

General Terms and Conditions

The customer's attention is drawn in particular to the provisions of clause 10

1. Interpretation

1.1. Definitions. In these Conditions, the following definitions apply:

Business Day:	a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
Conditions:	the terms and conditions set out in this document as amended from time to time.
Contract:	the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.
Customer:	the person or firm who purchases the Goods from the Supplier.
Force Majeure Event:	has the meaning given in clause 11.
Goods:	the goods (or any part of them) set out in the Supplier's order confirmation or the Supplier's offer if the Customer has accepted the offer.
Specification:	any specification for the Goods that is agreed in writing by the Customer and the Supplier.
Supplier:	Boecker UK Limited (registered in England and Wales with company number 10886601).

1.2. Construction. In these Conditions, the following rules apply:

- a. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- b. A reference to a party includes its personal representatives, successors or permitted assigns.
- c. A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- d. Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- e. A reference to writing or written includes faxes and e-mails.

2. Basis of contract

- 2.1. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2. No terms or conditions endorsed upon, delivered with or contained in the Customer's order, specification or similar document shall form part of the Contract and the Customer waives any right which it otherwise might have to rely on such terms and conditions. These Conditions shall also apply if the Supplier carries out a delivery to a Customer in the knowledge of the Customer's conflicting terms and conditions. The terms and conditions of a Customer shall only apply if and to the extent that the Supplier has approved such terms in writing.

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- 2.3. The Customer is responsible for ensuring that the terms of the order and any applicable specification of the Goods submitted by the Customer are complete and accurate.
- 2.4. Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.

3. Formation of Contract

- 3.1. An offer by the Supplier shall not be binding and does not obligate the Supplier to accept an order by the Customer. Any illustrations, sketches, measurements and weights are approximate only and non-binding.
- 3.2. A contract is concluded, unless agreed otherwise, with the Supplier's written order confirmation. The order confirmation shall determine the scope of delivery; in the case of an offer by the Supplier with a binding time period and timely acceptance by the Customer, the offer shall determine the scope unless there is a timely order confirmation.

4. Goods

- 4.1. The Goods are described in the Supplier's catalogue as modified by any applicable Specification in writing.
- 4.2. The Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Specification. This clause 4.2 shall survive termination of the Contract.
- 4.3. The Supplier reserves the right to amend any specification if required by any applicable statutory or regulatory requirements.

5. Delivery

- 5.1. If the parties have agreed for the Goods to be delivered by the Supplier, the Customer shall bear the costs of transport unless the parties have agreed otherwise in writing. Insofar as no specific means of transport has been agreed, the Supplier reserves the right to determine the means of transport. If the Customer requires the Supplier to insure the Goods for transport, the Supplier will comply with this request at the Customer's expense if it has been communicated in due time.
- 5.2. A binding fixed delivery date has to be confirmed by the Supplier in writing. A delivery period shall not begin before all commercial questions and technical specifications have been determined with the Customer. Delivery on time is subject to the Customer's compliance with its obligations to co-operate and further obligations, such as the obtaining of the required official approvals, the payment of an agreed down payment or the provision of supplies such as carrier vehicles. If the Customer does not comply with its obligation, the delivery time will be extended accordingly.
- 5.3. An agreed delivery period shall be complied with if the Goods have left the Supplier's premises or have been declared ready to dispatch before the expiry of the delivery period.
- 5.4. If the Customer is in default of duties of co-operation regarding the delivery or the dispatch or acceptance of the Goods is delayed for other reasons for which the Customer is responsible, the Supplier shall be entitled to demand compensation for the loss the Supplier has suffered, including any increased expense.
- 5.5. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods. If the Supplier is temporarily prevented from meeting an agreed delivery date or period due to a Force Majeure Event, the delivery date or period shall be extended by the time that the Force Majeure Event or its effects persist. The Supplier shall notify the Customer of the beginning and end of such Force Majeure Event.

