

Conditions of Sale

Energy Bolting Limited · Registered in England and Wales no. 11228792
Registered office: Enterprise Drive, Four Ashes, Wolverhampton, WV10 7DF, United Kingdom
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1. Definitions

In these Conditions:

“Buyer” means the person, firm or company purchasing the Goods from the Company.

“Company” means Energy Bolting Limited (company number 11228792).

“Conditions” means these standard conditions of sale.

“Contract” means the contract between the Company and the Buyer for the sale of the Goods, formed in accordance with clause 2.

“Goods” means the goods (including any part or instalment of them) which the Company agrees to supply to the Buyer.

“Order” means the Buyer’s order for the Goods.

“Writing” includes email.

2. Application and Formation of Contract

- 2.1 These Conditions apply to all sales of Goods by the Company and shall apply in place of and prevail over any terms or conditions contained or referred to in the Buyer’s Order, in correspondence or elsewhere, or implied by trade, custom or any previous course of dealing, unless specifically agreed in Writing by an authorised representative of the Company.
- 2.2 A quotation by the Company does not constitute an offer and may be withdrawn or revised at any time before the Company accepts an Order. Unless otherwise stated, quotations remain valid for 30 days from their date.
- 2.3 An Order is accepted only when the Company issues a written acknowledgement of order (which may be sent by email or generated by the Company’s systems) or, if earlier, when the Company delivers the Goods, at which point the Contract is formed.
- 2.4 No variation of these Conditions shall be binding unless agreed in Writing by an authorised representative of the Company.

3. Prices and Terms of Payment

- 3.1 The price of the Goods shall be as stated in the Company’s acknowledgement of order or, if none, its quotation. Prices are exclusive of VAT and do not include any charge for packing, handling or delivery where delivery does not take place at the Company’s premises.
- 3.2 Unless otherwise agreed in Writing, all invoices shall be paid in full within 30 days from the end of the month in which they are dated. Time for payment is of the essence.
- 3.3 The Buyer shall pay all sums due in full without any set-off, counterclaim, deduction or withholding.
- 3.4 If the Buyer fails to pay any sum by its due date, the Company may claim interest and compensation under the Late Payment of Commercial Debts (Interest) Act 1998.
- 3.5 Where payment is to be made by instalments and any instalment is not paid on its due date, the full amount outstanding under the Contract shall become immediately payable.
- 3.6 The Company may at any time before delivery require security for payment, require payment in advance, or vary or withdraw any credit terms.
- 3.7 For export sales the Company may require payment to be secured by an irrevocable letter of credit, satisfactory to the Company and confirmed by a UK bank acceptable to it, established by the Buyer immediately upon receipt of the Company’s acknowledgement of order. The letter of credit shall be for the Contract price inclusive of any tax or duty payable by the Buyer and valid for at least 6 months or such longer period as the Company estimates for delivery. The Company shall be entitled to payment on presentation of the documents specified by it.

4. Delivery

- 4.1 Delivery dates are approximate only and time for delivery is not of the essence. The Company shall not be liable for any failure to deliver on any particular date or dates.
- 4.2 Unless otherwise agreed, the Company will arrange delivery at the Buyer’s expense to the address notified by the Buyer and will invoice delivery costs separately on the terms of clause 3. If no address is notified, delivery takes place at the Company’s premises and the Buyer shall collect the Goods at its own expense. Where an Incoterm® is agreed, it shall govern delivery and the passing of risk to the extent consistent with these Conditions.

- 4.3 The Company may deliver by instalments, each of which shall be treated as a separate contract and invoiced separately. Any delay or defect in one instalment shall not entitle the Buyer to cancel any other instalment.
- 4.4 If the Buyer refuses or fails to take delivery of Goods tendered in accordance with the Contract, or fails to take any action necessary on its part for delivery, the Company may terminate the Contract with immediate effect, dispose of the Goods as it determines, and recover from the Buyer any loss and additional costs incurred.
- 4.5 If the Company notifies the Buyer that the Goods are ready for delivery and the Buyer requests that delivery be suspended, delayed or made by instalments, the price (if not already due) shall become payable on the date of that notice, risk shall pass on that date, and the Buyer shall pay the cost of storing the Goods. The Company may, at its discretion and the Buyer's expense, insure the Goods for at least their price.
- 4.6 The Buyer shall at its own expense promptly return to the Company any pallets used by the Company for packaging and delivering the Goods.

5. Risk

Subject to clause 4, risk in the Goods passes to the Buyer on delivery. From that time until title passes, the Buyer shall insure the Goods for at least their full price.

6. Quantity Variations

The Company may deliver up to 10% more or less than the quantity specified in the Contract. The Buyer shall pay for the quantity actually delivered, and such a variation shall not entitle the Buyer to reject the Goods.

