

CONDITIONS OF SALE

1. General

- a) "The Company" shall mean Bizerba (UK) Limited;
- b) "The Goods" shall mean the equipment plant or services which are the subject of contract;
- c) "The Customer" shall mean the person, firm or company who contracts to purchase in full or in part the goods from the company;
- d) Any contract entered into by the Company for the supply of goods is subject to these conditions and no variation of these conditions shall be valid unless it is previously agreed in writing and signed by a Director of the Company;
- e) No responsibility is accepted by the company for any inaccuracy or error in orders given by telephone.

2. Descriptions and Specifications

The Descriptions, specifications and illustrations contained in catalogues price lists and other leaflets or descriptive matter produced by the company shall not form part of the contract. No report representation or statement made by any servant or agent of the company shall be binding on the company, unless confirmed in writing and signed by a Director of the company. Any description or sample given of the goods is by way of identification only and does not constitute a sale by description or sample.

3. Despatch/Delivery

Any date or period quoted by the company for despatch is given in good faith by way of estimate only. While the company will endeavour to deliver within the period stated, such date or period is not to be of the essence of the contract and the customer shall be bound to accept the goods when they become available.

The company shall not be liable for any loss or damage caused by delays in transit or consequential losses or losses including loss of profit resulting in any way in respect of late delivery howsoever caused even in such cases as the company have expressly agreed in writing a delivery date, nor shall such failure to deliver on the date or within the period named by the company be deemed to be a breach of contract.

4. Damage or loss in transit

The customer is under a duty to inspect the goods on delivery or on collection as the case may be. In all cases where defects or shortages are complained of, the company shall be under no liability in respect thereof unless an opportunity to inspect the goods is afforded to the company before any use is made thereof or any alteration or modification is made thereto by the customer.

Any loss or damage to the goods whilst in transit will be the responsibility of the customer unless written notice of any such loss or damage is received by the company:

- a) in the case of loss, within 7 days from the date of the invoice;
- b) in the case of damage, within 7 days from the date of delivery to the customer.

5. Price

- a) All prices and terms quoted by the company or shown in any of the company's price lists, catalogues or any similar literature may be altered without notice;
- b) The company reserves the right at any time prior to delivery of the goods to adjust the price to take account of any increase in the cost of raw materials, labour or services or any currency fluctuations, increases of taxes or duties or any other matters affecting the cost to the company in complying with the contract;
- c) The company reserves the right to impose a handling charge of up to 15% on returned goods save in circumstances where the goods are returned by reason of defects or shortages which it is the company's duty under the terms of these terms and conditions to rectify;
- d) The company reserves the right to amend any accidental errors and omissions in quotations and invoices.

6. Payment

- a) Time for payment shall be of the essence and the company reserves the right at any time at its discretion to demand security for payment before continuing with or delivering any Order;
- b) The customer shall have no right of set off, Statutory or otherwise;
- c) All accounts are payable in full within 30 days of the date of invoice;
- d) In the event of non-payment, late payment or other default by the customer the company shall be entitled to recover all legal costs thereby incurred together also with interest on the monies outstanding calculated at 2% per calendar month or part month compounded monthly.