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- 5.6. If the Supplier's delivery is delayed beyond an agreed fixed delivery date, compensation to which the Customer is entitled for the loss arising from the delay suffered due to the breach of obligation for which the Supplier is responsible shall be limited to 0.5 % per full week, subject to a maximum of 5 % of the value of the part of the overall delivery that cannot be used properly or in accordance with the Contract as a result of the delay. The Customer is entitled to prove a higher loss and the Supplier is entitled to prove a lower loss. Further claims shall be determined pursuant to Clause 7 of the Terms.
- 5.7. If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.8. The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

6. Quality

- 6.1. The Supplier warrants that on collection or delivery, and for a period of twelve [12] months from the date of collection or delivery (warranty period), the Goods shall:
 - a. conform in all material respects with their description and any applicable Specification;
 - b. be free from material defects in design, material and workmanship;
 - c. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
 - d. be fit for any purpose held out by the Supplier.
- 6.2. The Customer shall inspect the Goods for obvious defects or the wrong quantity without delay after delivery of the Goods. In the event of obvious defects or the wrong amount of the Goods, the Customer shall notify the Supplier immediately in writing.
- 6.3. Subject to clause 6.5, if:
 - a. the Customer gives notice in writing to the Supplier within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 6.1;
 - b. the Supplier is given a reasonable opportunity of examining such Goods; and
 - c. the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price
 - d. of the defective Goods in full.
- 6.4. Except as provided in this clause 6 and subject to clause 10.1, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 6.1. Contractual penalties shall only be effective against the Supplier if they have been laid down for each individual case in a separate agreement.
- 6.5. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 6.6. These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
- 6.7. Used Goods will be sold under exclusion of any liability for material defects on the basis of the Supplier's warranty terms and conditions for used machines.

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7. Title and risk

- 7.1. The risk in the Goods shall pass to the Customer when the Goods are handed over to the person or company executing the transport. This is also the case if partial deliveries are made or the Supplier has agreed to undertake further services such as shipping costs or the delivery to and/or the installation at the Customer's premises
- 7.2. If the dispatch of the Goods or the acceptance of the Goods at the Customer's premises is delayed or does not take place due to circumstances for which the Supplier is not responsible, the risk in the Goods shall pass on the date that the Supplier notifies the Customer of its readiness to dispatch or the Customer notifies the Supplier of its readiness to accept the Goods. If the Customer requires the Supplier to take out insurance, the Supplier will comply with this request at the Customer's expense.
- 7.3. The taking back of packaging shall be agreed separately.
- 7.4. Title to the Goods shall not pass to the Customer until the earlier of:
 - a. the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and
 - b. the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause
- 7.5. Until title to the Goods has passed to the Customer, the Customer shall:
 - a. store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
 - b. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - c. maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - d. notify the Supplier immediately if it becomes subject to any of the events listed in clause 9.2; and
 - e. give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- 7.6. Subject to clause 7.7, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:
 - a. it does so as principal and not as the Supplier's agent; and
 - b. title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.
- 7.7. If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 9.2, then, without limiting any other right or remedy the Supplier may have:
 - a. the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
 - b. the Supplier may at any time:
 - b.1. require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
 - b.2. if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

8. Price and payment

- 8.1. Unless a fixed price is agreed the Supplier may, by giving notice to the Customer at any time up to 10 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
 - a. any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

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- b. any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the specification of the Goods; or
- c. any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

The Supplier will provide proof for those changes upon the Customer's request.

