

BEAUMONT PPS LIMITED
TERMS AND CONDITIONS

1. Definitions

- 1.1 In these terms and conditions, unless otherwise stated, the following terms shall have the following meanings:-
- 1.2 “Seller” means Beaumont PPS Limited, a Company incorporated under the Companies Acts (Company No: SC170116) and having their Registered Office at Office 2/2, 307 West George Street, Glasgow, G2 4LF
- 1.3 “Purchaser” means the person, firm or company seeking to purchase any Goods from Seller;
- 1.4 “the Goods” shall mean any products, articles, services or corporeal moveables offered for sale by Seller and purchased or to be purchased by Purchaser the quantity and specification of which shall be as specified in the Contract; and
- 1.5 “the Contract” means the contract by which the Seller has agreed to sell and the Purchaser to buy the Goods, consisting of the Seller’s quotation and the Purchaser’s acceptance or the Purchaser’s order and the Seller’s acceptance as the case may be, in all cases on these Terms and Conditions but which may be constituted in any form.
- 1.6 Every order issued by Purchaser (in whatever form) and accepted by Seller shall constitute a separate contract.

2. Seller’s Terms and Conditions to Apply

- 2.1 These Terms and Conditions shall apply to and govern any Contract or transaction between Seller and Purchaser and shall supersede and take precedence over any other terms and conditions, whether written or oral (including without prejudice to the foregoing generality, any contained in any order form used by Purchaser), and notwithstanding anything to the contrary in such other terms and conditions.
- 2.2 No amendment, variation of, or addition to any part of these Terms and Conditions may be made except in writing signed by a duly authorised representative of Seller and Purchaser and any other amendments, variations etc. or purported amendments, variations etc. to these Terms and Conditions shall be invalid and unenforceable.

3. Sale and Purchase of the Goods

- 3.1 Seller shall sell the Goods to Purchaser and Purchaser shall purchase them in accordance with these Terms and Conditions.
- 3.2 The Goods are offered for sale subject to availability at the time of receipt of any purchase order or instruction and Seller shall have no liability whatsoever to Purchaser if the Goods, or any of them, are unavailable for sale for any reason. Unless credit terms have been agreed in writing, the Goods shall be invoiced and paid for in full prior to work commencing on the order.
- 3.3 Unless otherwise stated in writing all prices are stated on an ex-works of the seller basis at the date of despatch exclusive of packing, VAT, duties or any other impositions by H M Government.
- 3.4 Sellers' price list is for guidance only and may be varied at any time by Seller without notice. The Seller may increase the price at any time prior to the date of despatch or delivery if the Seller's costs have in the Seller's reasonable opinion been materially increased for any of the following reasons:-
 - 3.4.1 an increase in the cost of materials;
 - 3.4.2 an increase in Customs or other duties;
 - 3.4.3 an increase in labour costs;
 - 3.4.4 currency fluctuations;
 - 3.4.5 changes in currency regulations; or
 - 3.4.6 any delay on the Purchaser's part in complying with any of its obligations under the Contract.
- 3.5 Price quotes are for stipulated quantities and delivery rates only and do not necessarily hold good for other quantities or delivery rates.
- 3.6 The prices shown on Seller's price list are exclusive of Value Added Tax which will be added to the price for the Goods at the rate applicable to the invoice date. Seller reserves the right to increase or otherwise vary the price for the Goods where, after an order has been placed by Purchaser but prior to despatch or delivery, new, additional, or increased taxes, levies, tariffs, or duties are levied in respect of the Goods by H M Government (including H M Revenue & Customs) or any other taxing authorities.
- 3.7 Seller reserves the right to refuse the acceptance of the Purchaser of the quotation unless such quotation is stated to be open for a specific period and is not withdrawn within such period.
- 3.8 Seller shall be entitled on a delivery of Goods of variations in quantity of up to plus or minus 10% and same will be charged accordingly to the Purchaser.
- 3.9 Seller shall not be obliged to accept any orders and shall be entitled to refuse orders and/or to impose a handling charge for orders of a value under £100.

