

# Standard Terms and Conditions

**FOREWORD** The present conditions were originally drawn up in the French language and translated. Only the French version shall have force of law. These terms and conditions shall govern each contract to the exclusion of any other terms and conditions.

## 1. INTERPRETATION :

In these terms and conditions, the following words have the following meanings :

Word	Meaning
"Buyer"	The person(s) or the company whose order for the goods is accepted by the Company;
"Company"	Blanchon SA
"Goods"	Any goods which the Company is to supply to the Buyer (including any of them or any part of them);
"Contract"	Any contact between the Company and the Buyer for the sale and purchase of the Goods.

The headings in these terms and conditions are for convenience only and shall not affect their interpretation.

### • PRICES

The price for the Goods shall be the price set out in the Company's published price list (available upon request) current at the date of order. The price for the Goods is exclusive of any value added tax or any other applicable tax which the Buyer shall pay in addition when it is due to pay for the Goods.

### • DELIVERY

Any dates specified by the Company for delivery of the Goods are approximate only. Time for delivery shall not be of the essence. If no dates are so specified, delivery will be within a reasonable time. Any delay in delivery shall not give rise to the payment of damages nor to the cancellation of the sale.

### Carriage

Unless explicitly agreed otherwise in writing, the Goods are transported entirely at risk of the Buyer notwithstanding that the Goods are transported Carriage Paid To (CPT). In the event that Goods are missing or damaged upon delivery to the carrier then the Buyer shall:

- Endorse the carrier's receipt with a statement setting out the number of missing or damaged Goods or expressing the defect, for example "products have run, battered containers etc".
- All claims shall be in writing addressed to the carrier and sent to the carrier within 3 days of delivery (cf article L.133-3 of the Code of Commerce).
- The Buyer shall only be able to bring a claim for damaged or missing Goods against the carrier. The above stated procedures must be adhered to by the Buyer in order to be entitled to claim compensation. The carrier is the only person who will have the ability to receive and take appropriate action concerning the claim. The Company shall pay the cost of carriage in respect of orders over 150 litres. In other cases, the Buyer shall pay the cost of carriage.

### Liability

The Company's liability is limited to the replacement of Goods which fail to conform with the ordered quantity or which are acknowledged as suffering from hidden defects, or, (at the Company's discretion) a refund of the invoiced sum. No liability is provided for post-delivery incidents arising as a result of storage by the Buyer or inappropriate use of Goods.

### Retention of title

**Ownership of the Goods and accessories shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of the Goods and all other sums which are or which become due to the Company from the Buyer on any account.**

**Risk of damage to or loss of Goods shall pass to the Buyer upon delivery of the Goods to the custody of the carrier and the Buyer shall be responsible for insuring the Goods from this point in time. The Buyer shall keep the Goods separate from those of the Buyer and third parties and properly identified as the property of the Company.**

**If the Buyer fails to make any payment under this Contract on the due date then the Company shall be entitled at any time to require the Buyer to deliver up the Goods to the Company and, if the Buyer fails to do so forthwith, to enter upon the premises of the Buyer or any third party where the Goods are stored and repossess the Goods. The Company shall retain the sums already paid by the Buyer.**

### • RETURN OF GOODS

The return of Goods shall be subject, after consideration of the subject of the claim, to express agreement from the Company. Goods shall be in perfect condition and shall not have been used. Expenses and risks relating to the Goods shall be borne by the Buyer. Any return implemented contrary to the above shall be null and void.

### • PREPACKAGING

In the event that the Goods are prepackaged pursuant to a promotional offer or otherwise the Company shall not be required to supply such Goods in quantities smaller than the number prepackaged but may do so as its sole discretion.

### • PAYMENT

The Buyer shall pay the price within 30 days of the date of the invoice. The time of payment of the price shall be the essence of the Contract. All payments should be made in accordance with article 125 of the Code of Commerce or in accordance with a separate agreement in writing between the Company and the Buyer. In the event of an amendment to the net amount of the invoice a corresponding adjustment will be made to the VAT payable. Any late payment shall result in the cancellation of the Contract, the suspension of further deliveries to the Buyer and the immediate payment of the sums outstanding by the Company. The Company shall be entitled to charge interest on the amount unpaid (both before and after judgement) at the rate of 3 times the base rate of the Bank of England. A discount for the prepayments may be given by the Company. The value of such discount shall be calculated by reference to the base rate of the Bank of England over a 30 day period.

### • BILLING SERVICES

The service referred to in article L.441.7 of the Commercial Law shall give rise to an invoice which is in accordance with article L.441-3 of the Commercial Law and states the denomination and price of the service provided. Automatically deducting commercial cooperation from invoices for product purchases when the legal conditions for compensation have not been met can constitute an abuse of buyer power. Contractual formalization under article L.441-7 which permits clear identification of the exact nature of services were provided as well as the date on which these services were provided establishes the connection between this contract and the distributor's invoice. (C.A. Paris 29 June 1998- Tribunal de Grande Instance de Lille 14 December 2001).

### • COMPETENT JURISDICTION

Any dispute arising under or in connection with these terms and conditions, shall be subject to the sole competence of the Commercial Court (Tribunal de Commerce) of Lyons, even where there shall be several claimants, calls for guarantee, or filing for summary jurisdiction, and subject to the laws of France with the exception of the convention of Vienna relating to the international sale of Goods.

### • FORTUITOUS CASE AND FORCE MAJEURE

The Company shall not be liable to the Buyer in any manner or be deemed to be in breach of a Contract because of any delay in performing or any failure to perform any of the Company's obligations under the Contract if the delay or failure was due to any cause beyond the Company's reasonable control.

Without prejudice to the generality of the above paragraph the following shall be included as causes beyond the Company's reasonable control:

- governmental actions, war or threat of war, national emergency, riot, civil disturbance, sabotage or requisition;
  - Act of God, fire, explosion, flood, epidemic or accident;
  - labour disputes not including disputes involving the Company's work-force;
- or
- inability to obtain or delay in obtaining supplies of adequate or suitable material, fuel, parts, machinery or labour.

### • GUARANTEE

The technical specification of the Goods are issued for the sole purpose of giving the best instructions for use but cannot be used to bring a claim against the Company if the Goods:

- (1) are not used in accordance with the instructions; and/or
- (2) are not used in an appropriate manner; and/or
- (3) are not applied on suitable material.

The Company may vary the specification or design of any Goods or withdraw any Goods without constituting a breach of contract or imposing any liability upon the Company

### • MISCELLANEOUS

These terms and conditions form part of the Contract to the exclusion of all other terms and conditions (including all terms and conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

### • CANCELLATION

Orders or modifications will only become firm when accepted in writing by the Company. No order cancellation may be taken into consideration unless this has been notified to the Company subject to a period of notice of 30 days before the performance of the said order begins.

Without this in any way prejudicing any reparations which may be obtained or demanded, in the event that the Buyer fails to honour any of his obligations, (in particular in the case of a failure to pay as described in the "Payment" article) and in the event of any action by the Buyer likely to adversely affect the reputation and/or image of the Company's brand, the Company will be entitled to cancel all or part of the order. This cancellation will take effect 8 days following the issuing of formal notice by registered letter, the said notice remaining fruitless.

### • EXPORT SALES

Only French law will apply, in addition to all of the above-mentioned clauses. The Vienna Convention on the international sales of merchandise dated April 11, 1980 will not apply.

The payment by the Buyer shall be made in the currency written on the Company's invoices.