- 8.2. Unless agreed otherwise, the prices of the Goods are ex-works, free on truck or train and exclusive of the costs and charges of packaging and insurance, tariffs, taxes or other public charges.
- 8.3. The price of the Goods is exclusive of amounts in respect of value added tax (VAT). The Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
- 8.4. The minimum order value is £75.00. If the order value is less than £75.00 the Supplier will charge a handling fee of £20.00, however, the maximum amount shall be limited to £75.00 including the order value.
- 8.5. Unless agreed otherwise the Customer shall pay the invoice in full and in cleared funds within 14 days of the date of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier. Time of payment is of the essence.
- 8.6. If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4 % per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 8.7. The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

9. Termination and suspension

- 9.1. If the Customer becomes subject to any of the events listed in clause 9.2, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer.
- 9.2. For the purposes of clause 9.1, the relevant events are:
 - a. the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
 - b. the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Customer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
 - c. (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
 - d. (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
 - e. (being a company) the holder of a qualifying floating charge over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;

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- f. a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
 - g. (being an individual) the Customer is the subject of a bankruptcy petition or order;
 - h. a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - i. any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.2(a) to clause 9.2(f) (inclusive);
 - j. the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
 - k. the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and
 - l. (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- 9.3. Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 9.2(a) to clause 9.2(l), or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 9.4. On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest.
- 9.5. Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.
- 9.6. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

10. Limitation of liability

- 10.1. Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- a. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - b. fraud or fraudulent misrepresentation;
 - c. breach of the terms implied by section 12 of the Sale of Goods Act 1979;
 - d. defective products under the Consumer Protection Act 1987; or
 - e. any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.
- 10.2. Subject to clause 10.1:
- a. The Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under
 - b. or in connection with the Contract; and
 - c. The Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.

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11. Force majeure

Neither party shall 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 a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

12. Intellectual Property

The Supplier shall retain all property rights and copyrights to samples, cost estimates, drawings and similar information of physical and non-physical nature, including in electronic form. The Customer shall not make available such information and documents to third parties. The Supplier shall not make available information and documents provided by the Customer and marked as confidential without the Customer's prior consent.

13. Use of software

To the extent that software is included in the scope of delivery the Customer shall be granted a non-exclusive right to use the supplied software and its documentation. The software is provided exclusively for the use on the Goods. The Customer is only entitled to use the software on one system. The Customer is only entitled to reproduce, revise, translate or convert the software from the object code to the source code to the extent permitted by law. The Customer undertakes not to remove or modify manufacturer's data (in particular copyright information) or modify such information without the Supplier's prior express consent. Any other rights with regard to the software and documentation including the copies shall remain with the Supplier or the software supplier.

14. Data protection, machine and position data

- 14.1. The Supplier shall be entitled to store and process Customer data which the Supplier receives due to the business relationship, whether the data originates from the Customer or from third parties, in accordance with the Data Protection Act 1998. The Supplier is not entitled to pass data to third parties unless a legal obligation exists. This does not apply to data which is necessary for the fulfilment of the Contract.
- 14.2. Insofar as the Goods are equipped with a machine and/or positioning data recording device, the resulting data may be stored and processed as intended by the Supplier. The Supplier is not entitled to pass data to third parties unless a legal obligation to do so exists.
- 14.3. The Supplier does not assume any liability for the correctness, completeness, integrity, consistency, evaluability and accuracy of the machine and/or position data recorded under Clause 13.2. Subject to clause 10.1 the Supplier is not liable for damages of any kind (such as loss of profit, loss of data, etc.) resulting from the use of recorded data, the impossibility of application or application errors.
- 14.4. The Customer may revoke its consent to the collection, processing, storage and use of its machine and/or position data at any time. Such revocation shall be submitted to the Supplier in writing. The revocation does not affect the validity of the contractual relations between the Supplier and the Customer and in particular does not affect any of the Customer's payment obligations.

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15. General

- 15.1. Assignment and other dealings.
- The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
 - The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.
- 15.2. Notices.
- Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail.
 - A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
 - The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 15.3. Trade marks. The Customer may only use or file applications for trade marks, brand names and other signs of the manufacturer with prior written consent and only in the interest of the Supplier.
- 15.4. Severance.
- If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
 - If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 15.5. Waiver. A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 15.6. Third party rights. A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 15.7. Variation. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the Supplier.
- 15.8. Governing law. The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
- 15.9. Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including noncontractual disputes or claims).

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