



# HIGGINS BALERS LTD

RENEWING, REPAIRING, REPLACING

## CONDITIONS OF SALE

### DEFINITIONS

Buyer the person who buys or agrees to buy the Goods from the Seller.  
Conditions the terms and conditions of sale as set out in this document and any special terms and conditions agreed in writing by the Seller.  
Goods the articles which the Buyer agrees to buy from the Seller.  
Price the price for the Goods, excluding VAT and any carriage, packaging and insurance costs.  
Seller means Higgins Balers Ltd, of Units 1 – 4, The Forge, Clensmore Street, Kidderminster, Worcestershire. DY10 2JS. Tel: 01562 824406

### 1. SALE OF THE GOODS.

The Seller shall sell and the Buyer shall purchase the Goods set out and described in the Sellers Acknowledgement of Order subject to the terms and conditions set out below.

### 2. PRICE OF THE GOODS.

- 2.1. The price of the Goods and the VAT thereon are shown on the Acknowledgement of Order and/or invoice.
- 2.2. The Buyer shall pay the Purchase Price to the Seller:
  - 2.2.1. As stated on the Acknowledgement of Order and / or invoice.
  - 2.2.2. Within 12 months of delivery subject to a separate Agreement
- 2.3. If payment is not made as and when due interest at the yearly rate of 5% over the base rate from time to time of National Westminster Bank Plc will be charged on all monies outstanding.

### 3. SCOPE OF SUPPLY

- 3.1. The supply includes only the Goods specified and quantified in Seller's quotation or order acknowledgement. In the event that the Goods stated in the quotation are not the same as stated in the order acknowledgement the latter shall prevail.
- 3.2. The supply will include where appropriate one set of technical documentation for the Goods.
- 3.3. Except where specifically included in the Goods the supply does not include the following:
  - 3.3.1. all and any civil engineering and building works necessary for the offloading positioning installation and maintenance of the Goods.
  - 3.3.2. design & calculations for civil engineering and building works.
  - 3.3.3. provision of utility supplies (electric, water, air, etc) and connection.
  - 3.3.4. repositioning or removal or disposal of existing plant/equipment in the installation area of the Goods.
  - 3.3.5. design control and incorporation of equipment materials and accessories into the Goods and between the Goods and other equipment.
  - 3.3.6. import duty unless specified
  - 3.3.7. planning permission requirements or building control liabilities

### 4. DELIVERY

- 4.1. Any time or day stated by the Seller or required by the Buyer of the Goods is deemed to be an estimate only. Time of delivery shall not be of the essence. The Seller shall not be liable for any failure to meet any such delivery date, nor for any loss, whether financial or otherwise, resulting directly or indirectly therefrom. All or any of the Goods may be delivered in advance of any stated date for delivery.
- 4.2. Delivery of the Goods shall be made either (a) by the Buyer collecting the Goods from the Sellers premises upon the Seller notifying the Buyer that the Goods are ready for collection, or (b) by the Seller delivering the Goods to an agreed address.
- 4.3. If the buyer fails to take delivery of the Goods then, without prejudice to any other right or remedy available to the seller, the seller may at its option store the Goods until actual delivery and charge the Buyer for reasonable costs. These may include insurance of storage. The Buyer shall fully indemnify and keep indemnified the Seller from and against all costs, claims, damages, losses, liabilities and expenses (including loss of profit) incurred or suffered by the Seller by reason of failure by the Buyer to take delivery. Unavoidable degradation of the Goods during storage is the Buyer's responsibility.
- 4.4. The Buyer shall provide all arrangements necessary to take such delivery of the Goods including without limitation arranging for the off-loading of the Goods by means of suitable mechanical equipment if necessary and ensuring (a) adequate access to the place of delivery and (b) that when the seller is responsible and has been paid for the installation of the Goods that the reception premises are satisfactory and suitable and adequate for such installation.
- 4.5. The costs related to the delivery and included in the purchase price will be set out in the quotation and / or acknowledgement of order/invoice. Where delivery is estimated this shall be provided once known and invoiced separately.
- 4.6. Any additional costs associated with delivery due to:
  - 4.6.1. the Buyer's alteration of any particulars related to the delivery as set out in the quotation and acknowledgment of order, and/or
  - 4.6.2. any incurred duties or taxes, both import and export from crossing borders during the delivery of the Goodsshall be passed onto the Buyer at the Seller's discretion.





