



BFES Terms and Conditions: Projects and Sales – 11.02.2021

1. Definitions and Interpretation

- 1.1. In these conditions the following words shall (unless the context otherwise requires) have the following meanings:
 - 1.1.1. "BFES", "The Company", "We", "Us" or "Our" etc. meaning BF Engineering Service Ltd (BFES), its trading divisions, subsidiaries, or associated companies.
 - 1.1.2. "Customer" or "You" means the client for who the quotation was prepared or who has ordered goods or services with BFES.
 - 1.1.3. "Equipment" or "Goods" means all equipment materials or services which are subject to the Customer's order which are to be supplied to the customer by BFES under these conditions.
 - 1.1.4. "Hours of Business" means 9.00am to 5.00pm Monday to Friday excluding Bank Holidays.
 - 1.1.5. "Quotation" means our quotation for the supply of goods and / or services.
 - 1.1.6. "VAT" means Value Added Tax applied to all charges at the prevailing rate.
- 1.2. In these conditions, reference to any statute or statutory provisions shall, unless the context so 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.
- 1.3. Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.4. A reference to writing or written includes faxes and emails.
- 1.5. The headings in these conditions are for convenience of reference only, they do not form part of the contract and shall not affect its validity or construction.
- 1.6. Nothing contained herein shall have the effect of restricting or excluding rights accruing to the supplier under the Sale of Goods Act 1979 or the Supply of Goods and Services Act 1982.

2. Orders

- 2.1. There shall be no binding agreement between the Customer and BFES until the Customer's order has been accepted in writing by BFES. Any prior indications by BFES made verbally shall be provisional only.
- 2.2. All orders must be placed using the standard format specified by BFES and request delivery up to 90 days of the order issue date. Orders must in any event comply with the prevailing BFES ordering procedures.
- 2.3. All orders are accepted subject to the availability of goods and services and to these conditions. No terms or conditions put forward by the Customer shall be binding on BFES.
- 2.4. The Customers accepts that these conditions and any specific details stated in its accepted order constitute the entire agreement between the two parties and supersede any prior promise, representation, undertaking or understanding of any kind.
- 2.5. If the Customer requests a change or cancellation of an order BFES reserves the right to reject the change or cancellation or accept it and charge 25% of the original list price value.
- 2.6. No cancellation will be accepted in respect of orders for items not normally stocked by BFES. Any such items would be specifically ordered for the Customer and will be held by BFES at the Customers risk and the Customer shall insure accordingly.

3. Prices

- 3.1. Unless otherwise expressly agreed in writing the Goods shall be sold and invoiced at BFES' current price at the date of dispatch. Catalogues, price lists, videos and other advertising material are provided for illustrative purposes only.
- 3.2. Unless otherwise agreed in writing prices do not include delivery and taxes (if any) and such cost shall be payable by and invoiced to the Customer.
- 3.3. All quotations are valid for 30 days from date of issue given. Where quotations and prices are based on details provided by the Customer and the Customer alters the details on which such quotations and prices are based. BFES reserve the right to charge for any omission or additional cost arising from the provision of inaccurate or insufficient information by the Customer and to revise prices to cover increases in any costs of providing the Goods and services which occurs between the dates of the quotation and the customer written purchase order.
- 3.4. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or document or information produced by BFES shall be subject to correction without any liability on the part of BFES.

4. Delivery

- 4.1. Delivery of the Goods shall be at the Customer's premises, or if different, the place specified in the Customers order.
- 4.2. Dates and times quoted by BFES are estimates only and any delay in meeting delivery dates shall not give rise to a right to cancel the order or to claim damages unless agreed in writing by BFES prior to acceptance of the order.
- 4.3. The Customer shall note any claim for short delivery and/or damage to components or packaging on the delivery schedule at the time of delivery and shall confirm such claims by email with photos of the damage at the time of receipt, followed by a phone call within 24 hours. All Goods are deemed delivered, accepted and completed if such notice is not received within such period.
- 4.4. BFES reserve the right to make part delivery. All requests by the Customer for BFES to delay or split delivery may result in a stock holding charge and any additional costs incurred by BFES being, payable by an invoice to the Customer. Any Goods so held shall be at the risk of the Customer which shall insure accordingly.
- 4.5. Subject to Clause 4.4 risk in the Goods shall pass on delivery or collection by the Customer or its agents, whichever is the earliest.

