

**BETA H HEAT TREATMENT LIMITED
CONDITIONS OF BUSINESS**

1 Definitions

1.1 In these Conditions the following words have the following meaning:-

"the Company"	means Beta Heat Treatment Limited
"the Contract"	means the contract between the Company and the Customer for the provision of the Heat Treatment Services which is made subject to these Conditions of Business.
"the Customer"	means the individual, firm, company or other party with whom the Company contracts.
"Goods"	means the goods or items on which the Company has agreed to provide the Heat Treatment Services
"Heat Treatment Services"	means heat treatment Services, other services, and any advice in connection therewith which the Company has agreed to provide to the Customer under the Contract.
"Normal Working Hours"	means Monday to Friday 08.00 hours to 17.00 hours.

2 Services

- 2.1 The Company reserves the right in its sole discretion to discontinue the Heat Treatment Service immediately if it considers that the Goods are unsuitable for the processes involved in providing such Services.
- 2.2 In that case the Company will notify the Customer immediately and the Customer will be required to pay the Company at the rate specified in the Contract in respect of all Heat Treatment Services performed by the Company up to the date of discontinuance.
- 2.3 The Company has the right to amend any quotation or decline to accept Goods for the provision of Heat Treatment Services or to cancel or to cancel the Contract after examination of samples of the Goods.

3 Customer's Responsibilities.

- 3.1 The Customer shall ensure that the goods are suitable for the provision of the Heat Treatment Services.
- 3.2 Unless otherwise agreed the Customer will at its cost deliver the Goods to the Company's premises and collect the Goods from the Company's premises once the Heat Treatment Services has been completed. If the Heat Treatment Services are discontinued under clause 2.1 the Customer will at its cost collect the Goods from the Company's premises.
- 3.3 If the Customer fails to collect the Goods from the Company's premises on the date notified by the Company then the Company will be entitled to charge the Customer for the costs of storage of the Goods.
- 3.4 The Customer will ensure that the Goods despatched to the Company are suitably packaged having regard inter alia to their manufacturing tolerances, quality and the inherent value of the Goods in question. The Company will use the same packaging in order to package the Goods for return to

the Customer after completion of the Heat Treatment Services. If any additional packaging is required whether requested by the Customer or deemed necessary by the Company in order to properly protect the Goods then the Company will be entitled to charge the customer for the extra costs incurred. The Company does not accept responsibility for the return of cases, cartons or pallets but it will endeavour to return these with the goods where possible.

4 Customer's Indemnity

- 4.1 The Customer will indemnify the Company in full for with upon demand against any losses, damages, costs or expenses whatsoever which the Company may suffer or incur directly or indirectly as a result of:-
- (a) any condition or nature of the Goods or other relevant details relating to the Goods which the Customer has not fully disclosed to the Company and/or
 - (b) inadequate or inaccurate instructions given by the Customer for the processing of the goods.
- 4.2 The Customer shall indemnify the Company against all claims and demands whatsoever and by whomever made in excess of the liability of the Company under these conditions.

5 Completion

- 5.1 Unless otherwise agreed, the Company will provide the Heat Treatment Services at the Company's premises.
- 5.2 Although the Company will use its reasonable endeavours to complete the Heat Treatment Services by any date or within any period agreed upon, such dates and periods are estimates only, given in good faith and the Company will not be liable for any failure to complete the Heat Treatment Services by such dates or within such periods. Time for completion of the Heat Treatment Services will not be of the essence of the Contract.
- 5.3 If the Customer requested the Company to provide Heat Treatment Services outside Normal Working Hours and the Company agrees to such a request, then the Company will be entitled to levy an extra charge on the Customer to cover any additional costs incurred.
- 5.4 The Company may return the Goods to the Customer in instalments and invoice the Customer as if each instalment comprised a separate Contract upon the terms of these Conditions of Business.

6 Insurance

- 6.1 Risk in the Goods will remain at all times with the Customer and the Customer shall ensure that the Goods are fully insured.

