



## BOCS – 03 Appendix A

## ESTIMATING

### TERMS & CONDITIONS OF SALE

#### Bowmill Engineering

##### 1.0 General

- [1] These conditions apply to all present and future orders and/or contracts for the sale or supply of goods and/or materials by Bowmill Engineering Ltd [“the Company”] to the exclusion of any Terms & Conditions stipulated by the buyer of any other agreement.
- [2] These Conditions, the Sales Order and Invoice constitute the entire agreement between the Company and the buyer for the sale of goods. The Company’s employees or agents are not authorised to make any representations concerning the goods or materials unless confirmed by the Company in writing. The buyer acknowledges that it does not rely upon and waives any claim for breach of any representations which is not so confirmed.
- [3] Any purported alterations or deletions to these conditions in any correspondence or document of the buyer shall be inapplicable unless accepted in writing by the Company
- [4] Quotations are not offers by the Company, but only invitations to treat. Quotations are valid for sixty days only.

2.0 [1] Where any period is specified for delivery, and such period is not extended by mutual consent in writing or under the provisions of Clause 6 hereof the buyer shall take delivery within that period.

[2] Any time or date for delivery specified by the Company is to be regarded as being an estimate only and the Company shall not be liable for the consequences of any delay.

[3] Where specifications, material or information are to be supplied by the buyer, the buyer shall supply these in reasonable time to enable the Company to complete delivery within the contract period.

3.0 No condition or warranty is given made or implied as to the life or durability of the goods or materials supplied by the Company or that they will be suitable for any particular purpose or for use under any particular conditions, notwithstanding that such purpose use or conditions shall be known or made known to the Company.

4.0 [1] Goods or materials supplied by the Company or workmanship of the Company being defective shall not form the subject of any claim for work done by the buyer, or paid for by the buyer or for any loss, damage or expense whatsoever caused by the buyer arising directly or indirectly from such defects, but such goods if returned to the Company and accepted by it as defective will if the buyer so requests and if practicable be replaced by the Company. Defects or shortages in any delivery shall not be a ground for cancellation by the buyer of the remainder of the order or contract or for withholding any payment.

5.0 No claims for damage in transit, shortages in delivery or loss of goods shall be entertained unless, in the case of damage in transit or shortages in delivery, a separate notice in writing of the claim is given to the carrier concerned and to the Company within seven days of the receipt of the relevant consignment, followed by a fully detailed written claim seven days thereafter. Where goods are accepted from the carrier concerned without being checked, the delivery book of the carrier concerned must be signed “not examined” otherwise the consignment will be deemed to have been examined and found correct.

- 6.0 [1] If deliveries are suspended due to any stoppage delivery or interruption of work, strikes, lock-outs, trade disputes, break-down, accident or any cause whatsoever beyond the reasonable control of the Company any delay so caused shall be deemed to be a permitted addition to the contractual delivery period.
- [2] In the event of any outbreak of hostilities (whether war is declared or not) in which the United Kingdom is involved, or in the event of any National emergency or if the Company's works or premises should become either directly or indirectly so engaged on Government orders or orders under priority directions so as to prevent or delay work on other orders, the Company shall be entitled at any time, on notice to the buyer to make partial deliveries only which shall be paid for accordingly by the buyer or to determine the contract without prejudice in any case to rights accrued to the Company in respect of deliveries already made.
- 7.0 In the event of goods supplied by the Company being found to be outside of drawing specification or order requirements, the buyer must inform the Company within **14 days** of the date of the delivery note, Company reserves the right to rectify all goods.
- 8.0 The Company accepts on loan from the buyer any tools or gauges etc but does not accept any liability for loss or damage.
- 9.0 If the buyer shall make default in or commit a breach of the contract or any other of its obligations to the Company or if any distress or execution shall be levied upon the buyer's property or assets or if the buyer shall make or offer to make any arrangement or composition with creditors or commit any act of bankruptcy or if any Petition or Receiving Order in Bankruptcy shall be presented or made against the buyer or if any Resolution or Petition to wind up the buyer's business (other than for the purpose of amalgamation or reconstruction) shall be passed or presented, or if a receiver of the buyer's undertaking property or assets or any part thereof be appointed, the Company shall have the right forthwith by written notice to the buyer to determine any contract then subsisting.
10. The buyer shall indemnify the Company against all damages penalties costs and expenses to which the Company may become liable as a result of work done in accordance with the buyer's specifications which involves the infringement of any letters patent registered design or copyright.
11. The Company cannot accept bank charges for free issue material scrapped during any manufacturing processes.
12. Contracts and orders are accepted subject to the Company being able to obtain all necessary licenses to purchase or to use and obtain the required raw materials or parts.
13. [1] All prices agreed to by the Company are net of VAT which will be charged at the rate prevailing at the tax point and shall be deemed to be fixed unless the buyer and Company have agreed that they shall be subject to cost variation or index-based adjustment.
- [2] The Company reserves the right to vary the price list/quotation without notice where manufacturing costs of goods or services to be provided have increased.
- [3] Prices quoted are subject to revision for errors and omissions. The Company reserves the right to revise quotations or prices to take into account any increased cost to the Company of conforming to obligations imposed by statute or government or local authority orders or regulations.

