

CONDITIONS OF SALE OF MACHINES, PARTS AND ACCESSORIES (Effective from April 2003 and superseding all previous Conditions and Terms)

1. EFFECT OF CONDITIONS AND DEFINITIONS

All offers and acceptance of offers on the part of the Company are made subject to these Conditions of Sale.

"The Company" means BVC or its subsidiary or associate companies.

"The Buyer" means the person who accepts a quotation of the Company or whose order for the Goods is accepted by the Company.

"Goods" means any machines or equipment and all materials, accessories and spare parts sold by the Company.

"The Contract" means the Contract of Sale between the Company and the Buyer.

2. NO VARIATION ACCEPTED

No variation to these conditions shall be binding unless agreed in writing between the Company and the Buyer.

3. PRICES AND PAYMENT

a) The price charged for Goods shall be the Company's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Company's price list effective at the date of acceptance of the order. All prices are exclusive of V.A.T. Payment of the price shall be by cash with order unless the Buyer has an authorised credit account with the Company in which case the price shall become payable not later than 30 days following the date on which the Goods are despatched, time being of the essence of the contract.

b) If the Goods, the subject of the Contract, are for any reason whatsoever delivered in two or more separate consignments the Buyer shall pay for such items as are delivered by the Company in accordance with Part (a) of this condition.

4. DESIGN, SPECIFICATION, PERFORMANCE, PATENTS

The Goods are sold by the Company in accordance with its published standard design, specification and performance criteria and the Goods shall be deemed to be in accordance with the Contract if they conform to such standard design, specification and performance criteria. The Company shall not accept any responsibility or liability whatsoever arising from Goods supplied by the Company in conformity with a design, specification or performance criteria provided by the Buyer or an agent of the Buyer unless agreed specifically by the Company in writing prior to sale. The Buyer shall also indemnify the Company in respect of any patent or trade mark infringement brought against the Company arising out of Goods supplied by the Company to a design and/or specification provided by the Buyer.

5. DELIVERY AND ACCEPTANCE OF GOODS

a) Any delivery dates quoted, whether verbally or otherwise, are estimated only and, in regard to any such date, time shall not be of the essence of the Contract. An extra charge will be made by the Company for 'non-standard' deliveries / packing of machines. A charge will also be made for the delivery / packing of spare parts orders where the total value is less than £500 net. The Company shall not be liable for any loss damage or expense whatsoever (including the expense to the Buyer of hiring any alternative equipment) arising from any delay in the delivery of Goods whether or not such Goods be delivered under the Warranty hereinafter appearing.

b) The Buyer shall have twenty-eight days from the date of issue of the Company's invoice in which to notify the Company of non-delivery of all or part of the Goods invoiced. If at the end of that period no notice alleging that the Goods were not delivered has been served on the Company the Goods shall be deemed to have been delivered in accordance with the Company's invoice.

c) The Buyer shall have ten days from the date of delivery in which to inspect the Goods. If at the end of that period no notice alleging that the Goods are not in accordance with the Contract has been served on the Company the Goods shall be deemed to be in all respects in accordance with the Contract and the Buyer shall be deemed to have accepted them and shall be bound to pay for them in accordance with condition 3 hereof.

6. FRUSTRATION ETC. (Force Majeure)

If the Company is prevented at any time from performing any contractual obligation or if any loss, damage, injury or delay in delivery is occasioned by or due to any cause beyond the Company's control including (but without prejudice to the generality of the foregoing expression) the commission of any criminal act, shortage of parts or materials, act of war (whether declared or not), civil commotion, accident, strikes or lockouts, Act of God or any restriction imposed by any local, municipal or Government authority (including Customs authorities) whether British or foreign, the Company shall be entitled forthwith to determine the Contract and to be discharged from all liabilities whatsoever to the Buyer and the Company shall not be liable for any such loss, damage, injury or delay as aforesaid.

7. EXCLUSION OF CONDITIONS AND LIABILITIES

a) The Contract shall be governed by these Conditions alone which shall override any terms or conditions (whether similar or dissimilar in nature to any of these conditions) stipulated, incorporated or referred to by the Buyer in the acceptance (whether described as an order or otherwise) or in any prior negotiation.

b) Where the Buyer deals with the Company as a Consumer, as this term is defined in the Unfair Contract Terms Act 1977, then the Buyer will enjoy the full benefits of that Act together with the benefits of the Supply of Goods (Implied Terms) Act 1973 and (without prejudice however to the terms hereof) the Sale of Goods Act 1893. In any other case and subject to the Warranty hereinafter appearing all guarantees, warranties and conditions are hereby excluded and negated.

c) If, whether before or after payment any defect appears in any Goods or in any workmanship whatsoever on the part of the Company or in any part or parts repaired or replaced by the Company, then the Company shall be liable only for loss, damage or expense arising from such defect where such consists of physical damage to property or personal injury and where negligence on the part of the Company is proved.

d) The Company shall not be responsible for adapting or modifying any Goods to conform to statutory requirements not current at the time of sale.

