



General Conditions of Sale - Consumer Contracts

APPLICATION

1 (1) In these Conditions, unless the context otherwise requires:-

"Company" means BAC Corrosion Control Limited (registration no. 1394643)

"Contract" means the contract for the sale and/or supply and purchase of the Goods

"Customer" means the person so described overleaf

"Goods" means the goods and/or services described overleaf and includes any or any part of them

"writing" includes facsimile transmission

"person" includes any firm, company or incorporated body

Words in the singular include the plural and vice versa

(2) These Conditions, the terms overleaf and any special conditions agreed to in writing by the Company are all the terms and conditions which apply to the supply and purchase of the Goods and replace any terms or representations referred to in the Company's sales literature or elsewhere. If any terms specified overleaf and/or any special conditions conflict with these Conditions of Sale, the former will prevail

(3) Nothing in these Conditions will affect any of the Customer's statutory rights as a consumer under the Sale of Goods Act 1979 (as amended at any time) or any other applicable legislation

ORDERS AND SPECIFICATIONS

2 (1) Orders (including any acceptance of any estimate or quotation of the Company) will only bind the Company when it accepts them in writing

(2) The Goods' specification may be changed to conform with product development (but without materially adversely affecting their quality or performance) or any applicable safety or other statutory requirements.

PRICE

3 (1) Unless the Company otherwise agrees in writing, the price of the Goods will be that specified overleaf. Subject to paragraph 2(1), all prices quoted and quotations are valid for 30 days only. All prices and other charges will be subject to any applicable value added tax and other taxes or duties which will be payable at the same time as the price of the Goods



(2) Unless the Company otherwise agrees in writing, all prices quoted are ex works and the Customer will pay the Company's charges for transport and insurance at the Company's rates stated in the Contract. Unless the Company otherwise specifies, the price includes packing them in accordance with the Company's standard practice

PAYMENT

4 (1) The Company may invoice the Customer for all sums payable under the Contract on or at any time after delivery or, if the Customer wrongfully fails to collect or take delivery of the Goods or fails to give proper delivery instructions, at any time after it has notified the Customer that the Goods are ready for collection or it has tendered delivery of the Goods.

(2) The Customer must pay all sums owed to the Company under the Contract on or before the dates on which they are due. If the Customer fails to do so, the Company may terminate the Contract and/or claim damages against the Customer

(3) Unless payment is to be made on delivery, the Company's invoices will be payable within thirty days of their date, even though delivery may not have taken place and ownership of the Goods has not passed to the Customer.

(4) If the Customer fails to make any payment on the due date, without affecting any of its other rights, the Company may terminate the Contract or suspend any further deliveries and/or charge the Customer interest on the amount for the time being unpaid at 4% above the base rate (or if it is replaced, its successor) from time to time of Lloyds TSB Bank Plc until payment in full is made. That interest will accrue on a daily basis and be payable both before and after judgement obtained against the Customer

(5) All sums payable by the Customer must be paid in sterling without any deduction and regardless of any set-off, counterclaim or other claim or right

DELIVERY

5 (1) The Company will use its reasonable endeavours to supply the Goods in accordance with any estimated delivery or completion date but the Company will not be obliged to supply the Goods by that date

(2) The Goods will be delivered where stated by the Company

(3) If the Customer fails to collect or accept delivery of the Goods or give proper delivery instructions (unless due to the Company's default) without affecting its other rights, the Company may :-

(a) arrange for storage of the Goods at the Customer's risk and expense until they are delivered or collected, including if applicable storage charges at the Company's then prevailing rates and the cost of any redelivery; or

(b) if the Company terminates the Contract, sell the Goods in its discretion and, after deducting from the sale proceeds all sale costs and other sums owing to the Company, retain any surplus for its own benefit



TESTING OF GOODS

6 If the Company is required to carry out tests other than its normal ones or in the presence of the Customer, the Company may charge for them at its then prevailing rates. The Company may carry out and charge for the tests if the Customer fails to attend on the notified dates

INSPECTION AND ACCEPTANCE OF GOODS

7 The Customer must notify in writing (otherwise than on a delivery document) (a) the Company and any carrier of any claim regarding the quantity or condition of Goods delivered or any damage to them within [5] days of delivery and (b) the Company of any claim regarding any defect which should be apparent on reasonable inspection within [15] working days of delivery. Notification will not be valid if it is given on a delivery document and will only be effective if given within those time periods. Paragraph [9] will apply to any such defect or damage. If no such notice is given, so far as concerns those matters the Customer will be deemed to have accepted the Goods and that they conform with the Contract

TITLE AND RISK

8 (1) Even though the Goods may have delivered to the Customer, the legal and beneficial ownership of the Goods will remain with the Company, which retains the right to dispose of the Goods, until the Company has received payment in full of all sums payable to the Company in relation to the Contract

