

BINDER

LIMITED

OUR TERMS

1. THESE TERMS

- 1.1 We are Binder Limited, a company registered in England and Wales. Our company registration number is 02079553 and our registered office is at Progress Works, Old Ipswich Road, Claydon, Ipswich, Suffolk, IP6 0AG.
- 1.2 These are the terms and conditions on which we supply our goods and services to you. In these terms, “**products**” shall mean goods or services.
- 1.3 No terms other than these terms will apply without our written consent. You should read these terms carefully and let us know if you think there is any mistake.
- 1.4 These terms apply if you are a business customer or a consumer. You will be a consumer if you purchase products when acting wholly or mainly outside the course of your business, trade, craft or profession. In all other cases, you will be a business customer.
- 1.5 If you are a business customer these terms constitute the entire agreement between us in relation to your purchase. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in these terms and that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- 1.6 The words "writing" or "written" in these terms, this includes emails.
- 1.7 You can contact us by using the contact details given at the end of these terms.

2. ORDERS AND SPECIFICATIONS

- 2.1 We will be deemed to accept your order when we contact you in writing or by telephone to confirm it, at which point a contract will come into effect between us.
- 2.2 We will provide the goods or services set out in your order, as agreed by us.
- 2.3 You are responsible for ensuring that all details within your order are accurate, and for providing us with the information we need to provide the goods or services you order on time. You must provide us with full details of your requirements for the products, including any specifications. You are responsible for ensuring all specifications meet your requirements.
- 2.4 If you do not provide us with the information we need to provide the products to you, we will not be liable for any delays caused, and we shall have the right to terminate the contract.

3. DELIVERY OF GOODS AND PERFORMANCE OF SERVICES

- 3.1 We will notify you of the cost of delivery when accepting your order.
- 3.2 If we are supplying goods to you:
- (a) we may contact you with an estimated delivery date. Any delivery date will only be an estimate, and we will use reasonable efforts to delivery on the estimated delivery date;
 - (b) in all other cases, we will deliver the goods to you as soon as reasonably possible.
- 3.3 If we are performing services, we will begin the services on the date set out in the order, or such other date as we agree with you.
- 3.4 **If you are a business customer:** we shall use our reasonable efforts to deliver goods or commence services on the dates set out above, but shall have no liability for any failure to do so. Time shall not be of the essence. Our maximum liability for failure to deliver or perform on time shall be limited to the excess cost (if any) to you of obtaining similar goods or services to replace those ordered from us.
- 3.5 **If you are a consumer customer:** if our supply of the products is delayed by an event outside our control then we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for delays caused by the event.
- 3.6 You are responsible for ensuring that we have access to the delivery location, and for preparing the delivery location to allow us to deliver and (where applicable) install the goods, or to allow us to perform the services.
- 3.7 We are not responsible for maintaining manhole and access cover to wet wells and treatment plants. You must ensure that such access points are properly maintained, safe and sufficiently strong for their purpose.
- 3.8 Where we install any item of plant:
- (a) we will install the plant in the location agreed with you. If you wish to alter the location of the tanks or other equipment after, or during, installation, you shall pay to us our fees and expenses in connection with making such alteration; and
 - (b) you must clearly mark, and notify us of, all pipes and cables running underground near to where the plant is to be installed. We will not be responsible for damage to any pipes or cables that have not been clearly marked and notified to us.
- 3.9 When we carry out deliveries, or where we empty your storage tanks or perform other services on your property, our vehicles may need access to your property, including your driveway. By permitting us access to your property, you agree that you are responsible for any subsidence or damage to your driveway or property

caused by the weight of our vehicles. If you are concerned about the effect of our vehicles accessing your property, you should notify us in advance so that we may seek ways of limiting such effects.

- 3.10 You shall take all necessary precautions to safeguard the health and safety of our employees and agents whilst working at your premises.
- 3.11 If you do not accept delivery of the goods, or do not allow us access to your property to perform the services as arranged (other than for reasons outside of your reasonable control) we may:
- (a) charge the additional costs incurred by us as a result (including the cost for storing and insuring goods whilst we attempt redelivery); and/or
 - (b) cancel the contract or suspend any further deliveries to be made; and/or
 - (c) exercise any other right available to us under the general law.
- 3.12 Where we provide maintenance services to you, we may replace parts with a value up to £200 + VAT on a site visit without your prior consent, where we deem this necessary to ensure we can keep the system operational and to reduce the need for return visits.

