

## TERMS AND CONDITIONS OF SALE

### 1. GENERAL

Unless otherwise expressly agreed in writing by an Authorised Executive of the Company all goods and services are sold upon the following terms and conditions and no agent or representative of the Company has any authority to vary or omit these conditions or any of them. Any conditions printed on buyers' order forms are binding only insofar as they are not at variance with these conditions.

### 2. ACCEPTANCE AND VARIATION OF PRICE

- (i) All quotations whether verbal or in writing do not constitute offers and are subject to the Company's written confirmation on receipt of the buyer's order and no contract shall be concluded until such written confirmation is given.
- (ii) All prices quoted or listed by the Company are based on the prices of the Company's suppliers at the time of the quotation or listing and are subject to adjustment prior to despatch to cover any increase in such prices or in taxation or duty which might take place prior to delivery and such prices are exclusive of packing carriage and VAT.
- (iii) Where goods are to be imported the Company reserves the right to vary the price quoted to reflect the rate of exchange for purchase of the relevant currency in pounds sterling.
- (iv) Cancellation of an order, should it be necessary, will be subject to a cancellation fee of up to a maximum of 25% of the order value depending upon the stage of manufacture. This is at the total discretion of Bronkhorst (UK) Ltd.

### 3. DELIVERY

- (i) The Company will use its best endeavours to deliver at the time stated but delivery dates shall be regarded as estimates only. The Company shall not be liable for any delay occasioned by any cause whatsoever.
- (ii) Goods shall be deemed to be delivered when handed over to the carrier.
- (iii) In the case of delivery of goods by instalments the buyer will not be entitled to treat the delivery of faulty goods in any one instalment or the late delivery or non-delivery of any one instalment as a repudiation of the whole contract.
- (iv) If the buyer fails to give delivery instructions within 14 days of it being notified the goods are ready for delivery the Company shall (without prejudice to any other rights or remedies available to it) be entitled to (but not bound) to store the goods at any available place at the buyer's expense.
- (v) Unless otherwise stated goods will be consigned road transport to the address in the United Kingdom specified by the buyer in writing.
- (vi) The costs of carriage and packing (including cases and materials) will be charged to the buyer on the invoice for the goods at the time of despatch. Packing cases and materials are non returnable unless otherwise stated.

### 4. RISK AND TITLE TO GOODS

- (a) The risk in the goods passes to the buyer upon delivery but title in the goods remains vested in the Company and shall only pass from the company to the buyer upon full payment being made by the buyer of all sums due on whatsoever account or grounds to the Company or to its parent or subsidiary company from the buyer. In the event of the goods being sold by the buyer in such manner as to pass to a third party a valid title to the goods, whilst any such sums are due as aforesaid, the buyer shall be the Trustee for the Company of the proceeds of such sale or to the claim for such proceeds and the buyer shall place such proceeds in a separate bank account. Nothing herein shall constitute the buyer the Agent of the Company for the purposes of any such sub-sale.
- (b) The buyer agrees that prior to full payment being made as aforesaid the Company may at any time enter upon the buyer's premises and remove the goods there from and that prior to such payment the buyer shall keep such goods separate and identifiable for this purpose.

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- (c) In the event of the goods becoming constituents of or being converted into other products whilst sums are due as provided in subclause (a) hereof the Company shall have the ownership of and title to such other products as if they were the goods and accordingly this Clause 4 shall so far as appropriate apply to such other products subject to the buyer's right to the surplus of any monies realised by the said goods over those due to the Company as provided herein.
- (d) Any implied authority that the buyer shall be entitled to sell the goods and pass property in the same to third parties in the normal course of its business or manufacture products out of the same or sell such products will continue until otherwise notified to the buyer by the Company or until the happening of the following events:
  - (i) any notice to the buyer that a Receiver or Manager is to be or has been appointed in respect of its undertaking or a material part thereof or other property or assets
  - (ii) any notice to the buyer that a petition to wind up the buyer is to be or has been presented to the buyer under section 223 of the Companies Act 1948 or otherwise or any notice to the buyer of a proposal to pass a Resolution to wind up the buyer (including any proposal by the buyer so to do)
  - (iii) a decision by the buyer that the buyer intends to make an arrangement with its creditors
  - (iv) an act of bankruptcy by the buyer as defined by the Bankruptcy Act 1914 or otherwise and upon the happening of any such events the buyer shall immediately notify a Director or other authorised officer of the Company
- (e) On receipt of notice from the Company or on the happening of the events set out in (d) above the buyer's implied authority to sell the Company's goods shall be immediately withdrawn and all such goods and products made there from shall immediately be delivered to the Company.