7 Testing of Articles

- 7 The Company will normally test a small percentage of processes Goods for conformity with the specification.

8 Warranties

- 8.1 Subject to clauses 8.2 and 8.3 the Company warrants to the Customer that it will carry out the Heat Treatment Services with reasonable care and skill.
- 8.2 The warranty in clause 8.1 will not apply and the Company

- will have no liability to the Customer whatsoever:-
- (a) if the Customer fails to comply with clauses 8.4 and 8.5
 - (b) in respect of any defect in the Goods or deficiency in the Heat Treatment Services caused as a result of a failure by the Customer to comply with its obligation under the Contract.
 - (c) in respect of any defect in the Goods described in clause 9
 - (d) in respect of any defect in the Goods or deficiency in the Heat Treatment Services caused as a result of the Customer supplying incomplete or inaccurate information;
- 8.3 Any advice given by the company as part of the Heat Treatment Services is given by the Company in good faith and within the degree of information given by the Customer. The Company accept no liability for work so processed and subsequently found to be outside specification or any way unsuitable for further manufacturing operations.
- 8.4 Following the collection of the Goods from the Company after the Heat Treatment Services have been completed the Customer will check the goods including the quantity thereof and perform such tests as it considers necessary to check that the Heat Treatment Services have been correctly carried out. If following such checking and testing the Customer is of the opinion that the Company is in breach of its warranty in clause 8.1 then it must notify the Company immediately in writing and in any event within 7 days following collection of the goods. The Company will have no liability to the Customer for breach of the warranty unless it is notified within the time periods specified in this clause.
- 8.5 The Customer will allow the Company's employees or agents access to its premises to inspect the Goods and if necessary to remove the Goods from the premises for further testing and analysis. If the Company so requires the Customer will at its expense return the Goods to the Company's premises for further inspection.
- 8.6 Provided that the Company complies with clauses 8.4 and 8.5 the Company will as soon as reasonable practicable investigate any alleged breach of warranty and if satisfied that a breach of warranty has occurred for which the Company is responsible shall use its reasonable endeavours to remedy the breach by carrying out such further Heat Treatment Services as may be reasonably necessary.
- 8.7 Except as otherwise stated in these Conditions of Business the Company will have no further liability to the Customer whatsoever and whether for breach of contract, negligence or otherwise in respect of any loss or damage sustained by the Customer arising from or in connection with any failure of the Company to comply with the terms of clause 8.1
- 8.8 Where the Company performs such further Heat Treatment Services in accordance with the foregoing provisions of this clause or otherwise then any time specified for completion of the Heat Treatment Services under the Contract will be extended for such a period as the Company may reasonably require and the Company will have no liability to the Customer for late completion of the Heat Treatment services.
- 8.9 All conditions, warranties and other terms express or implied statutory or otherwise relating to the supply of the Heat Treatment Services are expressly excluded except those which are contained in these Conditions of Business or those which are otherwise agreed by the Company in writing as applying to the Contract.
- 9 **Hazards of Processing**
- 9.1 The Customer confirms that it is aware that there are certain hazards associated with the Heat Treatment Services which may be unavoidable and for which the Company will accept no responsibility whatsoever. The Customer confirms that it enters into the Contract with full knowledge of such hazards and accepts that the Company has no liability if the Goods are affected by such hazards following completion of the Heat Treatment Services.
- 9.2 The hazards referred to in clause 9.1 are:-
- (a) cracking or distortion of the Goods
 - (b) failure of the Goods to respond to Heat treatment Services
 - (c) for example, the effects of hardenability, sharp corners, segregation, manufacturing history, section size etc
 - (d) losses of up to 3% in the volume area of the Goods which are accepted is normal in processing large quantities of small parts.
- 10 **Title to the Goods**
- 10.1 The Customer warrants that it is either the owner of the Goods or that it is authorised by the owner of such goods to enter into this Contract with the Company subject to these Terms of Business.
- 11 **Sub-Contracting and Storage**
- 11.1 The Company shall be entitled to sub-contract its obligations under this Contract.
- 11.2 The Company shall be entitled to store the Goods at premises other than the Company's premises.
- 12 **Lien**
- 12.1 The Company will have a general lien on the Goods in respect of all sums due from the Customer whether under this Contract or any other contract between the Customer and the Company. Subject to giving the Customer 14 days notice the Company may sell the Goods and apply the proceeds of sale towards satisfaction of monies owed by the Customer to the Company.
- 13 **Payment**
- 13.1 The price and payment terms in respect of the provision of the Heat Treatment Services will be as agreed between the parties at the time the Contract is entered into. In the absence of agreement the price will be that in force at the date of despatch of the Goods by the Company.
- 13.2 All prices quoted are exclusive of VAT which will be charged (if applicable) in addition at the rate applicable at the date of despatch.
- 13.3 The Company also reserves the right to make an additional charge in respect on packing, insurance and carriage.
- 13.4 Unless otherwise agreed, all invoices issued by the Company to the Customer for the provision of the Heat Treatment Services or any other item will be paid by the Customer in full not later than the end of the month following the month of the invoice. Time of payment will be of the essence of the Contract.
- 13.5 Whatever the means of payment used, payment shall not be deemed to have been effected until the Company's account has been fully and irrevocably credited.
- 13.6 If the Customer fails to pay by the stipulated date,