- 3.10 Without prejudice to any other remedy available to Seller, the Seller has the right to cancel or suspend delivery of all or part or any order from Purchaser in the event of any commitment of Purchaser with Seller not being met or if the Seller considers (acting reasonably) such commitments may or may not be met by the Purchaser within a reasonable timescale.
- 3.11 If any invoice remains unpaid beyond the agreed date for payment, interest will run on the amount outstanding at the rate of 5 per cent per annum above the base lending rate of Bank of England from time to time.
- 3.12 Purchaser shall have no right to set off any sums due or to become due by it to Seller against any sums due or to become due by Seller to Purchaser, and Purchaser shall make payment of any sums invoiced by Seller in respect of the Contracts and/or the Goods and any interest due without any set off, compensation or deduction of any kind.
- 3.13 Where Purchaser is a Limited Company or a Limited Liability Partnership, the liability for all sums due to the Seller will be a joint and several liability between the Limited Company and its Directors thereof and between a Limited Liability Partnership and its Members thereof, so that if the Limited Company or Limited Liability Partnership fails to pay any sums due to the Seller, then the Directors or Members of the specified entity will be personally liable for those sums due to the Seller.

4. Despatch/Delivery

- 4.1 Unless otherwise agreed, Seller shall despatch or deliver the Goods to such place or address as Purchaser may specify in its order. Any such despatch or delivery shall be on the basis that Purchaser shall reimburse Seller on demand (or in advance if the Seller so requires) all the costs of despatch, delivery, transportation and insurance of Goods. Purchaser shall ensure the suitability for access to its specified delivery address.
- 4.2 In the event the Purchaser refuses or is unable to take delivery of the Goods or delays any despatch or delivery of the Goods all costs incurred by the Seller for storage thereof including insurance and any other associated costs will be borne by the Purchaser. Additionally the risk of deterioration and damage to the Goods so stored will lie with the Purchaser.
- 4.3 If Purchaser and Seller agree, Goods may be collected by Purchaser from Seller without charge for despatch, delivery or carriage. If not collected within 7 days of the agreed date for collection, storage charges may apply and the Goods will not be released until such are paid. Purchaser shall have sole responsibility for loading of Goods and shall indemnify Seller for any claims arising there from.

- 4.4 Seller shall use reasonable endeavours to deliver the Goods within a reasonable period but, unless otherwise expressly agreed in writing, delivery dates specified by Seller are approximate and given for the guidance of Purchaser only. Time shall not be of the essence of the Contract with regard to delivery. Seller shall not be under any liability to Purchaser for any delay in despatch or delivery or for non-despatch or non-delivery of the Goods nor may Purchaser cancel the Contract or treat it as repudiated. If delivery is made by instalments separate invoices for each instalment may be issued.
- 4.5 Purchaser must notify Seller in writing within seven days of the date of delivery or collection of the Goods of any damage to or defects in all or any part of the Goods, or if the quantity delivered is not as stated in the Contract or as agreed between Seller and Purchaser. Seller shall use its best endeavours to procure that Goods are suitably packaged prior to despatch but without liability to Purchaser for damage for want of suitable packing. Seller shall have no liability whatsoever to Purchaser in respect of damage, defects or short delivery and Purchaser shall be deemed to have irrevocably waived all its rights and remedies which it might otherwise have had in relation to such damage, defects or short delivery unless proper notification has been made in accordance with this clause 4.4 and clause 10.2 of these Terms and Conditions.
- 4.6 In addition to the foregoing provisions of this Clause 4, where the Goods are to be exported out with the United Kingdom of Great Britain the following provisions will apply:-
- (a) Unless otherwise agreed in writing all prices are stated on an ex works of the seller basis at the date of despatch inclusive of packing but exclusive of VAT, duties or other impositions by H M Government;
 - (b) Unless otherwise agreed by the Seller, payment will be by cheque or electronic transfer to our account. All payments will be made in £'s sterling unless otherwise agreed by the Seller. All bank charges are payable by Purchaser;
 - (c) Purchaser shall in good time and at their expense procure any necessary import permit and if required by Seller to produce same to Seller prior to despatch or shipment of the Goods;
 - (d) The risk of loss or damage to or destruction of the Goods shall pass from Seller to Purchaser as soon as the Goods are despatched by any method or placed on board ship or aeroplane.
 - (e) The Seller shall have the right to demand proof from the Purchaser that the Goods have been exported and to charge extra prices and claim damages when proof is not forthcoming that the Goods have been exported in a condition as despatched by the Seller.
 - (f) The provisions of this Clause 4.5 will apply if the Purchaser is a UK based customer who has requested in their order that the Goods be sent out with the UK or if the Purchaser is based out with the UK.

