

# BRIAN S POPE LTD CONDITIONS OF SALE

## 1. DEFINITION

- 1.1 In these Conditions save where expressly provided otherwise the following terms shall mean the following:  
**Contract** means any Contract between the Company and the Buyer for the sale and purchase of the Goods incorporating these Conditions;  
**Company** means Brian S Pope Ltd;  
**Buyer** means any person, firm, company or other organisation placing an order with the Company;  
**Goods** means any Goods without limitation agreed to be supplied to the Buyer by the Company in the Contract.
- 1.2 In these conditions references to any statute or statutory provision shall unless the Contract otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

## 2. APPLICATION & VARIATION OF CONDITIONS

- 2.1 These Conditions shall be incorporated to the exclusion of all other terms and conditions in all Contracts for the sale of the Goods by the Company and any provision of the Buyer's order, confirmation of order, specification or other document which is inconsistent with them, shall be of no effect. These Conditions cannot be varied without the prior written agreement of the Company.
- 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 a director of the Company.

## 3. PRICES

- 3.1 All prices quoted by the Company are exclusive of VAT unless otherwise stated.  
3.2 Prices may be subject to a delivery charge.

## 4. OTHER CHARGES

- 4.1 The Company reserves the right to add a restocking charge for any Goods returned by the Buyer under Section 6.

## 5. PAYMENT

- 5.1 Payment is due within 30 days following the month of dispatch.  
5.2 The Buyer shall not be entitled to withhold payment of any sums due to the Company by reason of any disputed claim of the Buyer for defective Goods or alleged breach of Contract by the Company.  
5.3 The Buyer reserves the right to suspend or close any Buyer accounts who fail to comply with 5.1 above.

## 6. RETURNS

- 6.1 Goods will only be accepted for return under the following circumstances:  
6.2 The Goods are Returned to the Company within a reasonable period and;  
6.3 The original Company receipt documentation is provided and;  
6.4 The Goods are in the condition they were sold by the Company to the Seller.  
6.5 Should any of the above not be satisfied, any returns will be at the absolute discretion of the Company.  
6.6 Upon return of Goods to the Company, the Buyer will be issued with a credit note for the value of the goods less any applicable restocking charge under Section 4, unless otherwise expressly agreed by the Company.

## 7. RISK

- 7.1 The risk in the Goods but not the ownership shall pass to the Buyer upon receipt of the Goods.  
7.2 Receipt will be deemed to have taken place:  
In the case of Goods being collected from the Company's premises by the Buyer or by the Buyer's agent (including any independent carrier engaged by the Buyer) – at the time when the Goods leave the Company's trade counter.  
When Goods are delivered by the Company's transport – at the moment the goods are lifted from the delivery vehicle.

## 8. RETENTION OF TITLE AND POSSESSION

- 8.1 No title or property in the Goods shall vest in the Buyer unless and until;  
8.2 The Buyer makes full payment in cash or cleared funds to the Company of the price of the Goods and all sums which are or which become due to the Company from the Buyer on any account;  
8.3 The Goods are incorporated in or utilised in the manufacture of products; or  
8.4 The Goods are sold and delivered by the Buyer, whichever is earlier.  
8.5 Until the first of such events are set out in Sections 8.2-8.4 the Buyer shall in all respects treat and deal with the Goods as the property of the Company, hold the Goods on a fiduciary basis as the Company's bailee and shall store the Goods so that they are readily identifiable as the property of the company.  
8.6 The Buyer shall also maintain the Goods in a satisfactory condition and insure them on the Company's behalf against all risks.  
8.7 During such period (and without prejudice to its other rights) the Company and its employees and agents (with such plant and vehicles as the Company considers necessary) shall be entitled to enter any premises where the Goods are located to inspect the Goods and if any of the events specified in Section 9 has occurred without prior notice to the Buyer to re-possess, take away and re-sell the Goods for which the Buyer shall cease to have a right of possession.  
8.8 For the purpose of this Section, cutting or re-bundling of the Goods shall not constitute the manufacture of product or products.  
8.9 Until the Buyer has made full payment in cash or cleared funds for the Goods the Buyer shall not be entitled to dispose of the Goods or any right, title or interest therein by sale or otherwise to the holding company of the Buyer or to any subsidiary of the Buyer or of such holding company.

## 9. TERMINATION

- 9.1 The Company shall be entitled, without prejudice to its other rights and remedies, either to terminate wholly or in part any or every Contract between itself and the Buyer or to suspend dealings with the Buyer in any of the following events:  
9.2 If any debt is due and payable by the Buyer to the Company but is unpaid;  
9.3 If the Buyer becomes insolvent or enters into any composition of arrangement (including a voluntary arrangement) with his creditors or being a body corporate has passed a resolution for voluntary winding-up except where solely for the purpose of amalgamation or reconstruction or if a petition has been presented for an order for its winding-up or for a receiver (including an administrative receiver) or administrator to be appointed or if any such order or appointment is made or if being an individual or partnership the Buyer suspends payment of his or their debts in whole or in part or if an application has been made for an interim order;  
9.4 The Buyer suffers or allows any execution whether legal or equitable to be levied on his/its property or obtained against him/it, or fails to perform or observe any of his obligations under the Contract or these Conditions or is unable to pay his debts within the meaning of Section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or  
9.5 The Buyer encumbrances or in any way charges the Goods.

## 10. WAIVER AND ENFORCEABILITY

- 10.1 The rights of the Company and the Buyer shall not be prejudiced or restricted by any indulgence or forbearance extended by either party to the other and no waiver by either party in respect of any breach shall operate as a waiver in respect of any subsequent breach.  
10.2 If any provision of the Contract 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 the Contract and the remainder of such provision shall continue in full force and effect.

## 11. ASSIGNMENT

- 11.1 The contract shall not be assigned by the Buyer to any third party without prior written consent of the Company.

## 12. LAW & JURISDICTION

- 12.1 The Contract shall be governed by and construed in all respects in accordance with English Law. The Buyer on entering into the Contract submits to the exclusive jurisdiction of the English Courts.

## 13. NOTICES

- 13.1 Any notices authorised or required to be given pursuant to these Conditions shall in the case of a notice to the Company be sent to it at its registered office and shall in the case of a notice to the Buyer be sent to the Buyer at its registered office if the Buyer is a company and in any other case to the address of the Buyer last known to the Company. Any such notice may be given by hand by post or by fax. To prove service in the case of a notice given by post it shall be sufficient to show that the notice was despatched by first class recorded delivery service in a correctly addressed and adequately stamped envelope and to prove service in the case of notice given by fax it shall be sufficient to show that the fax transmission was made to the correct fax number. Service shall be deemed to have been effected 24 hours after despatch by post or fax transmission.