- without prejudice to any other rights of the Company, the Company will be entitled to charge interest from the date payment was due. The rate of interest will be 4% above Barclays Bank plc base rate in existence from time to time.
- 14 **Failure to Pay, Cancellation or Deferment**
- 14.1 If there shall be an Intervening Event the Company may within a reasonable time thereafter, stop any further Heat Treatment Services and treat the Contract of which these Conditions form part as terminated, but without prejudice to its rights to the full price in respect of the Heat Treatment Services performed and damages for any loss suffered as a consequence of such termination.
- 14.2 An Intervening Event shall be any of the following:-
- (a) failure by the Customer to make payment when it becomes due;
 - (b) breach by the Customer of any of the terms or conditions of the Contract;
 - (c) the Customer's proposal for or entry into any composition or arrangement with creditors;
 - (d) the presentation against the Customer of any petition for a Bankruptcy Order, Administration Order, Winding-up and/or similar process;
 - (e) the appointment of an Administrative Receiver in respect of the business or any part of the assets of the Customer;
 - (f) the Company forming the reasonable opinion that the Customer has become or is likely in the immediate future to become unable to pay its debt (adopting in the case of a Company the definition of that term set out in Section 123 of The Insolvency Act 1986)
- 14.3 Cancellation of the Contract by the Customer will only be accepted at the discretion of the Company and in any event on condition that any costs or expenses incurred by the Company up to the date of cancellation and all loss or damage resulting to the Company be reason of such cancellation will be paid for by the Customer to the Company forthwith. Acceptance of such cancellation will only be binding on the Company if in writing and signed by a Director.
- 14.4 Any costs incurred by the Company due to the suspension or deferment of any order by the Customer or in the event that the Customer defaults in collecting or giving instructions for the delivery of the Goods will be payable by the Customer forthwith on demand.
- 15 **Limitation of Liability**
- 15.1 Subject to clause 15.2 the Company shall have no liability to the Customer whatsoever in respect of any loss or damage suffered by the Customer arising directly or indirectly from the negligence or wilful default of the Company or the negligence or wilful default of the Company's employees or agents.
- 15.2 Subject to clause 15.5 the Company accepts the following liability to the Customer:-
- (a) unlimited liability for death or injury resulting from the negligence or wilful default of the Customer or its employees or agents;
 - (b) in the light of great disparity between the Company's charges for Heat Treatment Services and the possible value of the Goods, liability limited to three times the Contract price or £500 whichever is the least in respect of any loss or damage to the Goods whether resulting from the negligence or wilful default of the Company, its employees or agents breach of Contract or otherwise.
- 15.3 The Company's entire liability to the Customer in respect of any loss suffered by the Customer arising from a breach of the Contract by the Company shall be limited to damages of an amount equal to the total price payable by the Customer to the Company under the Contract except:-
- (a) where the breach is a failure by the Company to supply Heat Treatment Services which comply with clause 8.1 where liability is limited as set out in clause 8; or
 - (b) where the breach results in loss or damage to the Goods where liability is limited as set out in clause 15.2(b).
- 15.4 The Company will not be liable to the Customer under any circumstances (and whether arising from breach of Contract or the negligence or wilful default of the Company or its employees, agents or otherwise) for any product recall, loss of production, loss of profits, loss of contracts or goodwill or any type of consequential or special indirect or consequential loss suffered by the Customer even if such a loss was reasonably foreseeable or the Company had been advised of the possibility of the Customer incurring the same.
- 15.5 If the Customer should require increased cover against the risk of damage or loss in excess of the limitation set out in these Conditions, then provided the Customer has indicated, in writing, to the Company prior to receipt of the Goods for Heat Treatment Services, the Company will be pleased to submit a revised quotation.
- 16 **Force Majeure**
- 16.1 If the performance by the Company of the Contract shall be delayed by any circumstances or conditions beyond the Company's control, the Company shall have the right at the Company's option to:-
- (a) suspend further performance of the Contract until such time as the cause of the delay shall no longer be present; or
 - (b) be discharged from further performance of and liability under the Contract and if the Company exercise such right, the Customer shall thereupon pay the Contract price less a reasonable allowance for what has not been performed by the Company.
- 17 **Law and Arbitration**
- 17.1 The Contract will be governed by English Law.
- 17.2 All disputes arising shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce. Arbitration shall be in London before a single Arbitrator and the proceedings shall be conducted in the English language.
- 18 **Notices**
- 18.1 Notices to be served hereunder shall be sent by post, fax, telex, telefax or email with the correct back code to each party as its last known address. Notices shall be deemed served by post five working days after posting and by telex, telefax or email when received.

