

**B&M ASSOCIATES**  
**TERMS AND CONDITIONS OF SALE**

1. Unless otherwise agreed in writing these Terms & Conditions ("**TERMS**") shall apply to all business conducted between B&M Associates ("**BMA**") and the customer ("**CUSTOMER**") and override any terms and conditions stipulated, incorporated or referred to by the **CUSTOMER** in its negotiations/order/instructions to proceed/acceptance of quotation. These **TERMS** and any terms contained in a **BMA** quotation ("**CONTRACT**") constitute the entire agreement between the parties. The **CUSTOMER** acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of **BMA** which is not set out in the **CONTRACT** and hereby waives any rights and remedies which it may have in respect of the same.
2.
  - 2.1 Any **BMA** estimate/quotation is exclusive of freight / delivery, insurance and VAT, all of which must be paid by the **CUSTOMER**, unless specified otherwise by **BMA**.
  - 2.2 Acceptance of any **BMA** quotation is required in writing before commencement of work together with a **CUSTOMER** purchase order reference number.
  - 2.3 Estimates are given for guideline purposes. Only **BMA** quotations shall be honoured by **BMA**.
  - 2.4 **BMA** reserves the right to increase any price agreed between **BMA** and the **CUSTOMER** in the event of (a) any request by the **CUSTOMER** to change the delivery date(s) or the specification and/or (b) increased costs occurring as a result of circumstances beyond **BMA**'s control and/or (c) failure of the **CUSTOMER** to give **BMA** adequate and/or accurate information and/or instructions.
  - 2.5 If the **CUSTOMER** cancels its order any time prior to delivery, the **CUSTOMER** shall be liable to **BMA** for the losses suffered and expenses incurred by **BMA** as a result of the cancellation including (but not limited to) **BMA** 's labour costs, the costs of **BMA** 's time and materials and any other costs whatsoever associated with the loss of the order whether direct, indirect, special and/or consequential.
3.
  - 3.1 The **CUSTOMER** shall pay all invoices in full and in cleared funds in accordance with the payment terms set out in the **BMA** quotation.
  - 3.2 Interest at the rate of 8% over Lloyds TSB Bank base rate, calculated on a daily basis from the date of invoice, shall be charged on all invoices which remain unpaid after their due date.
4.
  - 4.1 Method of delivery is at the discretion of **BMA** unless otherwise specified in writing.
  - 4.2 Delivery of the goods shall be to a location agreed between the parties
5.
  - 5.1 Title to the goods shall not pass to the **CUSTOMER** until **BMA** has received payment in full (in cash or cleared funds) for the goods and all other sums which are or which become due to **BMA** from the **CUSTOMER** under other existing **CONTRACTS**.
  - 5.2 Risk in the goods shall pass to the **CUSTOMER** immediately on delivery to the **CUSTOMER**.
  - 5.3 Until title to the goods passes to the **CUSTOMER**, the **CUSTOMER** shall:
    - 5.3.1 hold the goods at its own cost on a fiduciary basis as **BMA** 's bailee.
    - 5.3.2 keep the goods safe and insured against all risks for their full price from the date of delivery.
  - 5.4 In the event of non-payment **BMA** may (in addition to any other rights or remedy) require the **CUSTOMER** to deliver up the goods and, if the **CUSTOMER** fails to do so promptly, enter any land or buildings where the goods are located and repossess and sell the goods.
6. All goods and services sold and supplied by **BMA** are subject to the following conditions:
  - 6.1 The **CUSTOMER** warrants that it has all the necessary rights, consents, authority and licences to enter into the **CONTRACT**.
  - 6.2 Ownership of all **INTELLECTUAL PROPERTY RIGHTS** relating to a design, drawing, manufacture or specification developed by **BMA** are the property of **BMA**. The **CUSTOMER** acknowledges that where **INTELLECTUAL PROPERTY RIGHTS** are created and/or developed by and/or on behalf of **BMA** during and/or in connection with the manufacturing process ("**FOREGROUND IP**"), **BMA** shall own and be entitled to use that **FOREGROUND IP** as it so wishes, including to manufacture and supply goods to third party customers. For the purposes of this clause 6 "**INTELLECTUAL PROPERTY RIGHTS**" means all patents, copyrights and related rights, design rights, rights in designs, trade marks, service marks, trade secrets, know-how, database rights and other rights in the nature of intellectual property rights (whether registered or unregistered) and all applications for the same, anywhere in the world.
  - 6.3 The **CUSTOMER** shall (and the **CUSTOMER** will procure that its assignees, licensees and successors in title shall) indemnify **BMA** against all actions, claims, proceedings, liabilities, costs, expenses, damages and losses whatsoever (including any direct, indirect and/or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered and/or incurred by **BMA** in connection with any claim made against **BMA** for actual or alleged infringement (including but not limited to the defence of such alleged infringement) of a third party's **INTELLECTUAL PROPERTY RIGHTS** in connection with and/or relating to the manufacture of the goods by and/or on behalf of **BMA** in accordance with any design, drawing, information or specification requested or supplied by the **CUSTOMER**, including their sale and/or supply to the **CUSTOMER** and/or their use and/or exploitation by the **CUSTOMER** and/or any third party. This clause 6.3 shall survive termination of the **CONTRACT**.