(2) Until the Customer becomes the owner of the Goods the Customer shall :-

(a) hold the Goods as fiduciary agent and bailee for the Company. Without prior notice and at any time, the Company may require the Customer to return the Goods to the Company (whether or not they form part of or are affixed to any other item). If the Customer fails to do so without delay, the Company may enter on any land or buildings where the Goods may be with its representatives and appropriate transport and repossess the Goods;

(b) not sell, part with possession of , use or do anything else inconsistent with the Company's ownership of the Goods. In particular the Customer must ensure that they are not affixed to or become part of any land or building, are kept separate from any other item, properly stored and protected and clearly identified as the Company's property, and are insured to their full value against all normal comprehensive risks

(3) After the Company has repossessed any Goods it may sell them and the proceeds of sale will belong to the Company absolutely. If the net proceeds received by the Company are less than the amount payable to it under the Contract it may recover the balance from the Customer.

(4) When the Goods are delivered the Customer will become responsible for any loss or destruction of or damage to the Goods.



(5) All insurance proceeds receivable by the Customer in respect of the Goods will be held in trust by the Customer for the Company in a separate account and must first be applied in or towards discharging any sums payable under the Contract

(6) Even though the Customer may not have become the owner of the Goods, the Company may recover all sums payable to it in relation to the Contract

WARRANTY

9 (1) The following warranty will apply to the Goods :-

The Goods will correspond with their specification and description and sample (if any) at the time of delivery and] If within [twelve] calendar months of the Goods being delivered by the Company or, as the case may be, completion of the supply of any services (or such other period as the Company may agree in writing) any defect in the Goods is discovered under normal use which is directly attributable to faulty design, materials or workmanship, or a valid claim is made under paragraph 7, the Company will at its option and expense remedy the defect or damage by replacement or repair or refund the purchase price of the defective or damaged Goods

(2) The following conditions apply to the warranty:-

(a) the warranty will not apply to any defect or damage resulting from any:-

(i) alteration of the Goods without the Company's prior written consent, incorrect installation (except by the Company), incorrect storage, overloading, normal wear and tear, misuse or use not for their intended purpose, accident, abnormal conditions of use or maintenance, repair or use which is not in accordance with the Company's or manufacturer's instructions or procedures issued from time to time; or

(ii) any act or omission of the Customer or any third party (excluding the Company's agents or sub-contractors involved in the supply of the Goods) or any fault in any other goods or equipment

(b) warranty work will be carried out during the Company's normal business hours so far as is practicable at the Company's premises and/or elsewhere at its option. The Customer must ensure that the Company's personnel will have such access to the Goods as they may require to investigate alleged defects or damage and carry out any warranty work

(c) Goods must be returned to the Company's trading premises as required by the Company. Repaired or replacement Goods will be returned to the Customer at the cost of the Company. The Company will reimburse the Customer the reasonable carriage costs incurred by it in returning by road from the Customer's premises in Great Britain or by other agreed mode of transport Goods which are repaired or replaced under the warranty or whose purchase price is refunded. Replaced Goods will belong to the Company

(d) the Customer must give to the Company in writing full particulars of any alleged defect or damage within the period stated in paragraph [7] or, in the case of a warranty claim, within 7 days after it becomes aware of the defect or damage and in any event within 7 days of the end of the warranty period. If notice of a claim is not given within those periods it will not be effective



(e) if the Customer makes any claim falling outside the terms of the warranty the Company may charge for examining the Goods and any work done or goods supplied by it in respect of that claim at its then prevailing rates and any cost or expense incurred by the Company

(f) this paragraph 9 will apply to Goods or components replaced or repaired under the warranty for the balance of the original warranty period

LIABILITY

10 (1) The warranty contained in paragraph 9 will not affect any rights the Customer may have by law in respect of the Goods or the Contract

(2) The Company excludes to the fullest extent permitted by law, all liability for any consequential or indirect loss, liability or damage or for any other claim for consequential compensation of any kind (including loss of profit, costs or expenses) arising in any way from or in connection with the Contract

ACCELERATED PAYMENT

11 Without affecting its other rights, if the Company has serious doubts about the Customer's ability to pay any sum under the Contract on the due date the Customer must within seven days of written notice from the Company pay the balance of all sums payable under the Contract

FORCE MAJEURE

12 The Company will not be deemed to be in breach of the Contract or otherwise be liable to the Customer for any delay or failure in performing any of its obligations under the Contract by reason of any cause or event beyond the Company's reasonable control (including breakdown of plant or machinery, strike or industrial dispute, shortage of materials or failure of or delay in receiving supplies)

TERMINATION

13 (1) If the Customer :-

(a) makes any arrangement or composition with its creditors generally or (being an individual) has an interim order (within the meaning of the Insolvency Act 1986) made against him or becomes bankrupt or (being a firm or body corporate or unincorporate) enters into compulsory liquidation or voluntary liquidation or the equivalent or is dissolved; or