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## 5. SITE WORK

- 5.1. Where installation and/or completion testing shall be as stated in the quotation or in the order acknowledgement.
- 5.2. Where included in the contract installation and/or completion testing of the products shall commence immediately upon delivery to the installation site. The estimated time periods in working days for installation and completion testing are indicated in the quotation or order acknowledgement.
- 5.3. Mechanical installation services by the Seller comprise the following:
  - 5.3.1. provision of skilled labour, tools and tackle
  - 5.3.2. erection, positioning and fastening down of the products
  - 5.3.3. Except where specifically included in the scope of supply the Buyer shall provide the following:
    - 5.3.3.1. clearance/preparation of the installation and access area prior to seller commencement
    - 5.3.3.2. all civil works, pits, building modifications, an similar
    - 5.3.3.3. suitable lifting equipment
    - 5.3.3.4. precautionary fire-fighting equipment for 'hot' working
    - 5.3.3.5. electrical supplies at 110V/240V required for hand tools
    - 5.3.3.6. lighting of the work area
    - 5.3.3.7. removal/disposal of material and redundant equipment in the installation area
- 5.4. Electrical installation services shall comprise the following:
  - 5.4.1. provision of skilled labour and tackle
  - 5.4.2. supply and fitting of cabling and cable supports between electrical components and control panel(s) included in the products
  - 5.4.3. supply & fitting of cabling and cable supports between the products and associated control panel(s) where specifically included in the quotation or order acknowledgement
  - 5.4.4. except where specifically included in the scope of supply the Buyer shall provide the:
    - 5.4.4.1. Provision and cabling of controlled power supply to Seller control panel(s)
- 5.5. Completion and testing services of the Seller comprise of the following:
  - 5.5.1. running & checking of each item of Goods for correct functioning
  - 5.5.2. running & checking all items together without materials and then with materials to be handled to demonstrate satisfactory performance
  - 5.5.3. where specifically included in the contract training of Buyer's staff in the operation of the GoodsFor the completion testing service the Buyer shall supply capable and willing operatives necessary for operation, a sufficient quantity of the materials to be handled, suitable power and other services, containers and other devices required for normal operation
- 5.6. All quotations for installation and completion testing are based on the Sellers standard working times of 0800 to 1630 with 30 minutes lunch break Monday to Friday excluding Public Holidays. Works requested by the Buyer outside of these standard working times will incur additional charges to the Buyer as set out in the [Sellers Standard Work Rates](#).

## 6. RISK AND TITLE.

- 6.1. Risk in the Goods shall pass to the Buyer immediately on delivery to the Buyer.
- 6.2. Notwithstanding delivery, property in and title to the Goods shall remain in the Seller until the Seller has received clear funds of the Goods full price.
- 6.3. Until property in and title to the Goods passes to the Buyer:
  - 6.3.1. the Buyer shall not attempt to nor dispose of them but shall hold the Goods as Bailee for the seller and shall keep the Goods at the Buyers place of business in such a way that they are readily identifiable as the property of the Seller and shall keep the same property stored, secured, protected, and insured, and separate, from all or any other Goods; and
  - 6.3.2. the Buyer shall not make any modification to the Goods or alter, remove, or tamper with any marks, numbers, or marks of identification used on or in relation to the Goods.
- 6.4. Until such time as property and title in the Goods passes to the Buyer they shall upon default of any of their obligations to the Seller deliver up the Goods to the Seller and if the Buyer fails to do so the Seller may enter upon any premises occupied or controlled by the Buyer where the Goods are situated and repossess the Goods at the cost of the Buyer.
- 6.5. The Buyer shall not pledge or in any way charge the Goods by way of security or in any other way allow other person to have or claim an interest in them and to ensure they are not made the subject of any lien or levy whether by a creditor of the Buyer or their landlord.
- 6.6. The Buyer shall insure and keep insured the Goods to their full value of the price Payable to the Seller hereunder in the joint names of the Buyer and Seller until the date that the property in the Goods passes to the buyer.

## 7. TERMINATION

- 7.1. Termination of the contract for whatever cause shall be without prejudice to the rights of the parties accrued up to the time of termination
- 7.2. Termination by either party shall be made in writing and effective on date of receipt by the other party
- 7.3. The Seller shall be entitled to terminate the contract at any time without liability to the Buyer if;
  - 7.3.1. the Buyer makes any voluntary agreement with its creditors or becomes subject to an administration order or goes into liquidation (other than for the purpose of amalgamation or reconstruction on terms previously agreed in writing by Seller) or – being an individual or firm – is or becomes insolvent or is or becomes bankrupt; or
  - 7.3.2. a receiver or an administrator is appointed for any property or assets of the Buyer; or
  - 7.3.3. the Buyer ceases or threatens to cease to carry on business.
- 7.4. The Buyer shall be entitled to terminate or cancel the contract within 14 days of receipt of the Goods using the form below except where:
  - 7.4.1. the Goods were made and/or installed to the Buyers specification, have been adapted and modified and in so doing have become personalised
  - 7.4.2. the Goods were specifically requested by the Buyer to carry out essential or urgent repairs and / or maintenance.
- 7.5. The Buyer shall be entitled to receive for a full refund for the Goods if cancelling or terminating the contract within 14 days of receipt of the Goods, where 7.4.1 and 7.4.2 do not apply and subject to:
  - 7.5.1. a 1% restocking cost of the original purchase price
  - 7.5.2. costs for returning the Goods, which if the Seller provides this service, will be deemed to be the same as the delivery costs as set out in the original Quotation and / or Acknowledgment of Order. The Buyer may arrange their own return of the Goods at their own expense.





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## 8. WARRANTY

- 8.1. If, within period of warranty detailed in the quotation, from completion of delivery there shall appear in the Goods any defect which arises under proper use solely from faulty design materials or workmanship the Buyer shall give written notice thereof to the Seller. Provided that the defective Goods or parts have been returned free of charge to Seller's factory or as otherwise agreed, the Seller shall make good the defective Goods at his option by repair or replacement. Any Goods returned to the Seller shall be transported to the Buyer under the same terms as the original delivery.
- 8.2. In the event that the repair or replacement work needs to be carried out on site then this will be carried out by Seller without charge during normal weekly working hours providing that Buyer allows full and free right of access to the Goods. No work on site will commence until a written purchase order for the repairs has been received, should the repairs be covered by warranty then no charge will be levied.
- The Seller limits liability under the following circumstances:
- 8.2.1. Seller specifically excludes from warranty all consumable and wear parts which will be specified at the time of order, if requested in writing
- 8.2.2. Seller specifically excludes from warranty any items of equipment so specified in quotation or order acknowledgement and such equipment shall then be warranted only as stated therein
- 8.2.3. Warranty shall be void unless installation, completion testing and maintenance are carried out by personnel authorised by Seller
- 8.2.4. Warranty shall be void if Goods are put into operation before taking-over.
- 8.2.5. Warranty shall be void if Goods are operated for more than 200 hours per month on average unless expressly agreed to the contrary by Seller in writing
- 8.2.6. Buyer is responsible for ensuring that all necessary and reasonable maintenance is regularly carried out
- 8.2.7. Seller specifically excludes from warranty all malicious damage, accidental damage, damage by fire, flood or any other natural disaster, natural wear and tear and damage caused by miss-use such as processing unsuitable materials.
- This list of exclusions is not exhaustive and the seller reserves the right that if they can show reasonable cause not to cover the items by warranty they reserve the right to do so.
- 8.3. Such repair, replacement or remedial services will be the absolute limit of Seller's liability and Seller will not be liable in any circumstances whatsoever for loss or damage of any kind suffered by the Buyer or by any third party howsoever caused.
- 8.4. Where the Goods are sold as seen then we reserve the right not to provide any warranty at all.

## 9. GENERAL.

- 9.1. The Goods are sold as seen. It shall be the responsibility of the Buyer to ensure that all statutory requirements and regulations applicable to the Goods are duly complied with (for example, but without limitation, the Health and Safety at Work Act 1974).
- 9.2. The Buyer acknowledges that he has not received any representation in respect of the Goods from the Seller or any other person upon which he has relied in entering into the contract and that particularly he has satisfied himself that they are fit for the purpose for which he requires them and that they are of merchantable quality.
- 9.3. The Seller shall have no liability whatsoever for any failure to perform, or for any delay in the performances of any of its obligations under this Agreement arising wholly or in part by reason of any factor beyond its reasonable control, including acts of God, war, national emergency, laws or regulations of any territory, industrial dispute, civil commotion, fire, tempest and/or flood.
- 9.4. Each and every paragraph and every sub-paragraph contained in these conditions shall be treated separately and shall be severally enforceable as such not withstanding the non-enforceability of any other paragraph or sub-paragraph.
- 9.5. The quotation or any contract that shall result therefrom shall be governed in all aspects by English law.

To:  
Higgins Balers Ltd, of Units 1 – 4, The Forge, Clensmore Street, Kidderminster, Worcestershire. DY10 2JS. Tel: 01562 824406  
Email: [info@higginsbalers.com](mailto:info@higginsbalers.com):

I/We [\*] hereby give notice that I/We [\*] cancel my/our contract of sale of the following goods [\*] / for the supply of the following service [\*]:

Ordered on [\*] / received on [\*]:

Name of consumer(s):

Address of consumer(s),

Signature of consumer(s):

Date

[\*] Delete as appropriate

