

## BOSTIK LTD CONDITIONS OF SALE

### 1. GENERAL

- (1) A quotation or estimate issued by BOSTIK LTD (hereinafter called "the Company") does not constitute an offer by the Company which is capable of acceptance by the Customer. No order placed with the Company by a Customer is binding on the Company unless and until it is accepted by the Company.
- (2) Each contract for the supply of goods and/or services by the Company incorporates and is subject to these Conditions and (in the absence of any other express or implied acceptance) receipt of goods and/or services by the Customer is deemed to be conclusive proof of the Customer's acceptance of these Conditions. No variation or modification of these Conditions will bind the Company unless specifically accepted by the Company in writing.
- (3) All terms and conditions (other than those implied in favour of a seller which are not inconsistent with these Conditions) which are endorsed on delivered with or referred to in any purchase order submitted by the Customer are expressly excluded.

### 2. PRICES

Unless otherwise stated in writing by the Company

- (1) prices for the goods and/or services supplied by the Company will be the Company's published list prices therefore ruling at the date the Customer's order is received by the Company.
- (2) published or quoted prices for goods and services are exclusive of Value Added Tax which will be charged at the rate applicable at the appropriate tax point.
- (3) published or quoted prices for goods include the cost of carriage to the contracted place of delivery by the means most convenient to the Company but do not include the cost of pallets. Pallets remain the property of the Company and must be returned upon request. If expedited delivery or use of special transport is requested by the Customer, the extra cost will be paid by the Customer.

### 3. SPECIFICATIONS

Information regarding weights, measurements, powers, capacities, performance and other data generally relating to the Company's products contained in advertisements, catalogues, price lists, illustrations or other similar matter submitted to the Customer by the Company whilst given in good faith, must be regarded (as the Customer hereby acknowledges) as approximate only and intended to represent to the Customer a general guide, the accuracy of which the Customer must test for himself. The Customer agrees to rely upon his own judgement as to the nature and quality of the Company's products and their suitability for his purpose and the Customer acknowledges that he has not relied upon any representation or statement made by the Company, its servants or agents either orally or in writing relating thereto.

### 4. PAYMENT

- (1) Unless otherwise stated by the Company payment for goods and/or services must be received by the Company not later than the last day of the month following the month of invoice and time for payment is of the essence. Failure to pay within the period specified will entitle the Company without notice to the Customer, to suspend further deliveries of goods and/or supply of services pending payment. The Company will be entitled to interest on all monies owing by the Customer which are not paid by the due date from that date until actual payment (as well before as after any judgment) at the rate of 4 per cent per annum above the base lending rate of HSBC Bank PLC in force from time to time during such period.
- (2) Where goods and/or services are supplied by installments, the Customer must pay for each installment in accordance with the terms set out in sub-paragraph (1) of this Condition.
- (3) The Company will, in respect of all debts owing by the Customer to the Company on any account, have a general lien on all goods and property belonging to the Customer in the Company's possession and shall be entitled, upon the expiration of 14 days notice to the Customer, to dispose of such goods or property as it thinks fit and to apply any proceeds of sale thereof (after deducting the Company's reasonable selling expenses) towards the payment of such debts.

### 5. RISK AND TITLE

- (1) The risk in respect of all goods supplied by the Company will pass to the Customer at the time of delivery.
- (2) Title to and property in all goods supplied shall remain vested in the Company (notwithstanding the delivery of possession of the same and the passing of the risk therein to the Customer) until
  - (i) the price of the goods and/or services comprised in this contract: and

(ii) all other money owing from the Customer to the Company on any other account has been paid or satisfied in full.

(3) Until the title to and property in the goods pass to the Customer as aforesaid the following provisions shall apply:-

(i) The Company may at any time without prior notice to the Customer repossess and resell the goods if any of the events specified in Condition 10 hereof shall occur or if any sum owed by the Customer to the Company under this or any such other contract is not paid on the due date. For the purpose of exercising its rights under this sub-paragraph (1), the Company, its employees and agents together with all vehicles and plant considered by the Company to be necessary, will be entitled at any time without prior notice to the Customer to free and unrestricted entry upon the Customer's premises and/or other locations where any of the goods are situated.

(ii) The Customer will store the goods in a proper manner without charge to the Company and ensure that they are clearly identified as belonging to the Company. Without prejudice to sub-paragraph (i) of this Condition the Company shall be entitled to examine the goods in storage at any time during normal business hours and upon giving the Customer reasonable notice of its intention to do so.

### 6. PATENTS COPYRIGHTS AND DESIGNS

The Company will not be liable in respect of any claim which may be made against the Company for infringement of any letters patent, copyright or registered design which may arise as a result of the Company carrying out any instructions given to it by the Customer. The Customer agrees to indemnify and keep indemnified the Company from and against all or any such claims and against all proceedings, costs, losses, damages and expenses incurred by or recovered by third parties from the Company in respect of any such claims.