5. Payment

- 5.1. If the Customer is not an account holder approved in writing by BFES all invoices are payable before delivery of the goods or immediately following submission of a pro forma invoice from BFES whichever is the earlier and that date shall be the due date.
- 5.2. If the Customer is an approved account holder all invoices are payable net within 30 days of the date of invoice and that date shall be the due date.
- 5.3. Time is of the essence with regard to payment of any sums due to BFES.
- 5.4. Without prejudice to the other rights of the Company if the Customer fails to pay any amount on the due date:
 - 5.4.1. BFES shall have the right to cancel any contract made with the Customer and to suspend the delivery or supply of the Goods.
 - 5.4.2. The whole balance then outstanding to BFES by the Customer on any account whatsoever shall become immediately due and payable.
 - 5.4.3. BFES reserve the right to charge interest on a daily basis on overdue amounts at the rate of 8% above Barclays Bank plc Base Rate or the rate of statutory interest set under the Late Payment of Commercial Debts (Interest) Act 1998 (or any re-enactment thereof) whichever is the higher from the due date until payment.
 - 5.4.4. The Customer shall indemnify BFES and keep it indemnified in respect of all costs (including legal fees) reasonably incurred in recovering or attempting to recover unpaid sums due to BFES.
- 5.5. BFES reserve the right to require the Customer to pay for the Goods in advance and to recharge or refuse discount if the Customer fails to maintain credit account arrangements satisfactory to BFES.
- 5.6. VAT is payable by the Customer on all amounts due.
- 5.7. The Customer must pay all sums due to us under this agreement free and clear without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

6. Title

- 6.1. BFES Shall retain full ownership of, and title to all the Goods delivered to the Customer or any part thereof unless and until the Customer has paid all sums owing to BFES.
- 6.2. While any amount remains outstanding to BFES from the Customer:
 - 6.2.1. The customer shall keep the Goods as fiduciary bailee for BFES. The Customer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of BFES.
 - 6.2.2. The Customer will deliver up or have delivered up to BFES the Goods upon demand and BFES may without limiting and any other rights or remedies available to it at law in equity or by statute cease repossess and/or resale Goods at its discretion and in the exercise of such rights BFES may enter any premises in which it reasonably believes from time to time any goods are located.



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- 6.2.3. Where the Customer is paid by or on behalf any of its own customers or shall receive the proceeds of any insurance claim in respect of any Goods it shall pay such sums to BFES as soon as reasonably practicable to do so after receipt until BFES is paid in full and shall hold the same as trustee for BFES and keep separate account of all such sums for such purpose.
- 6.2.4. The Customer shall take all due care (or ensure that all due care is taken) of the Goods and the Customer shall bear the sole liability for insurance of the Goods and shall indemnify BFES for any loss whatsoever suffered or incurred by BFES arising out of any failure to insure such Goods.

7. Warranty

- 7.1. The Customer acknowledges that BFES is not the manufacturer of the Goods. BFES will pass on to the Customer such unexpired warranty it receives from the manufacturers of the Goods as are capable of transfer and BFES' liability shall be limited to such guarantee as it may receive from the manufacturers. No warranty is given in respect of the documentation or Goods not provided by BFES.
- 7.2. BFES' obligation and liabilities in respect of the Goods shall be limited to those set out expressly herein. BFES passes to the client such information as presented by the manufacturer of the equipment for suitability and fitness of purpose.
- 7.3. The Customer shall ensure that any warranty and maintenance service performed on the Goods is performed by a BFES engineer or a qualified representative authorised by the manufacturer to offer warranty and maintenance on those goods.
- 7.4. The customer shall ensure that all equipment subject to warranty is regularly serviced and maintained throughout the warranty period by manufacturers authorised and trained service personnel. Written service documentation will be required to support any subsequent warranty claim. As a minimum requirement all equipment should be serviced at least annually.
- 7.5. Without prejudice to Clauses 7.1 and 7.2 the liability of BFES (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be limited to the making good by replacement or repair of such Goods which upon inspection by BFES appear to be defective and in any event BFES' maximum aggregate liability arising in respect of the supply of goods and/or services shall be limited to the original VAT exclusive price of such goods and/or services.
- 7.6. Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:
- 7.6.1. Death or personal injury caused by negligence.
- 7.6.2. Fraud or fraudulent misrepresentation.
- 7.6.3. Any other losses which cannot be excluded or limited by applicable law.
- 7.7. BFES makes no representation and gives no warranty in respect of the sources or origin of manufacture or production of the Goods or part thereof.
- 7.8. Warranty will be void if failures or defects are caused by Limescale, deliberate damage, misuse, or failure to conduct regular maintenance by BFES or manufacturers approved authorised and qualified personnel.