## 5. NOTIFICATION OF LOSS OR DAMAGE

The Company must be informed in writing within three days of delivery of goods in the event of any shortage or damage and within seven days of receipt of invoice if the goods have not been delivered.

## 6. RETURNS

- (a) A Cleanliness Certificate must be included with all returned packages whether the instrument has been used or not.
- (b) A Returned for Credit (RFC) Number must be obtained from the Internal Sales Manager, Bronkhorst (UK) Ltd. A returned instrument will not be accepted without this reference and will be returned to sender at the sender's expense.
- (c) When an RFC number is requested, an RFC form will be sent out and must be completed and forwarded to the Company Administrator.
- (d) The RFC number must be quoted in all correspondence with Bronkhorst (UK) Ltd and must be clearly marked on the returned instruments packaging.
- (e) Bronkhorst (UK) Ltd reserve the right to charge recovery costs if applicable. These will include restocking and handling costs (see (h) below).
- (f) Misused or negligently handled instruments will not be credited.
- (g) Units where credit is not granted will be shipped back to the customer at the customer's expense.
- (h) Where an instrument is accepted back into Bronkhorst (UK) Ltd stock, a re-stocking and handling charge will be made at 30% of the value of the goods.

## 7. PAYMENT

- (a) Unless otherwise stated payment is strictly net cash to be made by the due date stated on the invoice. Failure to make due payment in respect of deliveries or instalments under this or any other contract between the buyer and the Company shall entitle the Company to delay, suspend or cancel deliveries in whole or part at its option.
- (b) Payment shall be due whether or not property in the goods has passed by virtue of Clause 4 hereof and the Company shall (without prejudice to any other right or remedy) accordingly be entitled to sue for the price once the same is due even if property in the goods has not passed.

## 8. LIABILITY

- (a) The buyer shall inspect the goods upon delivery. The Company will make good at its option by repair or replacement any defects in the goods due solely to defective workmanship or materials that are notified to the Company. In the case of any defect discoverable upon reasonable examination such notification must be made within eight weeks from the date of delivery and in the case of any defect not discoverable upon reasonable examination such notification must be made within a reasonable period from the date such defect is actually discovered provided that:

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- (i) the aforesaid obligations on the Company shall not extend to defects caused by wilful damage negligence (other than by servants or agents of the Company) incorrect storage or application movement installation or defects caused by fair wear and tear and
  - (ii) if required by the company the goods are returned within fourteen days of notification of the defect
  - (iii) the liability of the Company shall cease unless notification is received within twelve months of installation or eighteen months from delivery whichever is the soonest.
- (b) Save as herein set out for liability for death or personal injury resulting from negligence on the part of the Company and save for breach of the seller's statutory implied undertakings as to title all express or implied conditions representations or warranties as to quality or fitness of the goods or otherwise are expressly excluded.
- (c) Save for liability for death or personal injury resulting from negligence of the Company the Company accepts no liability under any claims howsoever arising (be it by negligence or otherwise) for any loss over the figure of £1,000,000 or such greater figure as is from time to time the limit of liability laid down by the Company's insurers in respect of such claims.

## 9. FORCE MAJEURE

The Company shall be excused from liability to the buyer if performance of the contract is prevented or hindered (in particular if an agreed delivery date is delayed) by any cause whatsoever beyond the Company's control and in particular but without prejudice to the generality of the foregoing by Act of God, war, riot, civil commotion, Government controls, restrictions, prohibitions or any other Government act or omission whether local or national, fire, flood, subsidence, sabotage, accident, strike or lock out and shall not be liable for any loss or damage resulting therefrom suffered by the buyer.

## 10. SAFETY INSTRUCTIONS

The buyer undertakes with the Company that it will ensure compliance so far as is reasonably practicable by its servants agents licensees and customers with any instructions given by the Company or the manufacturer for the purpose of ensuring that the goods will be safe and without risk to the health when properly used and will take any other steps or precautions as having regard to the nature of the goods as are necessary to preserve the health and safety of persons handling or using them.

## 11. LEGAL INTERPRETATION

The contract is governed by English Law. Any dispute arising out of or in connection with this contract shall be determined by the English Courts.

## 12. SEVERANCE

In the event of any part of these conditions being ineffective for any reason, the remainder thereof shall constitute the conditions binding upon the parties.