

General Conditions of Sale

The Buyer's attention is in particular drawn to the provisions of condition 4.8 (variation to returns policy and procedures) and 8.4 (limitation of liability).

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this condition apply in these conditions.
Buyer: the person, firm or company who purchases the Goods from the Company.
Company: Beaumex Unlimited Company a company incorporated and registered in Ireland with company number 128985, whose registered office is Unit B7-B9 Calmount Park, Calmount Road, Walkinstown, Dublin 12.
Delivery Point: the place where delivery of the Goods is to take place under condition 3.
Effective Price Paid by the Buyer: the actual price paid by the Buyer to the Company for a Good taking into account any reduction in price paid as a result of, but not limited to, any financial contribution (e.g. a marketing contribution) made and/or discount and/or rebate given to the Buyer, by the Company and/or the manufacturer and/or any other person, with the intention and/or the effect of reducing the price payable by the end customer and/or increasing the Buyer's margin upon a sale by the Buyer of the Good.
Goods: any goods agreed in any contract between the Company and the Buyer to be supplied to the Buyer by the Company (including any part or parts of them).

2. APPLICATION OF TERMS

- 2.1 Subject to any written agreement between the parties hereto, any sale and purchase of the Goods shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document). In the event of any conflict between these conditions and a written agreement between the parties the terms of the written agreement shall prevail.
- 2.2 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing by the Company. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in these conditions.
- 2.3 Each order or acceptance of a quotation for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Goods subject to these conditions.
- 2.4 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.
- 2.5 Goods are sold on the strict condition that they shall not be or allowed to be leased or rented or be sold under an exchange or repurchase scheme other than as the Company (acting on its own behalf) or, if some or all of the Goods in question are being distributed on behalf of any third party (herein referred to as a "Rights Company"), any relevant Rights Company may allow from time to time by written notice, and that they shall not be sold without a similar condition including this condition being imposed on the subsequent buyer.

3. DELIVERY

- 3.1 Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place at the Company's registered office or at such other address as the Company and the Buyer may agree.
- 3.2 Any dates specified by the Company for delivery of the Goods are intended to be an estimate only and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 3.3 Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence).
- 3.4 If for any reason the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:
- (a) risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence);
 - (b) the Goods shall be deemed to have been delivered; and
 - (c) the Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 3.5 The Buyer shall provide at the Delivery Point and at its expense adequate and appropriate equipment and manual labour for loading the Goods.
- 3.6 The Company reserves the right to levy a surcharge on any order under a minimum net value as notified by the Company to the Buyer from time to time.

4. NON-DELIVERY AND RETURNS

- 4.1 The quantity of any consignment of Goods as recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary within 72 hours of the receipt by the Buyer of the Goods.
- 4.2 Upon receipt by the Buyer of the Goods a visual check shall be made of all Goods and a check of the carton and pallet counts shall be made. At the earliest opportunity the Goods will be split down and checked to ensure the correct Goods and quantities have been sent and to check for any obvious damages. The Buyer shall give the Company evidence including photographic evidence in respect of obvious damage and non-conforming deliveries. Any discrepancies found on the load will be notified to the Company within 72 hours of the receipt by the Buyer of the Goods. The photographic evidence furnished by the Buyer may be compared with the Company's evidence of dispatch including date and time marked photographic evidence showing seals, security tape and/or binding.
- 4.3 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note against any invoice raised for such Goods. The decision to replace the Goods or issue the Buyer with a credit note shall be at the sole discretion of the Company.
- 4.4 Requests of the Buyer for proof of delivery by the Company must be received within 14 days of receipt of the Goods. The Company reserves the right to charge for providing proof of delivery where the request is due to an administrative failure on the part of the Buyer.
- 4.5 Subject at all times to clause 4.2 and clause 4.7, the Buyer may return Goods that are faulty or damaged, save through fault of the Buyer, within 90 days of the delivery of the Goods, at the cost and expense of the Buyer and the Company shall either replace the Goods or issue the Buyer with a credit note equal to the Effective Price Paid by the Buyer to the Company subject to such fault and/or damage being verified by the Company. The decision to replace the Goods or issue the Buyer with a credit note shall be at the sole discretion of the Company.
- 4.6 Notwithstanding clause 4.2, the Buyer may return Goods that are not faulty or damaged, but that are unsold by the Buyer, within 45 days of the delivery of the Goods at the cost and expense of the Buyer and the Company shall issue the Buyer with a credit note, subject to compliance by the Buyer with the provisions of clause 4.7. The credit note to be issued in accordance with this clause 4.6 shall be equal to the lesser of the Effective Price Paid by the Buyer to the Company or the price at which the Company subsequently sells the Goods and in either case less a 12.5% service fee.
- 4.7 Where the Buyer seeks to return Goods it must comply with the Company's then current procedure(s) for the return of Goods which procedures may be viewed on the Company's website www.beaumex.ie. The Goods may only be returned in accordance with the then current procedure(s) for the return of Goods.
- 4.8 Please note while the Company endeavours to keep uniform procedures for the return of Goods, the returns policies/procedures may differ as between different makes, models and/or classes of Good as a result of such terms and/or conditions as may be imposed by the manufacturer/seller of the said Goods and such differences, if any, shall be noted on the Company's website www.beaumex.ie. In the event of there being any conflict between the terms and conditions hereof and the provisions of the returns policies as set out on the Company's website, the provisions of the latter shall prevail.