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7. **BMA** warrants that on delivery the goods shall conform with the **BMA** quotation unless otherwise specified in writing.
  - 7.1 All claims against **BMA** must be notified in writing to **BMA** within 24 hours of discovery and no later than 30 days after despatch of goods by **BMA**.
  - 7.2 No claim shall be considered unless **BMA** is given the opportunity to examine the goods delivered if it so wishes.
  - 7.3 Evidence of misuse, alteration or interference by the **CUSTOMER** or any third party shall invalidate any such claim.
    - 7.4 In the event of a claim in respect of defective or sub-standard workmanship or materials **BMA**'s liability (if any) shall be strictly confined to replacement of the defective parts manufactured or sold by **BMA**.
  - 7.5 In the event of the **CUSTOMER** acquiring goods from or through **BMA** which **BMA** has acquired from a manufacturer/agent ("**UNITS**") irrespective of whether such **UNITS** are used by **BMA** as a component part of a larger item ordered by the **CUSTOMER** or sold in their entirety, **BMA** gives no warranty in respect of the **UNITS**. **BMA** will, so far as it is possible, pass on to the **CUSTOMER** the benefits of any manufacturer's warranty and the liability of **BMA** to the **CUSTOMER** in respect of the **UNITS** shall not exceed the sums (if any) which **BMA** is able to recover from the manufacturer/agent of the **UNITS**.
  - 7.6 Save for the provisions of clauses 7.4 and 7.5 and any claims for death or personal injury caused by negligence, **BMA** shall not have any liability to the **CUSTOMER** (howsoever arising, including any liability in tort) under or in connection with the **CONTRACT** for any loss or damage (whether direct or indirect) incurred for any reason whatsoever howsoever or whenever arising including, without limitation, for any loss of profits or contracts, loss of income, loss of business and/or losses or liabilities under or in relation to any other contract, in each case whether direct, indirect, special and/or consequential loss or damage.
  - 7.7 **BMA** shall not be liable for any claim arising as a result of **BMA** following any drawing, design or specification supplied by the **CUSTOMER**.
  - 7.8 Except as set out in these **TERMS**, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the **CONTRACT**.
8. Any time or date agreed or suggested by **BMA** for delivery is an estimate only. Whilst every effort is made to ensure delivery on time, in no event whatsoever will **BMA** be liable for any losses or damages of any kind caused by any delay in delivery, including without limitation special, indirect or and/or consequential loss or damage.
9. **CUSTOMER**'s property held at **BMA**'s premises is held at the **CUSTOMER**'s risk.
10. **BMA** shall not be liable for any failure or delay in performing its obligations under the **CONTRACT** to the extent that such failure or delay is caused by an event of force majeure. An event of force majeure means any cause affecting the performance by **BMA** of its obligations under the **CONTRACT** arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, industrial disputes, fire, flood, storm or earthquake and any disaster.
11. Each one of these **TERMS** is distinct and severable and if any one is deemed illegal, void or unenforceable, the validity, legality, or unenforceability of any other one or part of these **TERMS** shall not be affected thereby.
12. **BMA** (and not the **CUSTOMER**) may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights and/or obligations under the **CONTRACT**.
13. Notices must be in writing and delivered by hand or recorded first class post to the other party at the address set out on the **BMA** quotation. Day to day operational issues concerning the **CONTRACT** may be made by email.
14. A person who is not a party to the **CONTRACT** shall not have any rights under or in connection with it.
15. The law governing the **CONTRACT** shall be the Law of England & Wales and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.