

BIGHEAD BONDING FASTENERS LTD: TERMS & CONDITIONS OF TRADING

1. DEFINITIONS

Buyer: the person, firm or company purchasing Goods from the Company.

Company: Bighead Bonding Fasteners Limited, Registered in England and Wales under Company No. 722335 and having its registered office at Unit 15 Elliott Road, West Howe Industrial Estate, Bournemouth, Dorset BH11 8LZ.

Contract: any contract between the Company and the Buyer for the sale and purchase of the Goods, incorporating these Conditions.

Contract Price: the price for sale/purchase of the Goods as in Condition 7.

Delivery Point: where delivery of Goods takes place under Condition 4.

Goods: goods agreed in the Contract to be supplied to the Buyer by the Company.

2. FORMATION OF CONTRACT AND APPLICATION OF TERMS

2.1 The Contract shall be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions purported to apply under any purchase order, confirmation, specification or other document).

3. DESCRIPTION

3.1 The quantity and description of the Goods shall be as set out in the Company's invoice or quotation or acknowledgement of order, which will include these Conditions.

4. DELIVERY, RISK/TITLE

4.1 Deliveries are made in accordance with Incoterms 2000 Ex Works.

4.2 Subject to the other provisions of these Conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, loss of production, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods.

4.3 Ownership of Goods shall not pass to the Buyer until the Company has received in full in cash or cleared funds all sums due in respect of the Goods.

4.4 Any discrepancy between total numbers ordered and total received must be reported within 14 days. If a discrepancy is not reported within this time the Company will not accept responsibility for any shortfall in quantity.

4.5 There is a tolerance on the volume of bigHeads in each pack of +/- 5%. Packs will therefore contain a quantity of fasteners within the range of +/- 5% of the quantity stated on the documentation.

5. PRICE

5.1 Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price set out in the Company's price list current at the date of acceptance of order.

5.2 The price for the Goods shall be exclusive of VAT, packaging and carriage costs, all of which will be included in the Company's invoice to the Buyer.

6. PAYMENT

6.1 Payment of the price for the Goods is due:

(a) for non-account customers; in cash or by cheque in pounds sterling.

b) for account customers; payment may be made by cash or cheque or by approved credit card.

6.2 For account holders the maximum credit period is 30 days from the date of the Company's invoice. In the event of breach of this Condition by the Buyer the Company reserves the right to withhold any further work or supplies from the Buyer until all amounts owed to the Company have been paid in full. bigHead also reserves the right to charge the Buyer interest on overdue payments at 2% over HSBC's basic lending rate.

7. QUALITY

7.1 The Goods are suitable for a wide range of purposes/users; however it is the responsibility of the Buyer to determine suitability for its intended use/s of the Goods.

In case of any doubt as to the Goods' capability the Buyer or proposed user of the Goods should always, before use, refer to the Company.

7.2 The Company warrants that (subject to the other provisions of these Conditions) upon delivery and for 12 months thereafter, the Goods shall be of satisfactory quality as defined in the Sale of Goods Act 1979.

7.3 The Company shall not be liable for a breach of this warranty unless:

- a) the Buyer gives written notice of the defect and returns the goods to the Company within 14 days of the Buyer discovering the defect; and
- b) the Company is given a reasonable opportunity to examine such Goods.

7.4 The Company shall not be liable for a breach of warranty in Condition 7.2 if the Buyer applies, or is likely to apply, a higher torque or tensile loading than is appropriate or recommended to the Goods.

7.5 Subject to Condition 7.3 and Condition 7.4, if any of the Goods do not conform with the warranty the Company shall at its option repair or replace such Goods or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, at the Company's expense, return the defective Goods to the Company.

7.6 If the Company complies with condition 7.5 it shall have no further liability for a breach of the warranty in Condition 7.2 in respect of such Goods.

8. LIMITATION OF LIABILITY

8.1 Subject to conditions 4 and 7, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, distributors, agents and sub-contractors) to the Buyer in respect of:

- 1) any breach of these Conditions;
- 2) any use or resale by the Buyer of any of the Goods, or any product incorporating any of the Goods; and
- 3) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

8.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by Section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

8.3 Nothing in these conditions excludes or limits the liability of the Company:

- 1) for death or personal injury caused by the Company's negligence; or
- 2) for fraud or fraudulent misrepresentation.

8.4 Subject to Condition 8.2 and Condition 8.3:

- 1) **the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance of the Contract shall be limited to the Contract Price; and**
- 2) **the Company shall not be liable to the Buyer for any indirect or pure economic loss, loss of profit, product failure, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.**

9. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including without limitation acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 30 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

10. RETURNS POLICY

Any standard bigHead fastener, as listed as a standard on the website www.bighead.co.uk, may only be returned with prior permission that is confirmed in writing. Only full packs in perfect condition may be returned and any return will incur a 20% handling charge. Non-standard bigHeads or 'specials' may only be returned at the discretion of the company and in exceptional circumstances may incur a charge above 20%.

11. GENERAL

11.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

11.2 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by the laws of England and Wales and the parties submit to the non-exclusive jurisdiction of the English courts.

11.3 Where delivery is to be made by installments, each delivery shall be deemed for such purpose to be the subject of a separate contract and any failure whatsoever by the seller in respect of any one delivery shall not entitle the buyer to repudiate the contract or any installments remaining to be delivered there under.