to effect any replacement of parts, maintenance adjustments or repairs to the goods; the buyer not having properly maintained the goods in accordance with the instruction, pamphlets or directions given or issued by the Company from time to time, the buyer using any spare parts or replacement not manufactured by or on behalf of the Company.
- c) The benefit of this warranty shall apply only to the buyer.

8) ERECTION, INSTALLATION AND COMMISSIONING OF EQUIPMENT

The buyer shall ensure that the site is clear and ready for the installation of the equipment and is readily accessible to normal transport. If the Company shall be delayed in carrying out such work through no fault of its own then:-

- a) The Company will make every effort to complete the work by the time stated but reserves the right to charge for time where the work could not be carried out owing to delays caused beyond the Company's control.
- b) Payment under the Contracts shall be made by the buyer to the Company on such date that the work could reasonably have been completed by the Company were it not for such delay.
- c) Expedited work – should this be required by the buyer any additional costs incurred by the Company will be charged to the buyer.

9) DAMAGE

Any damage to goods received or any complaint must be notified in writing to us within 24 hours of receipt of the said goods otherwise no claim can be considered.

10) CANCELLATION

No orders can be cancelled after the signing of the order without express agreement of the Company in writing and will only be accepted on condition that goods are paid for by the buyer at whichever stage of manufacture they have reached and liability is accepted by the buyer for any commitments of materials.

11) THIRD PARTY LIABILITY

It shall be the responsibility of the buyer to effect insurance in respect of injury to persons arising from the use of the goods and the Company shall not be responsible for damage or loss of any kind whatsoever to any property of persons however arising from the use of the goods or otherwise in connection with the installation or erection of the same.

12) DEFAULT

Should default be made by the buyer in paying any monies due under any Order as and when the same shall become due for payment the Company shall have the right to suspend all further deliveries until such default shall be made good or shall be entitled to cancel the order so far as any goods remain to be delivered thereunder or services remain to be performed.

13) PATENTS

The customer shall indemnify the Company against all damages, penalties, costs and expenses to which it may become liable if any work is done in accordance with the buyer's specification involving an infringement of a registered design or patent.

14) SUB-CONTRACTOR

The Company reserves the right to sub-contract the fulfilment of the order (including any installation and commissioning) or any part thereof.

15) FORCE MAJEURE

In the event of war, invasion, act of foreign enemy hostility (whether war has been declared or not), civil war, rebellion, revolution, insurrection of military or usurped power, the Company shall be relieved of all liabilities incurred under the Contract whereby and to the extent to which the fulfilment of such obligations is prevented, frustrated or impeded as a consequence of any such event by any Statute, rule, regulations, orders or requisitions issued by any Government Department, Council or other duly constituted authority or from strikes, lock-outs, breakdown of plant or any cause (whether or not of a like nature) beyond the Company's control.

16) **SURPLUS MATERIALS**

Any surplus fittings or materials shall remain the property of the Company and shall be returned to it.

17) **LEGAL CONSTRUCTION**

The Contract shall in all respects be construed and operated as an English Contract and in conformity with English Law.

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