5. Payment

- 5.1 Purchaser shall pay the price for the Goods and any applicable VAT, any costs or charges for which Purchaser is liable under the Contract within 30 days of the date of the Seller's invoice.
- 5.2 Seller may render its invoice to Purchaser on or at any time after it has notified the Purchaser that the Goods are ready for collection or, where Condition 4.1 applies it has made arrangements (whether or not these have yet been fulfilled) for despatch or for delivery of the Goods.
- 5.3 Provided Clause 5.2 has been complied with payment will be due by the Purchaser on invoices rendered by Seller even though there has been no delivery of the Goods and title in any goods has not yet passed to Purchaser.
- 5.4 In making payment of the price and other sums due under the Contract, time shall be of the essence of the Contract.
- 5.5 If any invoice rendered by Seller is not paid within the time limit set out in Clause 5.1, then (without prejudice to Clause 11):-
 - 5.5.1 Interest will accrue on the sum invoiced day by day from the due date until the date of payment at 5 per cent over Bank of England base rate compounded monthly; and
 - 5.5.2 Seller may suspend performance on the Contract between Seller and Purchaser and under any other contract between Seller and Purchaser (but without affecting the Purchaser's obligations under the Contract and such other contract); and
 - 5.5.3 Seller may appropriate any payment made by Purchaser to any sum due under this Contract or under any other such contract as Seller thinks fit and may for this purpose disregard any purported appropriation by Purchaser.

6. Risk

The risk of loss or damage to or destruction of the Goods shall pass from Seller to Purchaser on despatch of the Goods (or collection of the Goods by the Purchaser) and that notwithstanding that property and title to the Goods has not passed to Purchaser.

7. Title

- 7.1 Property and title to the Goods will not pass until such time as payment is made in full to Seller of all sums and debts due in respect of the Goods supplied not only under the Contract but also under any other contract for the supply of goods and all other sums for the time being howsoever due or to become due by Purchaser to Seller, subject to the terms of 7.5 below.

- 7.2 Until property in and title to the Goods passes to Purchaser, Purchaser shall keep the Goods in good repair and condition and store them separately from any other property in its possession so that the Goods are readily identifiable and separable from any other goods stored on Purchaser's premises or otherwise in its possession and clearly marked and identified as being the property of Seller and shall ensure that the Goods are kept safe, secure and insured.
- 7.3 Until such time as property and title to the Goods has passed to Purchaser, Seller shall be entitled to enter upon Purchaser's premises at any time (without giving prior notice) and repossess the Goods. Alternatively, Seller may require Purchaser at any time forthwith and at Purchaser's expense to deliver the Goods to Seller.
- 7.4 If Seller delivers the Goods to the Purchaser prior to payment of the price for the Goods and/or if any other sum is due by Purchaser to Seller and the Purchaser sells the Goods to a third party, the Purchaser shall make such sale only as trustee for the Seller and the proceeds of that sale shall be identified and kept separate from the Purchaser's general bank accounts as monies to be held upon trust and payable on demand to Seller.
- 7.5 Notwithstanding the terms of clause 7.1, Seller shall in all time retain title to any tools, moulds, patterns or dyes produced by Seller in the manufacture of the Goods and same will not pass to Purchaser on payment of all sums and debts due to Seller including where sums paid by Purchaser include any sum for the creation of any such tools, moulds, patterns or dyes.

8. Return of Goods

Seller may at its sole discretion permit Purchaser to return the Goods (or any of them) after sale and will credit Purchaser accordingly (subject to the charges after mentioned), provided that the Goods are returned in a condition equivalent to that in which they were despatched and are acceptable for resale. However in this event Seller shall be entitled to charge Purchaser re-stocking and/or handling charges for the Goods.