7. Risk and Retention of Title

- a) Risk in the Goods shall pass to the Customer when the Goods are delivered to the Customer, its agent or contractor.
- b) Despite Condition 7a, title to the Goods will not pass to the Customer until the Company has received payment in full of all sums due to it from the Customer in respect of the sale of any Goods.
- c) Until title in the Goods passes, the Customer shall:
 - (i) hold the Goods as bailee for the Company, take proper care of them and take all reasonable steps to prevent any damage to or destruction of them;
 - (ii) store or keep the Goods separately, so as to show clearly that they belong to the Company;
 - (iii) not sell or part with possession of the Goods, until payment in full of all sums due from the Customer has been received by the Company;
 - (iv) comply fully with all storage, safety and/or operations requirements applicable to or marked on the Goods, specified by the Company and/or required by law;
 - (v) keep the Goods free from any mortgage, charge, lien or other encumbrance;
 - (vi) notify the Company immediately if any of the following occur:
 - (a) any distress or execution is levied on any of the Customer's property;
 - (b) in respect of the Customer (being an individual) an application is made for an individual voluntary arrangement, or the Customer otherwise makes or offers to make any arrangement or composition with its creditors, or a bankruptcy petition is presented;
 - (c) if in respect of the Customer (being a company) a proposal is made for a company voluntary arrangement, or any resolution or petition to wind up the Customer is passed or presented, or a receiver or administrative receiver is appointed over the Customer's undertaking, property or assets or any material part of them, or a petition is presented to the court for an administration order in respect of the Customer;
 - (d) the Customer takes or suffers any similar or analogous action due to debt;
 - (vii) not remove, alter, obscure, or otherwise interfere with any identifying marks, labels or storage instructions placed on the Goods or their packaging by the Company.
 - (viii) give the Company such information relating to the goods as the Company may from time to time require.
- d) Until title in the Goods passes, the Customer shall insure the Goods on or at the Customer's premises with reputable insurers against all relevant risks for an amount that is not less than the price of the Goods and shall, if required to do so by the Company, prove to Company that such insurance has been effected.
- e) Before title has passed to the Customer and without prejudice to any of its other rights, the Company may inspect, repossess and/or sell the Goods (or any of them) at any time and the Company's employees and/or agents may enter upon any or all of the Customer's premises or vehicles for that purpose, with or without vehicles. These rights shall continue after and despite the termination for any reason of any Contract and is without prejudice to any accrued rights of the Company under such Contract.
- f) Despite this Condition 7, the Company may bring an action against the Customer for the price of the Goods if the Customer fails to pay for them in full by the due date, even though property in the Goods has not passed to the Customer.

8. Non availability of finance

In the case of orders on Hire Purchase, Leasing or other financing terms, if for any reasons the company is unable to arrange the necessary finance for the customer the company shall notify the customer accordingly and the customer shall within 7 days notify the company whether the customer will:

- a) arrange its own finance;
- b) purchase the goods on a cash basis; OR
- c) cancel the Order

In the event that the customer wishes to arrange its own finance the company shall, upon receipt of payment in full for the goods, which payment is to be received within 30 days of the company's notice to the customer under this clause, reimburse the customer for any payments

made to the company by way of advance rental. In the event that the customer wishes to purchase the goods on a cash basis, payment in full for the goods shall be made within 30 days of the company's notice to the customer under this clause. Any payments made to the company by way of advance rental shall be deemed to be part of the purchase price. In the event that the customer wishes to cancel the Order the customer shall forthwith return to the company, at the customer's expense, any goods delivered in pursuance of the Contract. In the event of such cancellation any payments made to the company by way of advance rental shall be forfeited by the customer and shall be irrecoverable.

9. Warranty

No representation or warranty is given as to the suitability of the goods for any particular purpose and the customer shall satisfy himself in this respect and shall be totally responsible therefore.

Where the company have produced or manufactured goods to the customers design the company shall not accept any liability for design errors. The company warrants as follows:

