

**1 INTRODUCTION**

These Conditions apply to all contracts for the sale of goods or services by BNM ("Seller"). By placing an order with the Seller, the purchasing company ("Purchaser") agrees to deal with the Seller on these Conditions to the exclusion of all other terms, conditions, warranties or representations.

**2 CONTRACTS**

- 2.1 Each contract for the sale of Goods by the Seller is subject to these Conditions. No agreement between the Seller and the Purchaser for the sale and purchase of the Goods ("Contract") exists until the Seller so agrees in writing or, in the absence of such written agreement, delivers the Goods. "Goods" means those goods including any raw materials, component parts and finished products which the Seller supplies to the Purchaser in accordance with these Conditions as further specified in this or any relevant purchase order or any amendment thereto duly signed by the Purchaser and the Seller ("Order").
- 2.2 No variation of or addition to these Conditions or any Contract is effective, and no Order once placed may be cancelled, deferred or varied, without the Seller's written agreement.
- 2.3 These Conditions override and take the place of any other terms or conditions emanating from or referred to by the Purchaser.
- 2.4 The Purchaser shall provide the Seller with an Order for each delivery of Goods required. The Order shall stipulate the type and quantity of Goods required, the delivery address, details of technical requirements of the Purchaser ("Purchaser's Specification"), if any, and any other information required by the Seller from time to time.

**3 SUPPLY OF GOODS**

- 3.1 The Goods are described in the Seller's specification of technical requirements and/or description or Purchaser's Specification as provided in Condition 3.2 ("Specification").
- 3.2 If the Seller agrees that the Goods are to be manufactured in accordance with the Purchaser's Specification, the Seller shall use reasonable endeavours to comply with the Purchaser's Specification, but the Seller accepts no liability for the appropriateness or fitness for purpose of the Purchaser's Specification.
- 3.3 The Seller reserves the right in its sole discretion to make any changes to the specification of the Goods which are required to conform with all and any applicable safety or other requirements or which do not materially affect their quality or performance.

**4 PRICE AND PAYMENT**

- 4.1 The price of the Goods shall be the price set out in the Contract or, if not specified, the price quoted by the Seller.
- 4.2 The Seller may increase the price of Goods without prior notice to the Purchaser in the event of any rising costs whatsoever and, in particular, any rise in manufacturing costs and/or the costs of raw materials, labour etc. The Purchaser shall pay such increased price as may be stipulated by the Seller.
- 4.3 Unless otherwise stated in the Contract payment must be made within 30 days from the end of month in which the invoice is dated. Terms of payment are to be strictly and punctually adhered to. Time for payment is the essence of the Contract and due compliance with such payment terms shall be a condition precedent to any complaint or remedy of the Purchaser against the Seller under the Contract.
- 4.4 Unless otherwise stated overleaf or under the terms of any quotation or in any price list of the Seller, all prices are quoted by the Seller on an EX-works (Incoterms® 2010) basis and the Purchaser shall be liable for the cost of carriage, packaging and insurance in full together with any additional expenses, licence fees or duties paid or incurred by the Seller as a result of the delivery of the Goods. If no terms relating to the carriage charges to be charged to the Purchaser are stated overleaf, such carriage charges will be invoiced to the Purchaser at the Seller's prevailing rate at the time of dispatch.
- 4.5 The price is exclusive of any applicable value added tax, which the Purchaser shall be additionally liable to pay the Seller.
- 4.6 The Purchaser shall make payment to the Seller in respect of all invoices in full and without any set-off or deduction (whether in relation to such invoice or otherwise) by such method, at such time and in such currency as referred to overleaf.
- 4.7 If full payment is not received by the Seller from the Purchaser in accordance with Condition 4.7 then, without prejudice to its rights under these Conditions, at common law or under statute, the Seller shall be entitled:
- 4.7.1 to sue the Purchaser for the entire price outstanding; and/or
- 4.7.2 to charge interest (both before and after any judgement) at the rate of 4% over the base rate from time to time of Lloyds Bank on the outstanding balance or such higher rate allowed by law; and/or
- 4.7.3 all costs, charges and expenses incurred by the Seller in recovering any debt due buy the Purchaser shall be paid by the Purchaser on a full indemnity basis.
- 4.7.4 to suspend any further deliveries entered into under these Conditions pending payment in full; and/or
- 4.7.5 to terminate the Contract forthwith by notice in writing; and/or
- 4.7.6 to require the immediate return to the Seller of all Goods in which the property has not passed to the Purchaser in accordance with the provisions of Condition 8.
- 4.8 Further, the Purchaser shall reimburse the Seller upon demand the Seller's costs or expenses in recovering such Goods.