(b) has a receiver and/or manager, administrative receiver, supervisor or administrator or any other person having similar powers or function appointed over or in relation to the Customer or any part of its assets or undertaking; or

(c) is unable to pay its debts within the meaning of sections 123 or 268 Insolvency Act 1986; or

(d) commits any breach of any of the provisions of the Contract (express or implied) without affecting its other rights (including its accrued rights) the Company may terminate the Contract or the balance of the Contract or suspend deliveries immediately by written notice to the Customer without any liability whatsoever

(2) If the Customer breaches the Contract it must pay to the Company an amount equal to all costs, expenses, loss, damage and liability incurred by the Company arising out of the breach

GOVERNING LAW AND JURISDICTION

14 The laws of England will apply to the Contract and all claims and legal proceedings arising in connection with it will be subject to the non-exclusive jurisdiction of the Courts of England

INTELLECTUAL PROPERTY

16 (1) The Company will indemnify the Customer against damages and costs awarded against the Customer by a court of competent jurisdiction or agreed to be paid by it under a settlement negotiated by the Company pursuant to this paragraph in respect of any claim by a third party alleging that the Goods or any trade mark or service mark applied to them by the Company (other than at the request of the Customer) infringe any intellectual property rights of that third party PROVIDED THAT this indemnity ;

(a) will not apply to any infringement to the extent that it is attributable to [the subject matter of any claim that might be made by the Company under paragraph 2(4) or to], the association or combination of the Goods with any other item or device or if the Goods have been altered or modified or otherwise differ from those delivered by the Company; and

(b) will be conditional upon :-

(i) the Customer giving the Company written notice of any actual or potential claim as soon as practicable and in any event within seven days of the Customer becoming aware of the same;

(ii) the Company being entitled to defend, avoid, appeal against or compromise any such claim and/or any proceedings relating thereto in its absolute discretion and in the Customer's name and on its behalf and to have the exclusive conduct thereof and of all negotiations in respect thereof;

(iii) the Customer not doing or omitting to do any act or thing which prejudices or might prejudice any of the foregoing and its rendering such assistance and providing such information



in connection with any such claim or proceedings and the matters referred to in sub-paragraph (b) (ii) above as the Company may from time to time request;

(iv) the Company being entitled to the benefit of, and the Customer shall accordingly account to the Company for, all damages and costs payable to the Customer by any third party in respect of any such claim or proceedings;

(v) without prejudice to any common law duty of the Customer, its taking such steps as the Company may reasonably require to mitigate or reduce any such damages or expenses covered by this indemnity; and

(vi) the Customer not doing anything which would or might vitiate any insurance cover it may have in relation to such infringement, and this indemnity shall not apply to the extent that it recovers any sums under any such cover (which the Customer shall use its best endeavours to do)

(2) In the event of any such claim being made against the Customer, the Company shall be entitled (but not obliged) at its own expense and option to :-

(a) procure the right for the Customer or the end-user to continue using the Goods in accordance with the Contract; or

(b) procure such alterations, modifications or adjustments to the Goods that they become non-infringing or procure the replacement of the Goods with non-infringing substitutes

(3) The foregoing states the Company's entire liability in relation to any claim that the Goods infringe any person's intellectual property rights

(4) If any computer programs are included in the Goods, the Customer and its successors in title to the Goods will have a non-exclusive licence to use the computer programs created by the Company in or in conjunction with the Goods to which they relate and the ownership of all intellectual property rights in those programs and related documentation supplied by the Company will remain with the Company except for any owned by any third party

(5) Any other computer programs included in the Goods will be subject to the appropriate licence issued by the supplier of those programs

(6) All plans, drawings, designs, specifications and any other documents in any medium relating to the Contract produced by or on behalf of the Company and all rights in them will remain with the Company and will not be disclosed to any third party or (except to the extent necessary for the proper use of the Goods) used by the Customer and all copies in the possession or under the control of the Customer will be returned to the Company on request

MISCELLANEOUS

17 (1) If any provision of the Contract or part of it is held to be invalid or unenforceable by any court or other body of competent jurisdiction that will not affect the other provisions or the remainder of the relevant provision



CORROSION CONTROL

(2) Any variation of the Contract or waiver of any breach by the Customer must be agreed to in writing by the Company's authorised representative

(3) The Customer may not transfer or otherwise deal with all or any of its rights or obligations in relation to the Contract without the Company's prior written consent but the Company will be free to do so

(4) If the Company does not strictly enforce its rights that will not in any way affect any of its rights in respect of the Contract

(5) Any notice or claim under the Contract must be in writing and will be effectively served if it is personally delivered or sent by pre-paid first class post or facsimile transmission to the addressee at its address overleaf or any other address for service notified to the other in accordance with this paragraph