14. The goods and materials remain the Company's property until the buyer has paid in full:
- [1] All sums due to the Company under this contract; and any other sums due from the buyer to the Company.
  - [2] As soon as the goods and materials are delivered to the buyer in accordance with this Contract they are at the buyer's risk.
  - [3] So long as the goods and materials remain the Company's property in accordance with Clause 14[1] the buyer will:
    - [a] Insure them against loss or damage under a policy which protects the company's interest in the goods and materials.
    - [b] Store them separately from other similar goods and materials owned by any persons that they remain identifiable as the Company's property.
    - [c] Allow the authorised representatives of the Company to have access at any reasonable time to the premises where the goods and materials are stored in order to inspect the same.
  - [4] Until ownership of the goods has passed to the purchaser the Company may at any time require the purchaser to return the goods to the Company. In default thereof the Company shall have an irrevocable licence to enter the purchaser's premises to recover the goods and sever the goods from anything to which they are attached without being responsible for any damage caused. Such return or recovery shall be without prejudice to the obligation of the purchaser to purchase the goods.
15. **Lien**
- The Company shall have a general as well as particular lien on all goods materials or any other property of the purchaser which shall be in the possession of the purchaser in respect of any unpaid account of the purchaser (whether or not in relation to the goods materials or other property of the purchaser) and the lien shall extend to any or all goods materials or other property of the purchaser but only to the value of the goods.
16. All packaging is included in the sale price but returnable packages will be charged at £100 per container if not returned in good condition within 60 days of original consignment of order.
17. Unless otherwise agreed in writing:
- [1] Any test pieces required by the buyer will be charged for separately at the contract price
  - [2] No liability is accepted for loss or damage to buyer's patterns whilst neither on the Company's premises nor is responsibility for their insurance
  - [3] Jigs and tools when produced by the Company shall remain in its custody and exclusive production rights are retained. These will be stored and maintained during their normal useful life at the Company's expense but the Company does not undertake to replace worn-out jigs and tools
  - [4] Payment for jigs/tools/fixtures may be by separate contract [refer to quotation] and when jigs and tools are made in accordance with the buyer's drawings or samples the cost of any subsequent alterations required by the buyer or implied in or made necessary by the contract shall be met by the buyer. All other jigs/tools/fixtures not under separate contract remain the property of Bowmill Ltd.

18. Terms of Payment

- [1] **Unless otherwise agreed by the seller in writing payment shall be due and payable in cash without deductions or set off by the end of the month following the month of invoice [i.e. Net Monthly]**
  - [2] The buyer shall not be entitled to set off against any monies owing from the buyer to the Company against any monies disputed or owed by the Company to the buyer.
  - [3] The seller shall be entitled to submit its invoice with its delivery advice note or anytime afterwards save that where delivery has been postponed at the request of or by the default of the purchaser, then the seller may submit its invoice at any time after the Goods are ready for delivery or would have been ready in the ordinary course, but for the request or default of the Purchaser.
  - [4] No dispute arising under the Contract or delays beyond the reasonable control of the seller shall interfere with prompt payment in full by the Purchaser
  - [5] In the event of default in payment by the Purchaser, the Seller shall be entitled, without prejudice to any other right or remedy:
    - [a] To suspend all further deliveries under this contract and any other contract or contracts between the Seller and the Purchaser then current without notice: and/or
    - [b] To charge interest on any amount outstanding at the rate of 2% per month, such interest being charged as a separate continuing obligation and not merging with any judgement: and / or
    - [c] To serve notice on the purchaser requiring immediate payment for all goods supplied by the seller under this and all other contracts with the purchaser whether or not payment is otherwise due or invoiced.
19. Debit notes issued by the buyer are not acceptable and must not be deducted from the Company's account unless a corresponding credit note is issued by the Company.
20. Any dispute shall be referred to an arbitrator or arbitrators to be appointed either by the parties or in default of agreement by the President of the Bournemouth and District Law Society for the time being an his or their decision shall be binding on both parties and this shall be a submission to arbitration within the Arbitration Act 1996 or any statutory modification thereof for the time being in force.
21. These conditions and the contract shall be subject to and construed in accordance with the Law of England and Wales.