4. PRICE AND PAYMENT

- 4.1 All prices are stated exclusive of VAT, delivery costs, and other taxes or duties which may apply.
- 4.2 We may charge a deposit on acceptance of your order. Any deposit will be non-refundable.
- 4.3 Unless we agree credit terms with you in writing, all invoices must be paid on receipt of the invoice. We shall be entitled to invoice you on or after delivery of the goods or performance of the services.
- 4.4 If we agree credit terms with you, we may withdraw these if you are in breach of any agreed terms, or if any of the events in clause 7.1(e) occur or we consider are about to occur.
- 4.5 If you do not make any payment to us by the due date we may:
- (a) charge interest to you on the overdue amount at the higher of the rate recoverable under the Late Payment of Commercial Debts (Interest) Act 1998 (where applicable, and as amended from time to time) and 4% a year above the base lending rate of Barclays Bank from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must also pay us the costs of seeking recovery of the unpaid sums from you, including our legal fees. You must pay us interest and costs together with any overdue amount;

- (b) if you are a business customer, suspend supply of the products until all outstanding sums are paid; or
 - (c) apply any payment made by you for other products to the unpaid invoice.
- 4.6 **If you are a business customer** you must pay all amounts due to us under these terms in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 4.7 If you do not agree with any invoice, you must notify us within 14 days of receipt. If you do not, you will be deemed to have accepted the invoice.
- 4.8 If we carry out "Construction services" for you, the following terms apply, and clauses 4.3 and 4.4 do not apply. "Construction services" are any work to install tanks or drainage or any other works which would mean this contract is deemed to be a Construction Contract under the Housing Grants, Construction and Regeneration Act 1996, as amended from time-to-time:
- (a) We may make an application for payment monthly during the course of the works, or at such other intervals as agreed in writing with you. We may make an application for a final payment at any time on or after completion of the relevant works.
 - (b) Applications for all payments shall become due to us 7 days after the date of our application for payment or invoice is submitted.
 - (c) The final date for payment will be 7 days after the date on which the invoice or application for payment becomes due.
 - (d) You may not withhold any sum for payment unless you notify us of the sum to be withheld and the grounds for withholding the sum at least 5 days before the final date for payment.

5. TITLE AND INSURANCE RISK

- 5.1 The insurance risk in the goods passes to you upon completion of delivery of the goods to the agreed delivery location.
- 5.2 Ownership of the goods passes to you upon payment in full for the price of the goods.
- 5.3 Until ownership of the goods has passed to you, you shall:
- (a) store the goods separately from all other goods held by you so that they remain readily identifiable as our 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 us immediately if you become subject to any of the events in clause 7.1(e) listed below; and
 - (e) give us such information relating to the goods as we may require from time to time, but you may resell the goods in the ordinary course of your business.
- 5.4 **If you are a business customer:** Subject to clause 5.5 you may resell or use the goods in the ordinary course of your business (but not otherwise) before we receive payment for the goods. If you resell the goods before that time:
- (a) you do so as principal and not as our agent; and
 - (b) title to the goods shall pass from us to you immediately before the time at which resale occurs.
- 5.5 If before title to the goods passes to you, you become subject to any of the events in clause 7.1(e), or we consider that any such event is about to happen and notify you accordingly, then:
- (a) your right to resell the goods or use them in the ordinary course of your business ceases immediately; and
 - (b) provided that the goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy we may have, we may at any time require you to deliver up the goods and, if you fail to do so promptly, enter any of your premises or any premises of any third party where the goods are stored in order to recover them.

6. WARRANTY AND QUALITY

- 6.1 We warrant that on delivery, and for a period of 12 months from the date of delivery (**warranty period**), any products which are goods shall:
- (a) conform in all material respects with their description and any relevant specification; and
 - (b) be free from material defects in design, material and workmanship.
- 6.2 Subject to clause 6.3 and 6.4, if:
- (a) you give us notice in writing during the warranty period within a reasonable time of discovery (and no more than 7 days of discovery) that the goods do not comply with the warranty set out in clause 6.1;
 - (b) we are given a reasonable opportunity of examining such goods; and
 - (c) you return such goods to us at our cost,
- we shall, at our option, repair or replace the defective goods, or refund the price of the defective goods in full.

- 6.3 We will not be liable for the goods' failure to comply with the warranty in clause 6.1 in the following circumstances:
- (a) you make any further use of such goods after discovery of the defect, unless such use could not reasonably be avoided;
 - (b) the defect arises because you failed to follow our oral or written instructions as to the storage, installation, commissioning, use or maintenance of the goods or (if there are none) good trade practice;
 - (c) the defect arises as a result of us following any drawing, design or specification supplied by you;
 - (d) you alter or repair the goods without our written consent;
 - (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
 - (f) title to the goods has not passed to you.
- 6.4 If any goods supplied by us are manufactured by a third party supplier:
- (a) we may assign the manufacturer's warranties to you, in which case your right of action in respect of any defects with goods shall be against the manufacturer, and you shall not pursue any claim against us in respect of any defects in the goods; and
 - (b) our maximum liability or responsibility shall be no greater than that of the manufacturer's liability to us in respect of those goods.
- 6.5 **If you are a business customer:** Except as provided in this clause 6, we shall have no liability to you in respect of a goods' failure to comply with the warranty set out in clause 6.1.
- 6.6 **If you are a consumer:**
- (a) we are under a legal duty to supply products that are in conformity with this contract. Nothing in these terms will affect your legal rights; and
 - (b) if you wish to exercise your legal rights to reject products that are faulty or mis-described, you must either post them back to us or (if they are not suitable for posting) allow us to collect them from you. We will pay the costs of postage or collection. You must contact us using the details below to arrange any return before returning any goods.
- 6.7 These terms shall apply to any repaired or replacement products supplied by us under this clause 6.

7. TERMINATION

- 7.1 We may end the contract for a product at any time by writing to you if:

- (a) you do not make any payment to us when it is due and you still do not make payment within 14 days of us reminding you that payment is due;
- (b) you do not, within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the products;
- (c) you do not, within a reasonable time, allow us to deliver the products to you or collect them from us;
- (d) you do not, within a reasonable time, allow us access to your premises to supply the services; or
- (e) you suspend or threaten to suspend payment of your debts or are unable or deemed unable to pay your debts as they fall due; a bankruptcy petition or application is filed against you; you make an application for an Individual Voluntary Arrangement; any steps are taken for you to be wound up or liquidated or to appoint an administrator or receiver over any of your assets; or any event analogous or which has an effect equivalent or similar to any of the foregoing occurs; we consider that any of the foregoing events are about to occur;

7.2 You may terminate the contract at any time prior to delivery of the goods or performance of the services on giving us notice in writing.

7.3 If we terminate the contract under clause 7.1, or if you terminate the contract under clause 7.2 (unless you are relying on your rights under clause 8) then we shall retain any deposit paid, and we shall also retain, or you shall pay to us, the following sums as compensation for the costs we will incur as a result of you breaking the contract:

- (a) if the contract is terminated by you more than 30 days before the date of delivery of the goods or performance of the services, 25% of the total price of the goods or services; and
- (b) if the contract is terminated less than 30 days before the date of delivery of the goods or performance of the services, or if we terminate the contract under clause 7.1(b), 50% of the total price of the goods or services.

8. YOUR RIGHT TO CHANGE YOUR MIND IF YOU ARE A CONSUMER

8.1 This clause 8 only applies **if you are a consumer**.

8.2 For most products bought over the telephone, by mail or, by email, or following a meeting at your home, you have a legal right to change your mind within 14 days and receive a refund. These rights, under the Consumer Contracts Regulations 2013, are explained in more detail in these terms.

8.3 Your right to change your mind does not apply in respect of:

- (a) goods that are made to your specifications or are personalised for you;

- (b) services, once these have been completed, even if the cancellation period is still running; and
- (c) services where we are carrying out urgent repairs or maintenance at your request.

8.4 The period you have to change your mind is as follows:

- (a) For services: 14 days after the day we confirm we accept your order. However, once we have completed the services you cannot change your mind, even if the period is still running. If you cancel after we have started the services, you must pay us for the services provided up until the time you tell us that you have changed your mind.
- (b) For goods: 14 days after the day you (or your nominee) receives delivery of the goods. If the goods are delivered in several instalments, you have 14 days after the day of the last instalment.

8.5 You can cancel the contract in one of the following ways:

- (a) by contacting Binder Limited by telephone, by post or by email using the details below. Please tell us what you bought, when you ordered or received it and your name and address; or
- (b) by completing the cancellation form at the end of these terms and posting or emailing it to us.

8.6 If you cancel the contract after goods have been sent to you, you must return them to us or (if they are not suitable for posting or delivery) allow us to collect them. You must contact Binder Limited using the details below to arrange a return, and you must send off the goods within 14 days of telling us you wish to end the contract.

8.7 If you are exercising your right to change your mind, you must pay for the costs of return. The costs of collection will be the same as our charges for standard delivery.

8.8 If you change your mind and are entitled to a refund, we will refund you the price you paid for the products including delivery costs, by the method you used for payment. However, we may make the following deductions from the price (or if we have already refunded you, you will repay the following amounts):

- (a) any reduction in the value of the goods, if this has been caused by your handling them in a way which would not be permitted in a shop;
- (b) where the product is a service, an amount for the supply of the service for the period for which it was supplied, ending with the time when you told us you had changed your mind. The amount will be in proportion to what has been supplied, in comparison with the full coverage of the contract.

We will only refund costs of delivery up to the costs of the least expensive delivery method that you could have chosen.

9. OUR LIABILITY FOR LOSS OR DAMAGE

The following clauses apply if you are a consumer:

- 9.1 If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking this contract or our failing to use reasonable care and skill. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process.
- 9.2 If we are providing services in your property, we will make good any damage to your property caused by our negligence while doing so, in the manner we consider most appropriate
- 9.3 We are not responsible for:
- (a) the cost of repairing any pre-existing faults or damage to your property that we discover while providing the services;
 - (b) subsidence or depressions caused to your property by the weight of our vehicles, where you permitted us to access your property to provide the services or deliver the goods;
 - (c) damage caused as a result of complying with your instructions, or damage which could not reasonably have been avoided when carrying out the services.
- 9.4 If you are a consumer we only supply the products to you for domestic and private use. If you use the products for any commercial, business or re-sale purpose our liability to you will be limited as if you are a business customer.

The following clauses apply if you are a business customer:

- 9.5 All terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are excluded.
- 9.6 Subject to clause 9.6:
- (a) we shall not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:
 - (i) loss of profit,
 - (ii) loss of business opportunity;
 - (iii) liabilities to third parties;
 - (iv) damage to reputation or goodwill;

(v) those matters set out in clause 9.3; or

(vi) any indirect or consequential loss;

in each case arising under or in connection with any contract between us;

(b) our total liability to you for all other losses arising under or in connection with any contract between us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the total sums paid by you for products under such contract.

The following clause applies to all customers

9.7 Nothing in these terms shall limit or exclude our liability for:

(a) death or personal injury caused by our negligence, or the negligence of our 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 or section 2 of the Supply of Goods and Services Act 1982; or

(d) defective products under the Consumer Protection Act 1987; or

(e) any matter in respect of which it would be unlawful for us to exclude or restrict liability.

10. HOW WE MAY USE YOUR PERSONAL INFORMATION

10.1 We will use the personal information you provide to us:

(a) to supply the products to you;

(b) to process your payment for the products; and

(c) if you agreed to this during the order process, to give you information about other products that we provide, but you may stop receiving this at any time by contacting us.

10.2 Where we extend credit to you for the products we may pass your personal information to credit reference agencies and they may keep a record of any search that they do.

11. OTHER IMPORTANT TERMS

11.1 **Force Majeure:** we shall not be liable to you for any delays or failure to comply with these terms due to events outside of our reasonable control. Such events include, but are not limited to, fire, flood, wars, embargo, strikes, labour disputes strikes and lock-outs, shortage of transport, explosions, riots, restrictions or orders of any governmental authority, or change of laws.

- 11.2 **Transfer:** We may transfer our rights and obligations under these terms to another organisation, provided we give you notice in writing. You may only transfer your rights or your obligations under these terms to another person if we agree to this in writing (we may not unreasonably withhold our consent). However, if you are a consumer you may transfer our guarantee at clause 6 to a person who has acquired the product or, where the product is services, any item or property in respect of which we have provided the services.
- 11.3 **Third Parties:** This contract is between you and us. No other person shall have any rights to enforce any of its terms, except any person to whom rights are transferred under clause 11.2.
- 11.4 **Severance:** Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 11.5 **Waiver:** If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.
- 11.6 **Contact Details:** you are responsible for providing us with your updated contact details.
- 11.7 **Notices:** any notices that must be given under these terms shall (unless stated otherwise) be given in writing. Any notice given by you must be given to us at our email address or postal address given below. Any notices given by us will be given by writing to you at the email address or postal address you provided to us in your order. Any notice given by post will be deemed to have been received 2 working days after posting. Any notice given by email will be deemed to have been received at 9am on the next working day after sending.
- 11.8 **Laws:**
- (a) If you are a consumer, these terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts.
 - (b) If you are a business, any dispute or claim arising out of or in connection with a contract between us 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 and the courts of England and Wales shall have exclusive jurisdiction to settle any such dispute or claim.

12. CONTACTING US

- 12.1 You can contact us by any of the following methods:
- (a) By telephone: 01473 830582

- (b) By email: info@binder.co.uk
- (c) By post: Binder Limited, Progress Works, Old Ipswich Road, Claydon, Ipswich, IP6 0AG

CANCELLATION FORM

You may contact us to request a cancellation or return by email, telephone or post. Alternatively, you may request a cancellation by using this form.

Detach here:

To: Binder Limited, Progress Works Old Ipswich Road, Claydon, Ipswich, Suffolk, IP6 0AG

I: _____

give notice that I request to cancel my order for the following products:

Ordered on/received on: _____

Name: _____

Address: _____

Signature: _____

Date: _____

Once you have completed this form, please send it by post to: Binder Limited, Progress Works, Old Ipswich Road, Claydon, Ipswich, Suffolk IP6 0AG or by email to info@binder.co.uk .

If you ordered goods, you will also need to return your goods to enable us to process your refund.