**5 DELIVERY**

- 5.1 Delivery shall be EX-works (Incoterms®2010) unless stated otherwise on the order acknowledgement and/or invoice.
- 5.2 The Seller shall be entitled to deliver the Goods in instalments in which case each instalment shall be treated as an entirely separate Contract and any default or breach by the Seller in respect of any such instalment shall not entitle the Purchaser to cancel any other instalment or treat the Contract as a whole as repudiated.
- 5.3 Delivery dates must be regarded as approximate only and, whilst all reasonable efforts will be made to avoid delay, the Seller does not accept liability for any loss, cost or expense, whether direct or indirect arising from such delay.
- 5.4 Time lost due to strikes, blackouts, any Act of God, war and hostilities, any act of terrorism, riot, civil commotion, revolution, blockade, embargo, industrial or trade dispute, fire, explosion, flood, adverse weather conditions, disease, accident to or breakdown of plant or machinery, shortage of any labour, material, transport, electricity or any other supply or any other event beyond the control of the Seller shall be added to the delivery time specified in the Contract.
- 5.5 Failure to make one delivery shall not vitiate the Contract as to other subsequent deliveries.
- 5.6 The Purchaser undertakes to accept delivery as and when notified by the Seller that the Goods may be delivered and, in the event that the Purchaser directs the Seller to retain the Goods after such date, the Purchaser will pay the purchase price in full in accordance with Condition 4 and, in addition, such charge for storage as the Seller may think appropriate and the Goods shall be stored by the Seller at the risk of the Purchaser.
- 5.7 The Purchaser shall not be entitled to reject the Goods if the Seller delivers up to and including 10% more or less than the quantity of the Goods ordered.
- 5.8 Goods delivered to the Purchaser which are in accordance with the Contract may at the Seller's sole discretion be accepted for return to the Seller if the Seller is notified of the proposed return within 30 days of the Goods being delivered. The Purchaser shall be liable to pay 50% of the invoice price plus the applicable VAT, packaging costs, restocking charges and the costs of carriage to the Purchaser (if any). The costs of returning the Goods to the Seller shall be borne by the Purchaser.

**6 NOTIFICATION OF LOSS OR NON-DELIVERY OF GOODS**

- 6.1 The Purchaser must advise the Seller in writing as follows:
- 6.1.1 in the event of shortfall, partial loss, damage, defect reasonably ascertainable upon inspection or non-delivery of a consignment within three (3) days from the date of that delivery; and/or
- 6.1.2 in the event of non-delivery of a total consignment within fourteen (14) days from the date of dispatch.
- 6.2 In the event that the Seller receives a notice under Condition 6.1, the Seller, in its sole discretion, reserves the right to provide the Purchaser with replacement products which match the Specification of those Goods alleged to be a partial delivery, damaged, or defective where such defect is reasonably ascertainable upon inspection.

- 6.3 In the event that the Seller does not receive notification from the Purchaser in the terms set out in Condition 6.1, the Goods are accepted by the Purchaser. Consequently, the Purchaser shall have no right to make a claim against the Seller for any shortfall, partial loss, damage, defect reasonably ascertainable upon inspection or non-delivery of any separate part of a consignment.

**7 CANCELLATION**

- 7.1 The Seller reserves the right to cancel any Order before any of the Goods included or referred to therein are delivered to the Purchaser without assigning any reason for such cancellation.
- 7.2 Without prejudice to the generality of Condition 7 the Seller, in its sole discretion, reserves the right to cancel any delivery or further delivery of Goods in any case where the Purchaser is in default of any payment, breaches any of these Conditions, is subject to bankruptcy proceedings or, in the case of a limited company, has appointed a receiver, administrative receiver or an administrator or is subject to liquidation proceedings other than for the purpose of an amalgamation or internal restructuring programme.