### 7. DELIVERY AND PERFORMANCE

- (1) Unless otherwise stated by the Company, delivery of the goods shall be made at the address or addresses nominated by the Customer in its order for delivery.
- (2) Periods or dates quoted for delivery, shipment or supply are approximate only and are not binding on the Company but the Company will use all reasonable endeavours to comply therewith. Failure to supply goods or services by such dates or within such periods (having used its reasonable endeavours) will not be a breach of contract nor will the Customer be able to cancel the contract or any part of it or claim damages or compensation for such failure.
- (3) If the Company is prevented from or delayed in performing the contract or any part of it by any circumstances beyond its control (including but not limited to strikes, lock-outs or other industrial action, inability to obtain materials or labour, power or machinery failure or breakdown, fire, flood or civil disturbance) further performance of the contract will be suspended for so long as the Company is prevented or delayed provided that the Company shall be at liberty to cancel or suspend any order in such circumstances without thereby incurring any liability for any loss or damage to or incurred by the Customer therefrom.
- (4) Where goods or services are supplied by installments, each installment is deemed sold or supplied under a separate contract to which all of these Conditions apply and save as provided in Condition 4 (1), no default in respect of any one installment shall affect or prejudice due performance of the contract as regards any other installment.
- (5) If the Customer refuses or fails to collect or accept delivery of any goods or services for a period of 7 days or more after the Company has notified the Customer that they are ready for collection or delivery, the Company will be entitled to payment of the price thereof and any additional costs thereby incurred by the Company including storage and insurance.
- (6) If the Customer refuses or fails to collect or accept delivery of any goods or services (including Customer's own goods which have been processed by the Company) within 28 days after the Company has notified the Customer that the goods or services are ready for collection or delivery, the Company will be entitled to dispose of such goods or services as it thinks fit and apply the proceeds of sale thereof towards payment of all sums then owing to the Company on any account and without being accountable to the Customer for any loss.

### 8. WARRANTY AND LIABILITY

- (1) The Company warrants that only sound workmanship and materials are employed in the manufacture of its goods and that all goods supplied by it are free from defective materials and workmanship. If any goods supplied by the Company are shown to the reasonable satisfaction of the Company to be defective by reason of faulty materials or workmanship within 30 days after the date of delivery (the "Defects Liability Period") the Company will (subject to paragraph (2) below) replace free of charge the defective goods (or such parts thereof as in the opinion of the Company is necessary) and subject to paragraph (6) of this Condition, the

Customer accepts the Company's obligation to replace defective goods as its sole remedy for loss or damage resulting from defective goods.

- (2) No claim under paragraph (1) of this Condition will be entertained unless:
  - (a) the Customer has complied with all instructions given by the Company concerning the manner in which the goods should be stored and/or used: and
  - (b) the Customer has within 7 days after the end of the Defects Liability Period given written notice to the Company of the alleged defect and has, where possible, returned the goods in question carriage paid to the Company's works.
- (3) The Customer will always afford the Company a reasonable opportunity to remedy at its own cost any breach of contract for which the Company may be considered responsible.
- (4) Subject only to the foregoing provisions of this Condition the liability of the Company for any claims for direct injury, loss or damage (whether in contract or in tort including negligence on the part of the Company its servants or agents) arising out of any defect in the goods and/or services or any misrepresentation, act, omission, neglect or default of the Company in the performance of any contract between the Company and the Customer including but not limited to breach of any condition or warranty whether express or implied by statute common law or otherwise shall be limited to the contract price of such goods or services the subject of any such claim or claims or in any other case to the total contract price payable by the Customer under that contract whichever is less.
- (5) The Company is not liable for any claims for indirect or consequential injury, loss or damage (including but not limited to loss or profit, loss of production, loss of opportunity and special damages whether the likelihood thereof is notified by the Customer to the Company prior to the contract or not) whether in contract or in tort (including negligence on the part of the Company, its servants or agents) arising out of or in connection with any such defect misrepresentation, act omission neglect or default referred to in paragraph (4) of this Condition.
- (6) Nothing in this Condition will limit or exclude the liability of the Company in respect of death or personal injury resulting from the negligence of the Company, its servants or agents or exclude in relation to goods the conditions and warranties implied by Section 12 of the Sale of Goods Act 1979.

### 9. DAMAGE OR LOSS IN TRANSIT

No claim for damage in transit or shortage in delivery will be entertained unless notice in writing is given to both the carrier concerned and to the Company within 3 days of delivery followed immediately by a detailed and complete claim in writing. In the event of loss or destruction of goods in transit advice of nondelivery must be submitted in writing to both the carrier and to the Company within 3 days of the date of receipt by the Customer of the invoice relating to the destroyed or lost goods. Subject to its acceptance of any such claims, the Company will replace free of charge goods lost, destroyed or damaged in transit but shall be under no further liability of the Customer in respect thereof.

### 10. TERMINATION OF CONTRACT

If the Customer

- (1) commits any breach of these Conditions: or
- (2) (being an individual or where the Customer is partnership, any partner thereof) commits any act of bankruptcy: or (3) makes or offers to make any composition or arrangement with or for the benefit of its or his creditors: or
- (4) (being a limited company) has a receiver appointed of the whole or any part of its undertaking property or assets or if an order is made or a resolution is passed for the winding up of the Customer: or
- (5) is unable to pay its debts as they fall due the Company will be entitled without notice to the Customer to suspend all further deliveries or at its option to cancel any contract or any unfulfilled part thereof or make partial supplies of goods and/or services.

### 11. SEVERANCE

If at any time any one or more of these Conditions (or any paragraph, sub-paragraph or any part thereof) is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted herefrom and the validity and/or enforceability of the remaining provisions of these Conditions shall not in any way be affected or impaired thereby.

### 12. WAIVER OR RIGHTS/REMEDIES

- (1) The rights and remedies of the Company under any contract to which these Conditions apply shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time by the Company nor by failure of or delay by the Company in asserting or exercising any such rights or remedies.
- (2) The rights and remedies expressly conferred upon the Company by these Conditions are in addition to and shall not in any way prejudice limit or restrict: any other rights or remedies of the Company hereunder.

### 13. ASSIGNMENT

The benefit of any contract to which these Conditions apply is not capable of assignment by the Customer without the consent in writing of the Company.

### 14. INTERPRETATION

These Conditions and every contract to which they apply are governed by and will be construed in all respects in accordance with English law and the Company and the Customer hereby irrevocably submit to the non-exclusive jurisdiction of the English Courts.