8. WARRANTY

The Warranty Period will be twelve months from the date when the Goods are supplied by the Company other than for Scrubber/Dryer/Sweeping Machines when it will be six months. The warranty period on all machines including Scrubber/Driers and sweeping machines will be twelve months when covered by a Maintenance Agreement taken out with the Company at the time of purchase. If within the Warranty Period any defect appears in the Goods, the Company UNDERTAKES to remedy such defect either by repairing the Goods or by replacing them whichever the Company shall choose, PROVIDED that:

a) Full details of such defect are notified to the Company in writing within ten working days of its first appearing; and

b) The Buyer affords the Company access at any time during normal business hours for repairing or replacing the defective Goods or at the Company's sole discretion of returning the said Goods to any depot of the Company; and

c) The Buyer affords the Company free access at any time during the period of this Warranty and during normal business hours to inspect the Goods.

BUT this Warranty SHALL NOT APPLY to the following:

(i) Defects arising from fair wear and tear, misuse, neglect or failure to carry out any maintenance procedures or fitting instructions recommended by the Company.

(ii) Defects in Goods resulting from modifications to the Goods or to related equipment by someone other than the Company.

(iii) Defects in Goods where the identification numbers or marks on such Goods or on equipment in relation to which the Goods are used have been altered or removed.

(iv) Defects resulting from the use of any part or attachment or equipment fitted by someone other than the Company.

(v) Traction batteries in which case manufacturers guarantees will apply

(vi) The above Warranty does not apply to hoses, brushes and accessories which are classed as consumable items.

9. PASSING AND RESERVATION OF TITLE

a) The risk in the Goods shall pass to the Buyer on delivery or on collection by the Buyer but ownership of the Goods shall remain in the Company until full payment has been received.

b) If the goods or any part of them become constituents of any other products while the ownership of them remains with the Company as aforesaid the ownership of such other products shall pass automatically to the Company and paragraph (a) of this condition shall, so far as appropriate, apply to such other products.

10. GOODS RETURNED FOR CREDIT

Goods may be returned for credit provided:

a) they were originally supplied by the company, and

b) they are unused and in the condition as supplied; and

c) they were not supplied as a cash item under £25 in value.

Such acceptable returns shall be subject to the following terms:

(i) if the Goods were due to an error by the Company or if the Goods are defective on delivery, full credit of the purchase price (including invoiced carriage charge) will be given provided the Goods are returned within twenty-eight days of delivery.

(ii) if the Goods were erroneously or incorrectly ordered by the Buyer and, provided they were not specially ordered by the Company as being a non-stock item or items, and provided they are returned within twenty-eight days of delivery, credit of the purchase price (excluding invoiced carriage charge) will be given subject to deduction of a handling charge of 10% of such purchase price.

(iii) if the Goods were specially ordered by the Company or if the Buyer desires to return them in any circumstances not covered in paragraphs (i) or (ii) of this Condition then acceptance by the Company of their return and the giving by the Company of any credit will be matters in the sole and unfettered discretion of the Company.

11. TERMINATION ON LIQUIDATION

If the Buyer shall go into liquidation whether compulsorily or voluntarily except for the purpose of reconstruction or if any petition or resolution to wind up the Buyer's business shall be presented or passed, or if a receiver of the Buyer's undertaking, property or assets or any part thereof shall be appointed, then the Company shall be entitled by notice in writing to determine this Contract without prejudice to any claim or right the Company may otherwise make or exercise including (but without prejudice to the generality of the foregoing expression) any claims by the Company in respect of any loss of other possible sales of the Goods or any transport or other costs incurred by the Company in connection with the Contract with the Buyer.

LAW OF THE CONTRACT JURISDICTION

12. These Conditions and the Contract shall be subject to and construed in accordance with English Law and the Company and the Buyer hereby submit to the exclusive jurisdiction of the English Courts.

The Heading to each above-numbered Condition is intended only to be of some practical assistance to the Buyer as to the subject matter of the Condition to which it relates and is not to be construed as part of the Contract.