

General Terms and Conditions of Sale of **Bancroft Hinchey Limited**



A. Scope

1. These General Terms and Conditions of Sale form an integral part of every contract concluded by us, except insofar as agreements to the contrary are expressly confirmed by us in writing. They apply exclusively as the valid contractual terms and take precedence over other regulations, in particular conflicting Purchasing Conditions of the Customer. We expressly reject such Purchasing Conditions.
2. These General Terms and Conditions of Sale apply until further notice to all legal relations between us and the Customer arising out of all current orders, including those not yet finally completed and all future orders from the Customer.

B. Quotation and Order Confirmation

1. Our quotations are not binding. Binding delivery contracts come into force and effectively through our order confirmation, unless a written contract is drawn up. All subsidiary agreements and assurances, particularly those given by employees, become effective only when adopted in the order confirmation or when confirmed in writing.
2. Measurements and other specifications are subject to manufacturing margins and tolerances; deviations must be agreed in writing in each individual case.
3. We retain all rights of ownership and copyright to all estimates of costs, drawing, samples, gauges and tools. These documents must not be used for other purposes, copied or made available to third parties. We retain ownership in tools even where tool costs are paid by the customer, either direct or within the overall price.
4. Delivery times quote are best estimates at time of quote and may vary

C. Orders for Goods to be Delivered by Releases

1. Where orders are placed for goods to be delivered by releases, the deadline for acceptance shall, insofar as no written agreement has been made to the contrary, be 12 months from the date of the order confirmation.
2. After expiry of this period, we are entitled at our own discretion either to invoice the remaining goods or terminate the remainder of the order; the Customer will be charged with the costs thereby incurred.

D. Prices

1. The Prices apply ex-Works at place of manufacture for the order quantities and the scheduled batch quantities asked for. They do not include Value Added Tax at the current rate at any time.
2. Prices quoted are based on exchange rates at time of quote. Prices for goods and services may vary if the rate varies by more than 5% from the rate used at time of quote.
3. Prices do not include delivery and packing costs, insofar as nothing to the contrary has been agreed in writing.
4. Where delivery takes place as agreed more than 4 months from the confirmation of the order or where completion of a release order stretches over a period of more than 4 months, we are entitled, after expiry of this period, to pass on any increases in wage and material costs, insofar as nothing to the contrary has been agreed in writing.

E. Payment Conditions

1. Payments are to be made, within the agreed account terms. Normal account terms are 30 days. In the event of payment later than this, maturity interest or, after a payment has been sent, default interest at the rate of 2% Per Calendar Month will be applicable. Failure to comply with any agreed terms will result in account status being withdrawn.
2. If the Customer falls into arrears with a payment or if a significant deterioration in his financial circumstances becomes known, we are entitled to demand immediate payment of all outstanding invoices, including those that are not yet due and payable, or payment in cash prior to delivery. In addition, we may withdraw in whole or in part from orders or take back goods delivered but not yet paid for in full, without thereby withdrawing from the contract at the same time.
3. Payments in foreign currencies are due in the exchange rate applicable on day of funds transfer

F. Acceptance, Transfers of Risk and Shipment

1. Delivery takes place ex Works place of manufacture. It is fulfilled when the goods are accepted or placed ready for shipment.
2. Risk passes to the Customer, even where freight-paid delivery has been agreed, whenever the delivery has been placed ready at the place of manufacture or has been collected.
3. In the absence of relevant instructions from the Customer, we reserve the right to choose the shipment routing, means of transport and other temporary protective measures, there being no obligation on our part to choose the least expensive form of transport.
4. Except where otherwise agreed, the costs for postage and freight are charged to the customer. Shipment is carried out by us on behalf and at the expense of the Customer; we are authorised to do so. We insure the goods only at the express request of the Customer and at his expense.
5. The costs of packing are borne by the Customer; these are invoiced by us at cost price.
6. Delivery dates are best estimates and may vary due to events beyond our control. Payments within the required terms are of the essence if delays are to be avoided and late payments may incur additional storage charges.

G. Delivery Period and Surrender

1. All indications about delivery periods are always approximate and without obligations, except where otherwise agreed.
2. Observance of all delivery periods is dependent upon receipt in good time by us of all documentation and information to be supplied by the Customer, all requisite authorisation, approval and accessory parts to be supplied by the Buyer, as well as upon compliance with the agreed payment conditions and other obligations.
3. Stoppages of every nature, as well as all cases of force majeure or unforeseeable impediment which lie outside our sphere of influence result in the delivery period being appropriately extended. Where as a result of this adherence to the contract becomes unreasonable either for the Customer or for us, both contracting parties have a right of withdrawal and termination.
4. Where we are responsible for the failure to observe the deadline or for the impossibility of performance in respect of either the whole delivery or partial deliveries, the Customer has, after an appropriate extension of the deadline, a right of termination and withdrawal. In addition, the Customer may demand compensatory damages on production of evidence; this claim is limited in the case of delay to 0.5% of the net delivery value per completed week but in any event to a maximum of 5% of the net value of the goods.
5. Any further claims for compensation by the Customer, even in cases of late delivery after the expiry of an extended deadline, are excluded. This does not apply if and to the extent that we are guilty of wrongful intent or gross negligence. The customer's right to withdraw from the contract after the unsuccessful expiry of an extended deadline remains unaffected.
6. We are permitted to make partial deliveries: minimum of partial quantities as a rule follow from the lot sizes of the quotation. The above provisions apply correspondingly in the event of delays in partial deliveries.