- 19 **General**
- 19.1 No order in pursuance of any quotation or otherwise shall be binding on the Company unless and until such an order is accepted by the Company. Any Contract made between the Company and the Customer shall be subject to these conditions and no representative or agent of the Company has authority to agree any terms or make any representations inconsistent with them or to enter into any Contract except on the basis of them; any such term representation or Contract will bind the Company only if in writing and signed by a Director. If the Customer does not accept any of the Company's Term and Conditions as reasonable, the matter should be raised in writing with a director of the Company with a view to special terms being agreed.
- 19.2 Unless otherwise agreed in writing by the Company these conditions shall apply to the exclusion of any terms and conditions stipulated or referred to by the Customer in his order or pre-contract negotiations or any inconsistent terms implied by law or trade custom, practice or course of dealing.
- 19.3 Any information data and other descriptions contained in the Company's catalogues, price lists or other advertising material shall not form a representation or be part of the Contract unless the Company has specifically agreed in writing that they will form part of the Contract.
- 19.4 Where the Company has not given a written acknowledgement of the Customer's order these conditions will nonetheless apply to the Contract provided that the Customer has had a prior notice of them.
- 19.5 The Company reserved the right to correct any clerical or typographical errors made by its employees at any time.
- 19.6 If the provision of these Conditions is or becomes illegal, void or unenforceable for any reason, the validity of the remaining provisions shall not be affected.
- 19.7 The rights and remedies of the Company under the Contract shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time by the Company nor by any failure or delay by the Company in asserting or exercising any such rights or remedies.

I accept the conditions of business contained within this document.	
Name:	
Signature:.....	Date:
Position:.....	Company Name: