

	B C Barton International Ltd	6	Title	10.2	The 'Incoterms' of the International Chamber of Commerce which are in force at the time when the contract is made apply to exports, but these terms prevail to the extent that there is any inconsistency.
	Terms of Trading	6.1	Consumers: your statutory rights are unaffected.		
1	Business customers and consumers	6.2	Business customers: until you pay all debts you may owe us:		
1.1	Some of these terms apply to consumers only; some apply to business customers only. Those terms are marked as such.	6.2.1	all goods supplied by us remain our property;	10.3	Unless otherwise agreed, the goods are supplied ex works our place of manufacture.
1.2	All other terms apply to all customers.	6.2.2	you must store them so that they are clearly identifiable as our property;	10.4	Where the goods are to be sent by us to you by a route including sea transport we are under no obligation to give a notice under section 32(3) of the Sale of Goods Act 1979.
1.3	You are classified as a business customer if you indicate to us that the goods supplied by us will be used in the course of your business or if you use the goods in the course of your business.	6.2.3	you must insure them (against the risks for which a prudent owner would insure them) and hold the policy on trust for us;	10.5	You are responsible for arranging testing and inspection of the goods at our premises before shipment (unless otherwise agreed). We are not liable for any defect in the goods which would be apparent on inspection unless a claim is made before shipment. We are not liable for any damage during transit.
1.4	If you are not a business customer, you are a consumer. You have certain statutory rights as a consumer which are not affected by these terms. Contact your local trading standards office for more information. Words in <i>italic type</i> are legal words which clarify, rather than alter, the meaning of the relevant clause.	6.2.4	you may use those goods and sell them in the ordinary course of your business, but not if:		
		a.	we revoke that right (by informing us in writing); or	10.6	We are not liable for death or personal injury arising from the use of the goods delivered in the territory of another State (within the meaning of s.26 (3) (b) Unfair Contract Terms Act 1977).
		b.	you become insolvent.		
2	Price	6.3	Business customers: you must inform us (in writing) immediately if you become insolvent.	11	Cancellation
2.1	The price quoted excludes VAT (unless otherwise stated). VAT will be charged at the rate applying at the time of delivery.	6.4	Business customers: if your right to use and sell the goods ends you must allow us to remove the goods.	11.1	You may not cancel the order unless we agree in writing (and clauses 3.2.2 and 11.2 then apply).
2.2	Our quotations lapse after 30 days (unless otherwise stated).	6.5	Business customers: we have your permission to enter any premises where the goods may be stored:	11.2	If the order is cancelled (for any reason) you are then to pay us for all stock (finished or unfinished) that we may then hold (or to which we are committed) for the order.
2.3	The price quoted excludes delivery (unless otherwise stated).	6.5.1	at any time, to inspect them; and	11.3	We may suspend or cancel the order, by written notice if:
2.4	Business customers: unless otherwise stated, the price quoted to business customers is an illustrative estimate only and the price charged will be our price current at the time of delivery.	6.5.2	after your right to use and sell them has ended, to remove them, using reasonable force if necessary.	11.3.1	you fail to pay us any money when due (under the order or otherwise);
2.5	Business customers: rates of tax and duties on the goods will be those applying at the time of delivery.	6.6	Despite our retention of title to the goods, we have the right to take legal proceedings to recover the price of goods supplied should you not pay us by the due date.	11.3.2	you become insolvent;
2.6	Business customers: at any time before delivery we may adjust the price to reflect any increase in our costs of supplying the goods.	6.7	You are not our agent. You have no authority to make any contract on our behalf or in our name.	11.3.3	you fail to honour your obligations under these terms.
3	Delivery	7	Warranties	12	Waiver and variations
3.1	All delivery times quoted are estimates only.	7.1	We warrant that the goods:	12.1	Any waiver or variation of these terms is binding in honour only unless:
3.2	If we fail to deliver within a reasonable time, you may (by informing us in writing) cancel the contract, however:	7.1.1	comply with their description on our delivery note; and	12.1.1	made (or recorded) in writing;
3.2.1	you may not cancel if we receive your notice after the goods have been dispatched; and	7.1.2	are free from material defect at the time of delivery (as long as you comply with clause 7.4).	12.1.2	signed on behalf of each party; and
3.2.2	if you cancel the contract, you can have no further claim against us under that contract.	7.2	Business customers: we give no other warranty (and exclude any warranty, term or condition that would otherwise be implied) as to the quality of the goods or their fitness for any purpose.	12.1.3	expressly stating an intention to vary these terms.
3.3	If you accept delivery of the goods after the estimated delivery time, it will be on the basis that you have no claim against us for delay (including <i>indirect or consequential loss</i> , or increase in the price of the goods).	7.3	Consumers: the warranty in clause 7.1 is in addition to your statutory rights.	12.2	All orders that you place with us will be on these terms (or any that we may issue to replace them). By placing an order with us, you are expressly waiving any printed terms you may have to the extent that they are inconsistent with our terms.
3.4	We may deliver the goods in instalments. Each instalment is treated as a separate contract.	7.4	If you believe that we have delivered goods which are defective in material or workmanship, you must:	13	Force majeure-business customers only
3.5	We may decline to deliver if:	7.4.1	inform us (in writing), with full details, within 5 days of the delivery; and	13.1	If we are unable to perform our obligations to you (or able to perform them only at unreasonable cost) because of circumstances beyond our control, we may cancel or suspend any of our obligations to you, without liability.
3.5.1	we believe that it would be unsafe, unlawful or unreasonably difficult to do so; or	7.4.2	allow us to investigate (we may need access to your premises and product samples).	13.2	Examples of those circumstances include act of God, accident, explosion, war, terrorism, fire, flood, transport delays, strikes and other industrial disputes and difficulty in obtaining supplies.
3.5.2	the premises (or the access to them) are unsuitable for our vehicle.	7.5	If the goods are found to be defective in material or workmanship (following our investigations), and you have complied with those conditions (in clause 7.4) in full, we will (at our option) repair the goods replace the goods or refund the price.	14	General
4	Risk	7.6	We are not liable for any other loss or damage (including indirect or consequential loss, financial loss, loss of profits or loss of use) arising from the contract or the supply of goods or their use, even if we are negligent.	14.1	English law is applicable to any contract made under these terms. The English and Welsh courts have non-exclusive jurisdiction.
4.1	The goods are at your risk from the time of delivery.	7.7	Our total liability to you (from one single cause) for damage to property caused by our negligence is limited to three million pounds.	14.2	If you are more than one person, each of you is liable for all of your obligations under these terms (<i>joint and several liability</i>).
4.2	Delivery takes place either:	7.8	For all other liabilities not referred to elsewhere in these terms our liability is limited in damages to the price of the goods.	14.3	If any of these terms are unenforceable as drafted:
4.2.1	at our premises (if you are collecting them or arranging carriage); or	7.9	Nothing in these terms restricts or limits our liability for death or personal injury resulting from negligence.	14.3.1	it will not affect the enforceability of any other of these terms; and
4.2.2	at your premises or address specified by you (if we are arranging carriage).	8	Specification	14.3.2	if it would be enforceable if amended, it will be treated as so amended.
4.3	You must inspect the goods on delivery. If any goods are damaged or not delivered, you must write to tell us within five days of delivery or the expected delivery time. You must give us (and any carrier) a fair chance to inspect the damaged goods.	8.1	If we prepare the goods in accordance with your specifications or instructions you must ensure that:	14.4	We may treat you as insolvent if:
5	Payment terms	8.1.1	the specifications or instructions are accurate;	14.4.1	you are unable to pay your debts as they fall due; or
5.1	You are to pay us in cash or in cleared funds prior to delivery, unless you have an approved credit account.	8.1.2	goods prepared in accordance with those specifications or instructions will be fit for the purpose for which you intend to use them; and	14.4.2	you (or any item of your property) becomes the subject of:
5.2	Business customers: If you have an approved credit account, payment is due no later than 30 days after the month end of our invoice unless otherwise agreed in writing.	8.1.3	your specifications or instructions will not result in the infringement of any intellectual property rights of a third party, or in the breach of any applicable law or regulation.	a.	any formal insolvency procedure (examples of which include receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy);
5.3	If you fail to pay us in full on the due date we may:	8.1.4	you shall indemnify us against all losses, liabilities, claims, damages, expenses, incurred by us as a direct or indirect result of carrying out any work instructed by you that results in any infringement of any rights of any third parties.	b.	any application or proposal for any formal insolvency procedure; or
5.3.1	suspend or cancel future deliveries;	8.2	Business Customers: We reserve the right;	c.	any application, procedure or proposal overseas with similar effect or purpose.
5.3.2	charge you interest at the rate set under s.6 of the Late Payment of Commercial Debts (Interest) Act 1998;	8.2.1	to make any changes in the specifications of our goods that are necessary to ensure they conform to any applicable safety or statutory requirements; and	14.5	Business customers: all brochures, catalogues and other promotional materials are to be treated as illustrative only. Their contents form no part of any contract between us and you should not rely on them in entering into any contract with us.
a.	calculated (on a daily basis) from the date of our invoice until payment;	8.2.2	to make without notice any modifications in our specifications as a result of either raw materials supply or manufacturing capabilities we think necessary or desirable.	14.6	Business customers: any notice by either of us which is to be served under these terms may be served by leaving it at or by delivering it to (by first class post or by fax) the other's registered office or principal place of business. All such notices must be signed.
b.	compounded on the first day of each month; and			14.7	No contract will create any right enforceable (by virtue of the Contracts (Rights of Third Parties) Act 1999) by any person not identified as the buyer or seller.
c.	before and after any judgment (unless a court orders otherwise);			14.8	The only statements upon which you may rely in making the contract with us are those made in writing by someone who is (or whom you reasonably believe to be) our authorised representative and either:
5.3.3	claim fixed sum compensation from you under s.5A of that Act to cover our credit control overhead costs; and	8.3	Tooling – Any tooling that is charged on a part-tool cost remains the property of the company. If any tooling which you require needs to be refurbished we may invoice you for part or full payment. We reserve the right to treat any tooling that has not been used for any of the buyers business for a period of at least two years as our property.	14.8.1	contained in our estimate (or any covering letter) and not withdrawn before the contract is made; or
5.3.4	recover (under clause 5.8) the cost of taking legal action to make you pay.	9	Return of goods	14.8.2	which expressly state that you may rely on them when entering into the contract.
5.4	If you have an approved credit account we may withdraw it or reduce your credit limit or bring forward your due date for payment. We may take any of these actions at any time and without notice.	9.1	We will accept the return of goods from you only:	14.9	Nothing in these terms affects or limits our liability for fraudulent misrepresentation.
5.5	Business Customers: you do not have the right to set off any money you may claim from us against anything you may owe us.	9.1.1	by prior arrangement (confirmed in writing);		
5.6	Consumers: you may only set off money you claim from us against money you owe us with our written agreement and on such terms as we may state.	9.1.2	on payment of an agreed handling charge (unless the goods were defective when delivered) and		
5.7	While you owe money to us, we have a right to keep any property we may hold of yours until you have paid us in full (<i>a lien</i>).	9.1.3	where the goods are as fit for sale on their return as they were on delivery.		
5.8	You are to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly and including finance costs and legal costs on a full indemnity basis) following any breach by you of any of your obligations under these terms.	10	Export terms		
5.9	Consumers: clause 5.8 means that you are liable to us for losses we incur because you do not comply with these terms. We may claim those losses from you at any time and if we have to take legal action we will ask the court to make you pay our legal costs.	10.1	Where the goods are supplied by us to you by way of export from the United Kingdom Clause 10 of these terms applies (except to the extent that it is inconsistent with any written agreement between us).		