7. Certain discrepancies in the delivery quantity as compared with the order confirmation may occur at the time of delivery insofar as this is reasonable for the Customer. Excess- or short-deliveries of up to 5% are deemed reasonable and we may avail ourselves of these.

H. Retention of Title

1. We retain title to the goods delivered until full settlement of all our claims, in particular until payment of principal, interest and costs, and, in the case of outstanding liabilities arising from several deliveries, until clearance of the whole debt.
2. The Customer is entitled to reprocess and resell the goods within the ordinary course of business. During such time as we still retain title, this is permitted only subject to the proviso that all claims against third parties arising out of the resale are deemed assigned to us up to the amount of our claims with out the necessity of an express declaration of assignment in the individual case. The Customer is only authorised to collect the assigned claim in trust on our behalf as long as he meets his payment obligations to us. We may at any time demand a written declaration of assignment: we are entitled to disclose the assignment.
3. In the event of adaptation or processing by the Customer of the goods subject to retention of title, we are entitled to joint ownership in the new product as retained title proportion to the value of the goods subject to retention of title.
4. The Customer must inform us immediately of the distraint or on any other interference with our retained title by third parties.
5. The entire costs of taking back the goods, segregation or other enforcement of our retention of the title will be charged to the Customer.
6. The return of goods ordered and delivered is as a matter of principle excluded. In no event can there be a right for credit. Goods are taken back exclusively on the basis of the provisions of these Delivery Conditions.

I. Warranty, Liability

1. In the event of any defects, in relating to faulty material and/or Workmanship we warrant that at our discretion the defect will be made good or exchanged by repair (remedy), the goods exchanged (replacement) or the purchase price credited. No liability is accepted for consequential loss or compensation for any other losses howsoever incurred. Responsibility for suitability for purpose is the responsibility of the purchaser. Warranty is for parts only and does not include travel or labour costs to effect repairs. Original manufacturer's terms apply.
2. The Customer is obliged to check goods delivered by us immediately for their condition and any possible defects. Notice of defects or other complaints (e.g. about weight or quantity) must be given in writing immediately and at the latest within 8 days of receipt of the goods.
3. As far as all defects not identifiable at the time of delivery are concerned, warranty claims exist only if the defects have appeared within 12 months of the date of the transfer of risk. This period is extended by the duration of interruption of business or by remedy measures on our part.
4. We must be granted fair and reasonable time and opportunity to remedy defects, failing which we are freed of liability.
5. If we fail to fulfill our warranty obligation under this Section within an appropriate additional period or if a remedy fails, the Customer has a right to cancellation.
6. Justified notices of defects do not affect the implementation of the contract in other parts, in particular in relation to partial deliveries and the agreed payment dates. The right to withhold payments on these grounds is excluded in such circumstances unless the value of the goods delivered has already been exceeded by the amount of the payments already made.
7. The warranty does not relate to natural wear and tear and to damage occurring subsequent to the transfer of risk as a result of faulty or negligent handling, undue stress, unsuitable equipment or other influences which are not provided for in the contract.
8. Improper alterations or repairs by the Customer or by third parties invalidate our warranty obligation.
9. The costs of removal and installation of goods delivered by us incurred during the course of warranty operations and also the costs of transportation of the goods for this purpose will be charged to the Customer; this applies in particular where the goods delivered by us have been taken to a place other than the Customer's principal place of business.
10. Claims against us by the Customer going beyond those specified in Section G (on the grounds of delay or impossibility) or in this Section are excluded. This applies in particular in relation to compensation for damage not suffered on the delivery object itself (consequential damage). This limitation of liability does not apply if as a result of warranted quality there is compulsory liability on statutory grounds. These liability provisions also apply to any other Customer claims, regardless of their legal basis, particularly in respect of any lack of warranted quality outside the legally binding liability, breach of accessory contractual obligations, consultancy errors, negligence prior to or in contracting, and in cases of internal compensation payments under product liability.
11. No liability is accepted for items used in aviation unless expressly given in writing.
12. Any advice given is expressed with best intentions, however no liability is accepted for advice given unless it has been independently verified before acceptance and is supplied with a deliverable product.

J. Counterclaims, Assignability

1. The assertion of a right of retention as well as set-off with claims for compensation of other claims are excluded, provided the counterclaims are not undisputed or established in law.

K. General Provisions

1. Insofar as agreements hereon are statutory admissible, it is agreed that the UK is the place of fulfillment for obligations to be performed by the contracting parties and the place of jurisdiction for all disputes between the parties.
2. Insofar as nothing to the contrary is provided for in the foregoing Conditions, in other written agreements or in obligatory statutory provisions, UK law applies exclusively to all matters between parties, whereby the application of the UN Sales Convention is excluded.
3. In the event of individual provisions being or becoming legally invalid, the remaining parts of the contracts continue to be of binding effect. This does, however, apply if as a result of the partial invalidity, adherence to the contract would lead to unreasonable hardship for one of the contracting parties.
4. We reserve the right to make technical alterations to products supplied without notification.
5. Unless a declaration of conformity is otherwise made, products are sold as components. It is the responsibility of the purchaser to ensure compliance with EEC directives, including EMC and other relevant legislation.
6. QA Systems used during manufacture will be those implemented by the item original manufacturer. Whilst we use our best endeavors to ensure such systems are suitable for the purpose, no express product QA declaration is provided unless confirmed in writing at order acceptance.