8. Returns and Trade in Offers

- 8.1. All Goods shall be deemed accepted unless rejected by notice in writing (email) to BFES within 24 hours of delivery or collection of the Goods. Any such notice shall give detailed reasons for such rejection.
- 8.2. Any payment, credit or refund following return of such rejected Goods to the Customer shall be given once the same has been received by BFES from the manufacturer, supplier or insurer as the case may be.
- 8.3. Before returning any Goods, which have been rejected in accordance with Clause 8.1 the Customer shall comply with BFES' returns procedure and in particular but without limitation shall obtain from BFES a designated return label which will contain an identification number and which shall be affixed by the Customer in a prominent position to the packaging of the Goods to be returned. The issue of a return label is solely for administrative purposes and shall not be taken as an admission of any fault and/or liability whatsoever on the part of BFES in relation to the Goods being returned.
- 8.4. No Goods shall be returned without BFES' Prior approval and BFES reserves the right to repair Goods rather than accept their return.
- 8.5. Where Goods are returned in connection with a trade in offer from the manufacturer BFES will accept such Goods as agent for the Customer at the Customer's risk and expense.
- 8.6. Where Goods are returned BFES reserves the right to charge 25% of the original list price value to cover supplier restocking fees if applicable.

9. Product Changes

- 9.1. BFES will use its reasonable endeavors to inform the Customer of all alterations made by the manufacturer to the specification of the Goods.
- 9.2. BFES shall be entitled to substitute an alternative product or equivalent functionality and at the same price or to cancel any orders for Goods which have been declared 'end of life' by the manufacturer.

10. Customer responsibilities

- 10.1. If BFES so requests the Customer shall supply BFES with a copy of its rules & regulations and health & safety policy.
- 10.2. The Customer will comply with all applicable statutory rules and regulations relating to the welfare and safety of BFES' employees carrying out their duties pursuant to this agreement and will at all times provide a suitable place of work comparable to that provided to the Customer's employees.
- 10.3. The Customer will indemnify BFES from any liability, claim, loss, damage costs and legal expenses in defending any action or claim resulting or arising from any breach by the Customer of clause 10.2 of this agreement. The Customer undertakes to maintain adequate levels of general insurance cover in this regard as recommended by an independent insurance broker.

11. Trademarks, Patents and Copyrights

- 11.1. The Customer shall recognise the manufacturers' ownership of, and title to all trademarks, service marks, trade name or copyright notice.
- 11.2. The Customer will take no action to violate, obliterate, remove, alter, conceal or misuse any such marks, trade name or copyright notice.
- 11.3. The Customer will promptly notify BFES if it becomes aware of any infringement of such intellectual property rights by any third party and shall provide its reasonable assistance to BFES and/or the manufacturer in connection with any resultant proceedings.

12. Confidential Information

- 12.1. BFES may from time to time impart to the Customer certain confidential information of a commercially sensitive or technical nature and the Customer hereby agrees that it will use such information solely for the purpose of this agreement and that it shall not disclose such information whether directly or indirectly to any third party.

13. Force Majeure

- 13.1. In this clause 14 Force Majeure means an event or sequence of events beyond a party's reasonable control (after exercise of reasonable care to put in place robust back-up and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Contract.
- 13.2. A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it:
- 13.2.1. promptly notifies the other of the Force Majeure event and its expected duration; and
- 13.2.2. uses best endeavours to minimise the effects of that event.
- 13.3. If, due to Force Majeure, a party:
- 13.3.1. is or shall be unable to perform a material obligation; or
- 13.3.2. is delayed in or prevented from performing its obligations for a continuous period exceeding 14 days or a total of more than 30 days in any consecutive period of 60 days;
- 13.3.3. the other party may, within 30 days, terminate the Contract on immediate notice.

14. Distribution agreement

- 14.1. BFES agrees with the Customer that it will comply with the obligations imposed on it by any agreement with any manufacturer relating to the Goods.
- 14.2. The Customer indemnifies BFES against all costs, claims expenses demanded and penalties suffered or incurred by BFES as a result of a breach of the Customer's obligations under any such agreement.





15. Waste Electronic and Electrical Equipment Regulations (WEEE)

- 15.1. BFES will, when requested by the customer fulfil its requirements to remove from the customers premises all WEEE that it is obligated as a producer to do. Provided:
 - 15.1.1. The WEEE to be collected is in full and complete condition;
 - 15.1.2. The WEEE is palletised or in a condition for a quick and speedy collection; and
 - 15.1.3. That the WEEE is in a position that is easily accessible for collection by a 7.5-ton transport vehicle.
- 15.2. BFES will then ensure that collected BFES obligated WEEE equipment is assessed for reuse or submitted to an authorised treatment facility for recycling.

16. General

- 16.1. The Customer may not assign or transfer any of its rights, duties, and obligations without the written consent of BFES.
- 16.2. The Company reserves the right to update and revise terms and conditions as deemed appropriate by the company. Any changes and revision numbers will supersede existing or previous terms and conditions automatically. This will not affect contract duration. A copy of revised terms and conditions are available on request to existing customers.
- 16.3. If any term or provision in this Contract is found by a court to be illegal or unenforceable, in whole or in part, such term or provision or the relevant part shall be deemed not to form part of this Contract but the remainder of the Contract or of the part in question shall remain enforceable and shall not be affected.

17. Governing law

- 17.1. The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 17.2. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).