7. Inspection and Claims

- 7.1 The Buyer shall inspect the Goods on delivery or collection wherever it is reasonably possible to do so. Where the Goods are not inspected, the Buyer must write "Goods not examined" on the delivery or collection note.
- 7.2 The Company shall not be liable for damage to or loss of the Goods in transit (whether carried by the Company or by a carrier on its behalf), short delivery (subject to clause 6), non-delivery, or defects that would be apparent on reasonable inspection, unless the Buyer notifies the Company in Writing within 7 days of delivery (or, for non-delivery, of the scheduled delivery date). In those cases the Company's only obligation shall be, at its option, to repair or replace the Goods concerned or refund their price.

8. Title

- 8.1 Title to the Goods shall not pass to the Buyer until the Company has received payment in full, in cleared funds, for the Goods and for all other sums due from the Buyer to the Company on any account.
- 8.2 Until title passes, the Buyer shall hold the Goods as bailee for the Company; store them separately and so that they remain readily identifiable as the Company's property; not remove or obscure any identifying marks; keep them insured for their full price; and not pledge or charge them.
- 8.3 The Buyer may resell or use the Goods in the ordinary course of its business before title passes. Title to Goods so resold or used shall pass to the Buyer immediately before the resale or use.
- 8.4 If, before title passes, any payment is overdue or any event in clause 15.1(c) occurs, the Company may require the Buyer to deliver up the Goods and, if it fails to do so promptly, the Company and its agents may enter any premises of the Buyer, or of any third party where the Goods are stored, to recover them. The Buyer grants the Company an irrevocable licence for this purpose, which shall survive termination of the Contract.
- 8.5 The Company may recover the price of the Goods even though title has not passed.

9. Intellectual Property

- 9.1 Where the Goods are manufactured or processed to the Buyer's drawings, specifications or requirements, the Buyer warrants that this will not infringe the rights of any third party and shall indemnify the Company against all liabilities, claims, costs and expenses (including legal costs) arising from any actual or alleged infringement of third-party rights resulting from that work.
- 9.2 Each party shall promptly notify the other of any claim alleging infringement of third-party rights in relation to the Goods and shall provide such reasonable assistance as the other may request.
- 9.3 All intellectual property rights in the Company's own designs, drawings, tooling, methods and processes shall remain the property of the Company.

10. Specifications and Information

- 10.1 Unless expressly agreed in Writing by the Company, all drawings, designs, specifications and particulars of weights and dimensions submitted by the Company are approximate only, and the Company shall have no liability for any deviation from them.

- 10.2 The Company accepts no responsibility for any errors, omissions or other defects in any drawings, designs or specifications prepared by the Buyer or any third party, and the Buyer shall indemnify the Company against all liabilities and expenses arising from them.
- 10.3 The Company may make any change to the specification of the Goods which is required to comply with applicable law or standards, or which does not materially affect their quality, form, fit or function.

11. Warranty and Liability

- 11.1 The Company warrants that on delivery, and for 12 months from delivery, the Goods will conform in all material respects with their agreed specification and be free from material defects in material and workmanship.
- 11.2 The warranty in clause 11.1 does not apply to any defect arising from fair wear and tear; abnormal conditions of storage or use; failure to follow the Company's or good industry practice for installation, tightening or maintenance; wilful damage or negligence; the Buyer's drawings, specifications or materials; alteration or repair without the Company's consent; any act, neglect or default of the Buyer or any third party; or hydrogen embrittlement as described in clause 12.
- 11.3 If the Buyer notifies the Company in Writing of a defect within the warranty period and within a reasonable time of discovering it, gives the Company a reasonable opportunity to examine the Goods and, if requested, returns them to the Company at the Company's cost, the Company shall at its option repair or replace the defective Goods or refund their price. This shall be the Buyer's sole remedy for breach of the warranty in clause 11.1.
- 11.4 The Company shall not be liable for any product liability claim arising from a breach of a parts per million (ppm) level unless that ppm level has been agreed in Writing by the Company before acceptance of the relevant Order.
- 11.5 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 11.6 Nothing in these Conditions limits or excludes the Company's liability for (a) death or personal injury caused by its negligence; (b) fraud or fraudulent misrepresentation; (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or (d) any other liability which cannot lawfully be limited or excluded.
- 11.7 Subject to clause 11.6, the Company shall not be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for any loss of profit, revenue, production, use, contract or business; any costs of removal, reinstallation, product recall or plant downtime; or any indirect or consequential loss.
- 11.8 Subject to clause 11.6, the Company's aggregate liability to the Buyer, whether for negligence, breach of contract, misrepresentation or otherwise, shall in no circumstances exceed £100,000 in respect of any occurrence or series of connected occurrences.
- 11.9 The Company's prices are determined on the basis of the limits of liability in this clause 11. The Buyer may by written notice request the Company to agree a higher limit, provided insurance cover can be obtained for it. The Company shall then effect insurance up to that limit and the Buyer shall pay on demand the amount of all premiums and disclose such information as the insurer requires. In no case shall the Buyer be entitled to recover from the Company more than the amount received from the insurers.