9. Lien

Seller shall have and be entitled to exercise a first and general right of lien over all or any goods or other items of the Purchaser from time to time lawfully in its possession (or that of its employees or agents) and that in respect of all monies outstanding at any time by Purchaser to Seller.

10. Limitation of Liability

- 10.1 Unless otherwise stated, and except as provided in this Clause 10 or in respect of any warranty or term implied by law and which by law cannot be excluded, Seller gives no warranty, representation or undertaking, whether express or implied, regarding the condition or quality of the Goods and all such terms, warranties, representations and/or undertakings implied by law are to the maximum extent permitted hereby excluded.

- 10.2 If the Goods or any of them supplied to Purchaser are defective, Seller may, at its sole option and discretion, at no further expense to Purchaser, either repair or replace the defective Goods or refund the cost of the Goods (or such part as may be appropriate]. Purchaser shall have no other remedy in respect of defective Goods and in particular but without prejudice to the foregoing generality shall have no remedy in damages. Purchaser shall notify any defects in the Goods to Seller in accordance with Clause 4.4 and in the event that Purchaser fails to notify any defects in the Goods accordingly it shall be deemed to have irrevocably waived all its rights and remedies which it might otherwise have had with regard to such defects in respect of the Goods.
- 10.3 Except to the extent implied by law and which by law cannot hereby be excluded, Seller shall not under any circumstances be liable to Purchaser for any indirect or consequential loss including without prejudice to the foregoing generality, financial loss, loss of profits, loss of business or production, anticipated savings or income. Where any person, firm or company by whom Seller is or has been supplied validly excludes limits or restricts his or its liability to Seller in respect of the Goods or any of them or any loss or damage arising in connection therewith, then the liability of Seller shall be correspondingly excluded, limited or restricted.
- 10.4 The provisions of this Clause 10 are subject to the following exclusions:-
- 10.4.1 The Seller shall have no liability under this Clause to the extent that any loss, cost or damage attributable to any specification or anything else supplied by the Purchaser;
- 10.4.2 Seller shall have no liability under this Clause 10 if at the time of any claim by Purchaser there is any payment under the Contract outstanding by the Purchaser;
- 10.4.3 Seller shall have no liability under this Clause 10 where any defect causing loss, damage or expense to the Purchaser is attributable to any defect in any part or material supplied by a third party (but the Seller shall grant the Purchaser such rights as it has against that third party);
- 10.4.4 Seller shall have no liability to the Purchaser for fair wear and tear, for loss, destruction or damage of the Goods due to repairs or alterations not carried out by the Seller, for any misuse or abuse of the Goods nor for any failure to follow any operating instructions, training or manual supplied by the Seller or by the manufacturer or manufacturer's representative in respect of the Goods.
- 10.4.5 Seller shall have no liability for damage to the Goods whilst in transit.

- 10.5 The rights conferred on the Purchaser by this Clause 10 shall be exhaustive of the Purchaser's rights in relation to defects in the Goods or their failure to comply with any specification or sample. Except in relation to any death or personal injury caused by the Seller's negligence or the negligence of those for whom Seller is legally responsible, the Seller shall have no liability to the Purchaser for any representation of any implied term as to the fitness of the Goods for any purpose, or compliance with the sample, satisfactory quality or otherwise and all warranties, conditions or representations applied by law are hereby expressly excluded.
- 10.6 Nothing in this Clause 10 shall affect the Purchaser's statutory rights if the Purchaser is a consumer.