- a) in the case of vacuum packaging machines or any part or parts thereof (other than any consumable or wearing parts requiring regular repair or renewal under normal working conditions), such equipment shall be free from any fault due to defective material or workmanship for a period of six months from delivery to the customer; AND
- b) in the case of any other goods or any part or parts thereof (other than any consumable or wearing parts requiring regular repair or renewal under normal working conditions), such goods shall be free from any fault arising from defective material or workmanship for a period of twelve months from the delivery date to the customer provided that:
 - (i) any warranty claim under this clause must be notified in writing to the company before the expiry of the relevant warranty period;
 - (ii) this warranty shall only apply if the goods or equipment shall have been properly maintained and operated by the customer under the conditions and in accordance with instructions specified by the opportunity to inspect the goods or part or parts before the same are so returned;
 - (iii) the customer shall return at the customer's expense any defective goods or defective part or parts thereof to the company's works provided always that the company shall be given reasonable opportunity to inspect the goods or part or parts before the same are so returned;
 - (iv) the company's sole liability under this warranty shall be, at its cost, to repair or replace any faulty goods (or part or parts thereof) supplied;
 - (v) any goods replaced under this warranty shall become the property of the company and this warranty shall apply to any replacement goods only during the remainder of the warranty period applicable to the replaced goods;
 - (vi) the company's liability under this clause shall be in lieu of any condition or warranty implied by law as to quality or fitness for purpose of any goods or any part or parts thereof and the company shall not be liable in contract, tort or otherwise for any costs, claims, loss, damage or expense of whatsoever kind, whether to the customer or any other person or thing and whether arising directly or indirectly from any fault in the goods supplied, other than where written details thereof have been supplied to the company within the relevant warranty period and provided always that nothing herein contained shall be deemed to exclude or restrict the company's liability for death or personal injury resulting wholly from the negligence of the company as defined in section one of The Unfair Contract Terms Act 1977;
- c) The company shall not be liable for any consequential or indirect loss suffered by the customer whether this loss arises from a breach of duty in contract or tort or in any other way, including loss arising from the company's negligence. Non-exhaustive illustrations of consequential or indirect loss would be:
 - (i) loss of profit;
 - (ii) loss of contract;
 - (iii) damage to property of the customer or anyone else;
 - (iv) personal injury to the customer or anyone else (except so far as such injury is wholly attributable to the company's negligence);
- d) The customer hereby agrees to indemnify the company against all claims made against the company by any of the customer's employees, customers or any other person for which liability would have been excluded by this clause if the claim had been made against the company by the customer;
- e) The company shall not be liable in any way for any damages direct or consequential arising from the customer's failure to disclose relevant and pertinent information to the company. Where the purpose of the goods is misrepresented or omitted the company shall be under no obligation in any manner and responsibility and liability shall pass to the customer.

10. Repairs

The company shall take all reasonable care of goods and equipment received by it at its premises for modification, repair or other work and shall be responsible for any physical loss or damage thereto arising directly from the acts or omissions of its employees, but subject thereto, such goods or equipment shall be held by the company at the sole and entire risk of the customer. The company shall be entitled to retain and charge storage for any such goods or equipment held by it in the event of non payment by the customer on the due date of any amount due to the company under or arising out of any contract between them and the company may at any time thereafter sell such goods or equipment and retain out of the proceeds of such sale any or all amounts then due to it from the customer however arising.

11. Force majeure

- a) The company shall not be liable for any failure to deliver the goods arising from circumstances outside the company's control;
- b) Non-exhaustive illustrations of such circumstances would be Acts of God, war, riot, explosion, abnormal weather conditions, fire, flood, strikes, lock outs, government action or regulations, delay by suppliers, accidents, shortage of materials, labour or manufacturing facilities.

12. Cancellation

Save as provided in clause 8, no order can be cancelled by the customer after the company has issued a written Acceptance of Acknowledgement of the Order, or has delivered the goods.

In the event that the customer attempts to cancel an order and refuses delivery of the goods, the company shall be entitled to payment of all costs, expenses and losses of the company arising there from.

Any deposit paid by the customer to the company shall be forfeited.

13. Notices

Any notice to be given hereunder shall be in writing and shall be deemed to have been duly given if sent or delivered to the customer at his address specified in the order or such other address as that it made from time to time notify in writing and shall be deemed to have served, if sent by first class post, 48 hours after posting.

14. Law and jurisdiction

The contract shall be governed by and construed in accordance with English law and all disputes arising in connection with the contract shall be submitted to the jurisdiction of the English Courts.