12. Hydrogen Embrittlement

Where the Buyer requests that the Goods are supplied with an electrolytic plated finish in accordance with the Buyer's specification, the Company shall have no liability to the Buyer in respect of damage caused to the Goods, or any loss arising from it, by hydrogen embrittlement.

13. Force Majeure

- 13.1 The Company shall not be liable to the Buyer for any loss or damage suffered as a direct or indirect result of the supply of the Goods being prevented, hindered, delayed or rendered uneconomic by circumstances or events beyond the Company's reasonable control, including act of God, war, terrorism, riot, epidemic or pandemic, strike, lockout, trade dispute or labour disturbance, accident, breakdown of plant or machinery, fire, flood, storm, cyber-attack, failure of energy or utility supplies, sanctions, export or import restrictions or other act of government, difficulty or increased expense in obtaining labour, materials or transport, or any other circumstance affecting the supply of the Goods or of raw materials by the Company's normal source, or their manufacture or delivery by the Company's normal means or route.
- 13.2 If the Company is prevented by such an event from fulfilling its obligations, it shall notify the Buyer in Writing within 10 days of the due date for delivery. If the event is continuing 3 months after that notice, either party may terminate the Contract with immediate effect by written notice, provided the event still subsists when the notice is received.
- 13.3 The Buyer's only entitlement in such circumstances shall be a refund of any payment already made on account of the price, less any sums due to the Company.
- 13.4 If due to such circumstances the Company has insufficient stocks to meet all its commitments, it may apportion available stocks between its customers at its sole discretion.

14. Cancellation of Orders

Contracts may be cancelled only with the Company's prior written consent and on the Buyer indemnifying the Company in full for all losses incurred as a result of the cancellation, including the cost of all labour and materials used, any non-returnable materials or Goods procured for the Contract, and loss of profit.

15. Breach and Insolvency

15.1 If the Buyer:

- (a) fails to pay any sum due to the Company on its due date;
- (b) commits a material breach of this or any other contract with the Company which is irremediable or, if remediable, is not remedied within 7 days of receiving notice from the Company requiring it to be remedied; or
- (c) suspends or threatens to suspend payment of its debts, is unable to pay its debts as they fall due, enters into any arrangement or composition with its creditors, has a liquidator, administrator, receiver or similar officer appointed over any of its assets, is the subject of any winding-up or bankruptcy petition, order or resolution (other than for a solvent reorganisation), or suffers any analogous event in any jurisdiction,

then, without prejudice to its other rights and to the extent permitted by law, the Company may terminate the Contract or any other contract with the Buyer, suspend any further deliveries, and all sums outstanding from the Buyer shall become immediately payable.

16. Export Control and Sanctions

- 16.1 The Buyer shall comply with all applicable export control, sanctions and customs laws (including those of the United Kingdom, the European Union and the United States where applicable) in relation to the Goods, and shall not export, re-export, sell or supply the Goods, directly or indirectly, to any destination, person or end use in breach of such laws, including to or for use in Russia or Belarus.
- 16.2 The Buyer shall provide such end-user and end-use information and certificates as the Company may reasonably request. The Company may suspend or cancel any Contract without liability if performing it would or might breach any such law, or if any required licence is not granted.

17. General

- 17.1 The Buyer shall not assign or transfer any of its rights or obligations under the Contract without the Company's prior written consent. The Company may assign or subcontract any of its rights or obligations, including to any member of the Nord-Lock Group.
- 17.2 Notices under the Contract shall be in Writing and sent to the other party's registered office or principal place of business, or to such other address (including email address) as that party has notified.
- 17.3 If any provision of these Conditions is held invalid or unenforceable, in whole or in part, the remaining provisions shall not be affected.
- 17.4 No failure or delay by the Company in exercising any right shall operate as a waiver of it.
- 17.5 A person who is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

18. Governing Law and Jurisdiction

- 18.1 The Contract and any dispute arising out of or in connection with it shall be governed by and construed in accordance with English law, and the courts of England shall have exclusive jurisdiction to settle any such dispute.
- 18.2 Nothing in this clause 18 shall limit the right of the Company to take proceedings against the Buyer in any other court of competent jurisdiction, whether concurrently or not, to the extent permitted by the law of that jurisdiction.

