

TERMS AND CONDITIONS OF SALE (Effective from 1st January 2024)

“Conditions”

1) Interpretation

- i) Contract: the contract between the Seller and the Customer for the sale and purchase of the Goods in accordance with these Conditions.
- ii) Customer: the person or firm who purchases the goods from the Seller.
- iii) Goods: the goods set out in the Order.
- iv) Order: the Customer's order for the Goods or the Customer's written acceptance of the Seller's quotation, as the case may be.
- v) Seller: BWT UK Ltd
- vi) Warranty period: has the meaning given in Condition 10.1

2) Prevailing conditions

- a) These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- b) Any samples, drawings, descriptive matter or advertising produced by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.

3) Acceptance

No contract or part of contract to supply any goods of whatever nature shall exist unless and until the Customer's order has been formally accepted in writing by the Seller.

4) Prices

Unless otherwise stated in the Contract all prices quoted are for packed goods for delivery ex-Seller's works. Where carriage is arranged by the Seller this will be charged at standard rates unless otherwise specified in the Contract. Prices may be subject to variation for extended scheduled/call – off orders due to increases in labour, material or overhead costs. Where the Contract is for the regular or periodic supply of Goods, the price of the Goods may be subject to change, as notified by the Seller in writing (email included). The price of the Goods excludes amounts in respect of VAT, which the Customer shall additionally be liable to pay to the Seller at the prevailing rate, subject to a valid VAT invoice.

5) Packing

- a) The Goods will be packed by the Seller in accordance with their established practices and in a manner suitable to withstand a normal journey by road, rail or air as the case may be. No liability for damage to or loss of goods in transit is accepted by the Seller howsoever arising.
- b) Any alternative or additional packing specified by the Customer will be an additional cost and for the Customer's account. The Seller will not be liable for any inadequacy of packing specified by the Customer.

6) Delivery

- a) Delivery of the Goods will be made as specified in the Contract or otherwise agreed in writing (email included) with the Customer. Where delivery is ex-works the Seller, the Customer will use all reasonable efforts to collect the Goods within a week of being notified that the Goods are ready for collection. Where Seller is making the delivery (or arranging for a courier to make deliver), any delivery date indicated by the Seller is approximate only and the time of delivery is not of the essence of the Contract. Although the Seller will endeavour to comply with that date, the Seller will accept no liability whatsoever for any delay in delivery or the consequence thereof arising as a result of strikes, riots, acts of God, delay in transport, Customer's acts or omissions or other events or circumstances beyond the Seller's reasonable control.
- b) Where Goods are delivered by instalments, each instalment shall constitute a separate contract.

7) Risk

Risk shall pass to the Customer upon delivery of the Goods at the place agreed in writing between the Seller and the Customer or in the absence of agreement, ex-Seller's works, or where delivery is made via a carrier, when Goods are passed to the carrier or Agent either (i) for them to load into their vehicle for transportation to the Customer, or, (ii) where the Goods are on a pallet, when the Seller loads them onto the carrier's vehicle for transportation to the Customer.

8) Title

Title of the Goods will not pass to the Customer until payment thereof is received in full by the Seller and until such payment in full is received, the Customer shall (i) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Seller's property, (ii) not consume the Goods, and (iii) give the Seller such information as the Seller may reasonably require from time to time relating to the Goods and the Customer's ongoing financial position. In addition, where the Goods have (with the consent of the Seller) been purchased for resale, the Customer may resell the Goods and shall hold the proceeds of any sale of the Goods, or of other goods in which the Goods have been incorporated (in so far as such proceeds do not exceed the sum due to the Sellers) on trust to the Seller absolutely. The Seller shall be entitled to require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product, and if the Customer fails to do so promptly, enter any of the Customer's premises and remove any Goods remaining on the property of the Seller if the Customer fails to pay for the Goods as agreed or if the Seller's reasonably believes that the Customer will fail to make such payment.

9) Payment

- a) Payments shall be made to the Seller in advance of delivery of the Goods unless otherwise agreed in the Contract in which case payment shall be made to the Seller within 30 days from the date of Seller's invoice. Should payments be delayed beyond 30 days or said agreed date(s) interest on all sums outstanding shall accrue at a daily rate equivalent to an annual rate of 2% above the Bank of England base rate (prevailing at the date upon which the sum fell due) on the principal owing until the balance owed is paid.
- b) Should payment be delayed beyond the agreed due date, the Seller reserves the right to suspend deliveries of any Goods ordered by the Customer and if the Contract constitutes an agreement to make deliveries by instalment the Seller may upon expiry of 30 days written notice of their intentions so to do (which notice may be served at any time after the payment has become 15 days as overdue) deem it repudiated by the Customer both without prejudice to the accrued rights of the Seller.
- c) The notices referred to herein may be sent by e-mail as considered appropriate or expedient by the Seller and such notice will be considered as served after transmission.