5. RISK/TITLE

- 5.1 The Goods are at the risk of the Buyer from the time of delivery.
- 5.2 Subject to clause 5.3, ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
- (a) the Goods; and
 - (b) all other sums which are or which become due to the Company from the Buyer on any account.
- 5.3 Notwithstanding clause 5.2, until ownership of the Goods has passed to the Buyer, the Buyer shall:
- (a) hold the Goods on a fiduciary basis as the Company's bailee;
 - (b) store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property and in the event the Buyer obtains similar goods from any other supplier which cannot readily be distinguished from the Goods ("Similar Goods") the Buyer shall mark or label the Similar Goods to distinguish them from the Goods;
 - (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
 - (d) maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company.

- 5.4 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:
- (a) any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
 - (b) any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.
- 5.5 The Buyer's right to possession of the Goods shall terminate immediately if:
- (a) the Buyer convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager or examiner appointed to its undertaking or any part thereof, or documents are filed with the court for the appointment of an examiner of the Buyer or notice of intention to appoint an examiner is given by the Buyer or its directors or by a floating charge holder, or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an examinership order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or
 - (b) the Buyer suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it, or fails to observe or perform any of its obligations under any contract between the Company and the Buyer for the sale and purchase of the Goods, or is unable to pay its debts as they fall due or the Buyer ceases to trade; or
 - (c) the Buyer encumbers or in any way charges any of the Goods; or
 - (d) if any similar, corresponding or equivalent to the foregoing occurs anywhere in the world in respect of that Buyer or a subsidiary thereof or a holding company or a subsidiary of that holding company.
- 5.6 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
- 5.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them. In the event the Goods have become intermingled with Similar Goods (the Goods and Similar Goods herein being collectively referred to as the "Reserved Goods") to the extent the Goods cannot be distinguished from the Similar Goods due to the Buyer's failure to comply with sub-clause 5.3 (b) the Company shall be entitled to take possession of a quantity of Reserved Goods equal to the amount of the Goods supplied.
- 5.8 Where the Company is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.
- 5.9 The Buyer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer does so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.
- 5.10 On termination of any contract between the Company and the Buyer for the sale and purchase of the Goods, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition 5 shall remain in effect.

6. PRICE

- 6.1 The price for the Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.

7. PAYMENT

- 7.1 Subject to condition 7.4, payment of the price for the Goods is due on the last working day of the month following the month in which the Goods are delivered or deemed to be delivered.
- 7.2 Time for payment shall be of the essence.
- 7.3 No payment shall be deemed to have been received until the Company has received cleared funds.
- 7.4 All payments payable to the Company hereunder shall become due immediately on termination of any contract between the Company and the Buyer for the sale and purchase of the Goods.
- 7.5 The Buyer shall make all payments due in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
- 7.6 If the Buyer fails to pay the Company any sum due, the Buyer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 2% above the overdraft rate charged by Bank of Ireland for such sum, accruing on a daily basis until payment is made, whether before or after any judgment.

8. LIMITATION OF LIABILITY

- 8.1 Subject to condition 3 and condition 4, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
- (a) any breach of these conditions;
 - (b) any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
 - (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the sale and purchase of the Goods.
- 8.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from these conditions and any contract between the Company and the Buyer for the sale and purchase of the Goods.
- 8.3 Nothing in these conditions excludes or limits the liability of the Company:
- (a) for death or personal injury caused by the Company's negligence; or
 - (b) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
 - (c) for fraud or fraudulent misrepresentation.
- 8.4 Subject to condition 8.2 and condition 8.3:
- (a) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the sale and purchase of the Goods shall be limited to the price provided for therein; and
 - (b) the Company shall not be liable to the Buyer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the sale and purchase of the Goods.

9. ASSIGNMENT

- 9.1 The Company may assign any contract between the Company and the Buyer for the sale and purchase of the Goods or any part thereof to any person, firm or company.
- 9.2 The Buyer shall not be entitled to assign any contract between the Company and the Buyer for the sale and purchase of the Goods or any part thereof without the prior written consent of the Company.

10. FORCE MAJEURE

- The Company reserves the right to defer the date of delivery or to cancel the sale and purchase of the Goods or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 30 days, the Buyer shall be entitled to give notice in writing to the Company to terminate any contract between the Company and the Buyer for the sale and purchase of the Goods.

11. GENERAL

- 11.1 Each right or remedy of the Company under these conditions is without prejudice to any other right or remedy of the Company whether under such contract or not.
- 11.2 If any provision of these conditions is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of these conditions and the remainder of such provision shall continue in full force and effect.
- 11.3 Failure or delay by the Company in enforcing or partially enforcing any provision of these conditions shall not be construed as a waiver of any of its rights under these conditions.
- 11.4 Any waiver by the Company of any breach of, or any default under, any provision of these conditions any contract between the Company and the Buyer for the sale and purchase of the Goods by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of these conditions.
- 11.5 The formation, existence, construction, performance, validity and all aspects of these conditions shall be governed by Irish law and the parties submit to the exclusive jurisdiction of the Irish courts.
- 11.6 Headings to any of these conditions are included to facilitate reference only and shall not affect the construction thereof.