

Burcas Limited
Standard Terms and Conditions of Sale

DEFINITIONS

- 1.1 The Seller: Means Burcas Limited to whom the order has been given
- 1.2 The Buyer: Means the addressee of the quotation
- 1.3 The Quotation: Means the Seller's quotation setting out of the terms and Conditions of the sale of the goods and it is acknowledged that the buyer places no reliance on any written or implied representation or any collateral agreement or any inducement to enter into an agreement to purchase or to agree any term thereof.
- 1.4 The Goods: Means the goods specified in the quotation and all parts or components of them and all work to be done by the Seller and agreed by the seller.

EXISTENCE OF CONTRACT

- 2.1 The quotation unless previously withdrawn remains open for 21 days from the date stated and no order based on the quotation shall create any binding contract between the buyer and the seller unless and until the seller has accepted such order in writing.
- 2.2 Any order based on the quotation shall be deemed to incline all the terms and conditions set out in the quotation and in the event of any such order containing any terms and conditions inconsistent therewith then these terms and conditions shall prevail.

DESIGNS AND DRAWINGS

- 3.1 Where the seller prepares designs or drawings at the request of the buyer:
- a) The buyer shall approve such designs and drawings in writing and until such approval has been received by the seller the seller shall not begin to run.
- b) Although the seller shall warrant as to the correct functioning of the goods no warranty is given as to the product for which the goods are designed to manufacture.
- 3.2 Where the goods are manufactured to designs submitted by the buyer the seller shall be under no liability for the correct functioning of the goods.
- 3.3 In respect of any third parties dealing with the goods the buyer shall be responsible and undertake that the goods are safe and without risk to health when properly used and comply in all respects with all relevant statues regulations byelaws and standards in force at the date of delivery including without prejudice to the generality of the foregoing the Factories Act 1961 and the Health and Safety at Work Etc Act 1974 and the buyer shall supply in respect of the goods such information about the use of them as complies with the Health & Safety At Work Act 1974 or any amendments made thereto or changes or variation thereto at the date of this contract and proper evidence of all tests and examinations and research made in compliance with the provisions of that Act.
- 3.4 The buyer's order must be accompanied by sufficient detailed technical information to enable the seller to proceed with order forthwith.

INFRINGEMENT OF COPYRIGHT OR TRADE MARK

- 4 In the event of it coming to the notice of the seller that any work done or any goods to be supplied under the quotation infringe or are alleged to infringe any patent registered design copyright or other rights in the manufactured goods then the seller shall have the right to cease the manufacture of these goods or to be bound by this agreement and shall retain the title to such goods as have been manufactured and the buyer shall indemnify the seller

against all claims that might be made by any person against the seller for such infringement or alleged infringement or for royalties and against all costs expenses or other payments arising therefrom and shall pay to the seller the value of the work done on and used in the manufacture of the goods prior to such cessation of manufacture.

VARIATION

- 5.1 In the event that information given by the buyer to the seller differs from that on which the quotation is based and involves the alteration of the quotation the seller may increase the price quoted therein to cover any increase in costs that the alteration may incur and amend the delivery date.
- 5.2 If after the seller has accepted an order the buyer requires any alteration in the goods quoted for the costs of such alteration shall be paid by the buyer to the seller on demand.
- 5.3 Any increase in the costs of labour and/or materials arising after the acceptance of the order by the seller and met by the seller will be notified to and will be repayable by the buyer upon such notification.

CANCELLATION

6. Orders accepted by the seller cannot be cancelled or suspended by the buyer except upon terms which indemnify the seller against any actual or anticipated loss including resultant loss from under-utilised capacity.

DELAY

7. The seller shall not be liable to the buyer for any delay in the performance of this contract caused by or resulting from any strike, lockout, breakdown, war, fire, accident, shortage of materials or fuel or any other cause whatsoever outside the control of the seller. The seller shall be entitled to terminate the contract forthwith without liability to the buyer: -
- a) If the dates of delivery shall be extended by these terms and conditions.
- b) The dates of delivery be delayed under the circumstances set out above.

TERMS OF PAYMENT

- 8.
- a) As per quotation, invoice and statement.
- b) One third of the purchase price with order.
One third on notification that the goods are ready for delivery.
The final third within one month of delivery or upon completion of satisfactory tool trial whichever shall be earlier.

TITLE TO GOODS

9. Property in and title to goods are not passed to the buyer until those goods shall have been paid in full; the risk in the goods shall pass to the buyer or its carrier. If the buyer shall in respect of any of the goods fail to pay the price therefore in full on the date thereof the buyer shall store the goods separately from others of the buyer at the buyer's premises and identify that place to the seller and the seller shall (without prejudice to any other remedy it may have) be entitled to demand their immediate return and the buyer shall forthwith return the same. If the buyer shall sell any of the goods or shall use or incorporate them with any product which it shall sell or shall otherwise deal with, alter or treat and then sell before in each case the same shall have been paid for in full then although as between the buyer and its customer the buyer shall act and sell or otherwise deal as principal and the property in and the title to the goods may pass to the customer as between the buyer and the seller and shall hold the proceeds of sale therefore or such proportion thereof as represents the seller's unpaid price for such goods as trustee upon trust for the seller to whom such proceeds or due proportion shall belong and shall pay such proceeds into a separate bank account in the name of the seller.

DELIVERY

- 10.1 The price or prices quoted herein are ex works unless otherwise stated.
- 10.2 Delivery dates are given in good faith at the time that the quotation is submitted but are not guaranteed by the seller and are not of the essence of any agreement based hereon. Time of delivery dates from acceptance of order shall be extended in the event of late delivery of technical information, drawings, specifications or models by the buyer and in the event of any alteration in the goods quoted for being required by the buyer or upon the delay by the buyer in paying any instalment of purchase price to the seller.
- 10.3 Each delivery shall be considered a separate transaction and any failure to effect one delivery shall not affect the due performance of this agreement as regards other deliveries.

LIABILITY

- 11.1 Where this quotation includes delivery:-
- a) Any claims for non-delivery must be made in writing to both the carriers and the seller within ten days of advice note or within such period as may be specified by the carrier, whichever is the shorter.
- b) Any claims in respect of goods damaged in transit or shortages in delivery must be made to both the carriers and the seller within three days of delivery.
- If the buyer fails to comply with any of the requirements of this paragraph or to do all things necessary to protect and further any claim which the seller may have against the carrier or does anything which adversely affects or invalidates such claim, then the seller shall in no way be liable to the buyer for any non-delivery, damages in transit, or shortages in delivery.
- 11.2 In the event of any goods supplied by the seller being defective by reason of faulty materials or workmanship or being other than as agreed to be sold, the buyer shall return such goods to the seller within seven days of the receipt of the same and the seller if satisfied that they are to be replaced shall replace such goods as soon as practicable. It is accepted by the seller that the buyer shall if practicable be entitled to fully examine sample test and evaluate the goods but if they are so held to be defective the buyer must notify the seller within seven days of receipt of those goods by the buyer. In the absence of doubt the seller shall in no circumstances be liable for the cost of any such examination, sampling, testing or evaluation whether the goods turn out to be defective or not.
- 11.2 If goods supplied by the seller are altered, adapted or repaired by any person other than one authorised by the seller in writing, all liability of the seller to the buyer under this agreement for such repair or otherwise shall cease.
- 11.4 Save as herein expressly stated, all contractual terms, conditions and warranties whether express or implied, by common law, statute, or otherwise, are hereby expressly excluded and the seller shall not be liable to the buyer under this agreement or any contract collateral therewith or thereto or in respect of any representation or misrepresentation in any way connected with or leading to this agreement or the making thereof: And the seller shall not be liable to the purchaser, his servants or agents whether the same is alleged to arise out of or be occasioned by negligence, breach of contract or statutory duty or otherwise.
- 11.5 The buyer shall indemnify the seller against all claims, costs and expenses in respect of any actual or alleged loss or damage arising out of the design, construction, manufacture, supply or delivery of these goods and sustained or alleged of have been sustained by the buyer or by any third party, whether a servant of agent of buyer or otherwise, arising out of or being occasioned by the negligence, breach of contract or statutory duty or otherwise of the seller, his servants or agents after the buyer has received the goods or any part thereof.

PAYMENT OVERDUE

- 12 Payments are as detailed above and in the event of any instalment of the purchase price

being delayed in payment for thirty days, the buyer shall be liable to pay to the seller interest at the rate of 15% per annum or 4% over Lloyds TSB Bank Plc Base Rate whichever shall be higher on any sums overdue under this agreement from the date when such sums become due until payment.

ABRITRATION

13. If any question, dispute or difference shall arise between the buyer and the seller at any time in relation to or in connection with this agreement or the goods the subject hereof, either party shall give written notice to the other of such question dispute or difference and the same shall be referred to arbitration in England by a single arbitrator to be mutually agreed upon or, in default of such agreement, to be appointed by the president for the time being of the Gauge and Tool Makers Association. The arbitrator shall be appointed as an expert and shall sit as such and not as an arbitrator and as such expert his decision must be treated by both parties as fully binding upon them.

CONSTRUCTION

14. This agreement shall be construed, operate and be enforced in all respects as a contract made in England in accordance with the Laws of England and the buyer shall submit to the jurisdiction of the appropriate English Court.

Burcas Limited.

Park Lane,
Handsworth
Birmingham
B21 8LT

Tel: 0121 553 2777

Fax: 0121 553 1284

Email: info@burcas.co.uk