11. Termination

- 11.1 Seller shall be entitled to terminate the Contract or any other contract for the supply of Goods between Purchaser and Seller in the event that Purchaser is in material breach of any terms thereof. Upon termination Seller shall be entitled to repossess the Goods or any other goods supplied under the Contract or such other contract where any sum remains outstanding in respect of the Goods or any other such goods. Furthermore, all sums due by Purchaser to Seller at the date of termination of the Contract or any other such contract shall become immediately due and payable by Purchaser to Seller without prejudice to Seller's whole other rights and remedies.
- 11.2 In the event that Purchaser, being a Limited Company or Limited Liability Partnership, becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or has a Receiver, Liquidator (including a Provisional Liquidator) or Administrator appointed to it, or being an individual, firm or partnership becomes apparently insolvent or has a Trustee in Sequestration appointed or any Trust Deed is signed for on behalf of creditors to his or its estate or the equivalent thereof in any foreign jurisdiction, Seller will be entitled to terminate the Contract or any other contract for the supply of goods and upon termination shall be entitled to repossess the Goods or any other goods supplied under the Contract. In such event all sums due by Purchaser to Seller at the date of termination of the Contract or any other such contract shall become immediately due and payable by Purchaser to Seller, without prejudice to Seller's whole other rights and remedies.
- 11.3 Purchaser may not cancel the Contract unless Seller agrees upon the Purchaser first indemnifying Seller against any loss, damage or expense (including loss of profit) which Seller may suffer or incur as a result of the cancellation.

12. Intellectual Property Rights

- 12.1 Where any order from a Purchaser includes any specification for the Goods, the information for which is given by Purchaser, then Purchaser will indemnify the Seller on demand against any damage, loss or expense suffered or incurred by Seller as a result or arising out of any claim by any other person for anything included in that specification breached or infringed any patent, copyright, design right, moral right, trademark or any other intellectual property right.

12.2 Except in relation to any specification for the Goods given by Purchaser, the Seller shall indemnify the Purchaser on demand against any damage, loss or expense suffered or incurred by Purchaser as a result of or arising out of any claim by any other person that the Goods or any aspect of the Goods breaches or infringes any patent, copyright, design right, moral right, trademark or any other intellectual property right of any other person. This indemnity may be claimed by Purchaser only if it complies with the following conditions:-

12.2.1 It gives notice to Seller within seven days of any claim or breach or infringement by any person including full details of the claim and the circumstances surrounding it;

12.2.2 It allows Seller to conduct negotiations and defend any proceedings of Purchaser's behalf and it assists and provides all relevant information to Seller as required in connection with such negotiations and proceedings;

12.2.3 It does nothing to prejudice the negotiations or the defence of the said proceedings.

13. Confidentiality

The Purchaser undertakes not without written consent of Seller to divulge or disclose to any person, firm or company any knowledge or information concerning the business or financial affairs of the Seller, their customers, suppliers or clients or any products or goods produced by the Seller for any third party which may have come to the Purchaser's knowledge at any time and Purchaser shall use their best endeavours to prevent publication of or disclosure of any such knowledge or information to any third party.

14. Severability

To the extent that any clause or part of these Terms and Conditions is or becomes invalid or unenforceable for any reason, the remainder of these Terms and Conditions shall remain in full force and effect to the intent that any invalid or unenforceable clause or provision shall be entirely separate and separable.

15. Force Majeure

Seller shall be entitled to cancel or suspend the Contract and/or the sale and supply of the Goods without liability for loss or damage if performance of its obligations is prevented or in any way adversely affected by reason of any act or occurrence beyond its reasonable control including, without prejudice to the foregoing generality, fire, accident, failure of suppliers or sub-contractors, strike, riot or civil disturbance, act of war or terrorism, supervening illegality, statutory enactment, Act of God or anything else which commonly comes within the definition of "force majeure".

16. Notices

Any Notice to be given by either party to the other under the Contract or these Terms and Conditions shall be in writing and may be delivered by hand or sent by First Class Recorded Delivery post to the address of the other party as given in the Contract or such other address as may have been intimated to the other party in terms of this clause. The Notice shall be deemed to have been served on the day of delivery or in the case of posting, on the second day following the date of posting.

17. No Waiver

No waiver by Seller of any breach of the Contract or any relaxation forbearance, delay or indulgence by the Seller in enforcing any of these Terms and Conditions of Sale shall prejudice, affect or restrict the Seller's rights and powers hereunder nor bar the Seller from taking steps in respect of any subsequent breach by the Purchaser.

18. Governing Law

The Contract and these Terms and Conditions shall be governed by the Law of Scotland and Seller and Purchaser hereby prorogate the non-exclusive jurisdiction of the Scottish Courts.

19. Headings

The headings do not form part of these Conditions of Sale.