10) Warranty

- a) The Seller warrants that on delivery and for a period of 12 months from delivery (Warranty period), the Goods shall be free from material defects in material and workmanship. If a defect arises during the Warranty period and the Customer notifies the Seller of this in writing (email included) during the Warranty period, and returns the defective Goods (at its cost) to the Seller, the Seller's sole obligation shall be at their option to replace or refund the purchase price of the defective Goods. Where the Seller elects to replace defective goods the replacement will be dispatched to the Customer carriage paid by means of and routes chosen by Seller.

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- b) No warranty is given concerning the fitness of the Goods if they are used for any purpose different from that for which they were originally intended or designed by the Seller or for any defect occurring as a result of any act or omission of the Customer.
- c) Except as specified in Condition 10.1, all conditions, guarantees or warranties (whether expressed or implied by statute, course of dealing or common law) which may be lawfully excluded are hereby excluded from the Contract to the fullest extent permitted under applicable law.

11) Liability

- a) In the case of international sales (that is sales falling within the provision of Section 26 Unfair Contract Terms Act 1977) the Seller disclaims all liability for the loss or damages sustained by the Customer of whatsoever nature arising as a result of any defect in the Goods supplied. Without prejudice to the foregoing if the Seller is judged liable in respect of any act, failure or omissions on their part in relation to any Contract, their liability shall be limited to a sum not exceeding the consideration for the Goods comprising the subject matter of the relevant Contract.
- b) In the case of sales within the United Kingdom (that is, falling outside the provision of Section 26 Unfair Contract Terms Act 1977) it is understood between the parties that on the basis that the Seller cannot anticipate every possible condition of storage, transport and use of the Goods, it needs to limit the maximum liability in any claim howsoever arising against them including, but not restricted to, claims resulting from any defect in the Goods supplied and whether or not relating to a fundamental breach of the Contract, to a sum not exceeding the consideration for the Goods comprising the subject matter of the relevant Contract.
- c) This limitation of total liability in Conditions 11.1 and 11.2 shall not apply in the case of death or personal injury caused by the negligence of the Seller, any fraud or fraudulent misrepresentation or defective products under the Consumer Protection act 1987.
- d) References to liability in this Condition 11 include every kind of liability arising under or in connection with the Contract, including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- e) Subject to Condition 11.3, the following types of loss are wholly excluded: loss of profits, loss of sales or business, loss of agreements or contracts, loss of actual or anticipated savings, loss of use or corruption of software or data, loss of or damage to goodwill and any indirect or consequential loss.

12) Waiver of Default

Waiver by either party if any default on the part of the other party shall not be deemed a waiver of subsequent default.

13) Termination

The Seller shall have the option to terminate any Contract should the Customer be in material breach of contract becoming bankrupt, insolvent, or otherwise unable to pay its debts as they fall due or pass a resolution to wind up its affairs (other than for the purpose of solvent reconstruction or amalgamation), have a receiver or administrator appointed of its assets or any part thereof. Should the Customer cancel an Order on the Seller then a cancellation charge equating to the cost incurred by the Seller at the time of the cancellation shall be levied.

14) Entire agreement

- a) The Contract constitutes the entire agreement between the parties.
- b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

15) Variation

No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives)

16) Severance

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this Condition 16, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

17) Notices

No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives)

- a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be sent by email to the following addresses (or an address substituted in writing by the party to be served):
Seller: customerservice@bwt-uk.co.uk
BWT UK Limited,
The Gateway Centre,
High Wycombe,
HP12 3SU
- b) Any notice shall be deemed to have been received:
 - i) if delivered by hand, at the time the notice is left at the proper address;
 - ii) if sent within the UK, by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second business day after posting; or
 - iii) if sent by email, at the time of transmission, or, if this time falls outside UK business hours, when business hours resume.
- c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

18) Governing Law

All contracts entered between the Seller and Customer shall be governed by English law and any dispute arising shall be submitted at the option of the Seller to the exclusive jurisdiction of the English Court or to an Arbitrator appointed by the Seller acting in accordance with the provisions of the Arbitration Act of 1996.