**8 OWNERSHIP AND RISK**

- 8.1 Risk of damage to or loss of the Goods shall pass to the Purchaser on the earliest of delivery, the date notified to the Purchaser on which the Goods were available for collection or the date on which the Seller attempted to deliver the Goods to the Purchaser.
- 8.2 Notwithstanding delivery and the passing of risk in the Goods to the Purchaser, or any other provisions of these Conditions, ownership and title to the Goods shall not pass to the Purchaser (and shall be retained in full by the Seller) until the Seller has received in cash or in cleared funds payment in full of the price of the Goods and all other sums which are or which become due to the Seller from the Purchaser on any account.
- 8.3 The Seller shall be at liberty, in its sole discretion, to cancel the Contract and remove the Goods if the price is not paid in full at the time and in the manner stipulated in Condition 4 and, further, to recover damages from the Purchaser in respect of the Purchaser's failure to comply with the terms of the Contract and any instalment of the purchase price which may have been paid shall be retained by the Seller to be set off against such damages.
- 8.4 Until such time as title in the Goods passes to the Purchaser, the Purchaser shall hold the Goods as the Seller's fiduciary agent and shall keep the Goods separate from those of the Purchaser and third parties and shall keep the Goods properly stored, protected, insured and identified as the Purchaser's property. Until that time, the Purchaser shall be entitled to resell the Goods in the ordinary course of its business at full market value but shall account to the Seller for the proceeds of sale or otherwise the Goods including insurance proceeds and shall keep all such proceeds separate from any monies or property of the Purchaser and third parties.
- 8.5 Until such time as title in the Goods passes to the Purchaser, and provided that the Goods are still in existence and have not been sold, the Seller shall be entitled at any time to require the Purchaser to deliver up the Goods to the Seller and, if the Purchaser fails to do so, to enter upon any premises of the Purchaser or any third party where the Goods are stored and repossess the Goods.

**9 EXCLUSION OF LIABILITY**

- 9.1 Since the Seller has no control over the uses to which the Goods provided under the Contract will be put, the Purchaser must satisfy itself that the Goods are suitable for the purposes for which they are intended and must rely exclusively upon his own tests and observations. Except as set out in Condition 9.2, the Seller gives no warranties, conditions, guarantees or representations as to the Goods, their satisfactory nature or fitness for a particular purpose and all other warranties, conditions, guarantees or representations, whether express or implied, oral or in writing, are hereby excluded.
- 9.2 The Seller warrants that the Goods will correspond with the Specification in all material respects at the time of delivery and will be free from defects in material and workmanship for a period of ninety (90) days from the date of delivery or such other period specified by the Seller in the Contract provided that:
- 9.2.1 the Seller shall be under no liability in respect of any defects in the Goods arising from the Purchaser's Specification;
- 9.2.2 the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage or negligence by the Purchaser or persons using the Goods, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), or misuse or alteration or repair of the Goods without the Seller's approval;
- 9.2.3 the Seller shall be under no liability if the total price of the Goods has not been paid by the due date for payment;
- 9.2.4 any such defect in or failure to meet the Specification by the Goods shall be notified to the Seller in writing as soon as reasonably possible after the Purchaser discovers such defect or non-conformity; and
- 9.2.5 the above warranty does not extend to parts, materials or equipment not manufactured by the Seller.
- 9.3 In the event of any valid claim under Condition 9.2 being made by the Purchaser, the Seller shall be entitled to replace or repair the Goods (or the part in question) free of charge, or at the Seller's sole discretion, refund to the Purchaser the price of the Goods (or a proportionate part of the price as appropriate) but the Seller shall have no further liability to the Purchaser for any loss or damage whatsoever. The Seller shall not be liable to the Purchaser for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
- The Purchaser's attention is drawn to the provisions of Condition 9.3.**
- 9.4 Nothing in these Conditions limits or excludes the Seller's liability for fraud or fraudulent misrepresentation; or death and personal injury to the extent that it results from the negligence of the Seller or its employees; or for any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.

**10 INSTRUCTIONS AND HEALTH AND SAFETY**

The Purchaser shall comply (and ensure that its employees and agents comply) strictly with all instructions, warnings, data sheets and other material (including without limitation those regarding health and safety) supplied by the Seller with, or in connection with, the Goods and shall, when supplying the Goods, ensure that they are accompanied by the same.

**11 GENERAL**

- 11.1 The parties to the Contract do not intend that any term of the 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.
- 11.2 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.
- 11.3 All confidential information relating to the Seller's business and processes which may come or have come into the possession of the Purchaser in connection with the Contract shall be kept secret and confidential by the Purchaser and shall not be disclosed to any third party without the prior written consent of the Seller.

**12 DATA PROTECTION AND THE GDPR**

- 12.1 The company takes your privacy very seriously. We will only process data provided by you to provide you under our contractual basis with the goods and services you are purchasing.
- 12.2 We will not divulge your details to any third party, unless you request this and not without your explicit consent.
- 12.3 We process your data under the guidelines of the General Data Protection Regulation (GDPR) EU 2016/679.
- 12.4 copies of our fair processing policy, your rights and privileges and our further GDPR policies are available upon request.