



## MAYFLOWER ENGINEERING LIMITED

### TERMS & CONDITIONS OF SALE

The following Terms and Conditions of Sale, and any specific terms or conditions contained within the Seller's quotations, specifications and any other associated technical documentation and/or correspondence shall constitute the entire Contract between the Seller and the Purchaser. Any terms or conditions of purchase of the Purchaser, however and wherever described or referred to, shall be of no effect. Any variation to the Contract between the Seller and the Purchaser shall become binding only if agreed in writing by a duly authorised representative of the Seller pre contract award.

#### **1. Definitions**

- 1.1 "Seller" shall mean Mayflower Engineering Limited, Coleridge Road, Sheffield, S9 5DA, its successors and assignees. "Purchaser" shall mean the person or company from whom the purchase order is issued including its successors and permitted assignees.
- 1.2 "Supply" shall mean all plant goods and services of every kind and work to be done or performed by the Sellers under this order.
- 1.3 "Delivery" shall mean delivery to the location specified in the Sellers quotation or as agreed in writing between the Seller and Purchaser.
- 1.4 "Order" shall mean the Purchase Order for the supply sent by the Purchaser to the Seller in the form of the Purchaser's document entitled "Purchase Order".
- 1.5 "Information" shall include but not be limited to drawings, specifications, calculations, samples, patterns, models, programmes, electronically stored data, and method statements.

#### **2. Acceptance of Terms & Conditions**

- 2.1 Acceptance of the Terms and Conditions of Sale constitutes agreement to all terms and conditions stated herein. Any alternative terms set out in the Purchaser's documentation, will be of no value and shall not form any part of the contract unless and until agreed in writing by an authorised employee of the Seller.

#### **3. Price**

- 3.1 Prices quoted to the Purchaser exclude VAT and unless otherwise stated in the Sellers quotation the price is exclusive of all duties, levies, taxes and commissions of whatsoever nature applicable to the Supply, except VAT.

#### **4. Payment**

- 4.1 Payment by the Purchaser for goods and services under the contract, unless stated otherwise in the Sellers quotation or formally agreed between the Seller and the Purchaser pre-contract award, shall be made 30 days after the date of issue of a valid invoice by the Seller.
- 4.2 In the event agreed payments for goods and services are not met through no fault of the Seller, then at the sole discretion of the Seller any or all of the following conditions may be applied:
- (a) interest may be charged on the outstanding value in default at 2.5% above the Bank of England base rate as issued at the time of default.
  - (b) manufacture, procurements and deliveries may be suspended until the outstanding payment is received.
  - (c) the contract may be considered as repudiated by the Purchaser.
- 4.3 In case of default in payment by the Purchaser after despatch of equipment manufactured and supplied by the Seller and before the equipment has become the Purchaser's property or before the property in the equipment has passed to the Purchaser, he commits an act of bankruptcy or, being a Company, goes into liquidation or a Receiver is appointed, the Company may give notice to the Purchaser terminating the contract or the Purchaser's right to possession, as the case may be, whereupon the Purchaser shall, if the equipment has been despatched, be bound at the Purchaser's own expense to re-deliver the equipment back to the Company. In such cases the Company may (with or without previous notice) repossess the equipment and the Company or the Company's duly authorised Agents are in such circumstances irrevocably authorised by the Purchaser to enter the premises in which the equipment is located and to dismantle and remove the same at the Purchaser's expense.

#### **5. Deviations & Variations**

- 5.1 All work is to be carried out in strict accordance with the Sellers quotation, specification where applicable, associated drawings and any other Sellers documentation and correspondence issued to the Purchaser relating to the contract. Any variations must be agreed in writing prior to any changes being implemented.
- 5.2 Any Seller's drawings, specifications or other technical data, which have been issued as the basis of supply by the Seller, shall not be varied by the Purchaser without the prior written agreement of the Seller.
- 5.3 The Purchaser must provide the Seller with all the information stipulated in the Sellers quotation and any other information requested by the Seller necessary to undertake the agreed contract scope of works. If such information is not provided, the Seller may at its sole discretion, cancel the contract or claim an extension to the contract period and charge the Purchaser any additional costs resulting from such extension.
- 5.4 In the event of cancellation in whole or in part by the Purchaser or by the Seller under Clause 5.3 hereof the Purchaser will be liable to the Seller for any loss incurred by the Seller including loss of profit. The Seller reserves the right to make a minimum invoice charge.

Registered in England No. 6503518

Managing Director, Mr Kevan Bingham



MADE IN SHEFFIELD



## 6. Warranties & Indemnity

6.1 The Seller undertakes subject to Clauses 6.2 and 6.4 hereof at its discretion either to replace or repair without charge any defects in materials, workmanship or design provided by the Seller. The Seller shall without prejudice to the Seller's obligations at law replace or repair free of charge any goods which are, or become defective within the 12 month from the date of commissioning or 15 months from the date the Purchaser was first informed that the equipment was ready for despatch, whichever is the sooner, unless otherwise agreed in writing between the Seller and the Purchaser.

6.2 The Sellers liability under Sub-Clause 6.1 hereof is conditional upon:

- (a) written notice of the defect with full details thereof, being received by the Seller within 7 working days of the discovery of the defect.
- (b) the defective equipment, part or parts thereof being returned securely packed (if necessary) at the risk of the Purchaser and carriage paid by the Purchaser to the Seller or to such persons as the Seller may direct.
- (c) the defect not being due to carelessness, improper use or any wilful or negligent act or omission including lack of maintenance, inadequate lubrication or any failure to comply with any instruction given by the Seller or any use which do not comply with the Seller's specifications.

6.3 Where equipment supplied by the Seller is installed outside the UK, the equipment or parts replaced under this guarantee will be delivered by the Seller FOB UK port.

6.4 In the case of equipment and parts not manufactured by the Seller, the Purchaser shall only be entitled to the benefit, insofar as it may be passed on to the Purchaser, of any rights the Seller may have against the supplier of such parts and the Seller's liability in such cases as is making the benefit of such rights available to the Purchaser.

6.5 Save for the undertakings as to the title all other conditions or warranties expressed or implied, statutory or otherwise are hereby expressly excluded.

## 7. Passing of Risk & Property/Title

7.1 Risk in the goods shall pass to the Purchaser when the equipment supplied by the Seller is delivered into the Purchaser's works. When delivery is to a third party location, such as a Construction Site, then risk will pass either when it is accepted by an employee or sub-contractor of the Purchaser or when risk passes under the terms of the contract.

## 8. Inspection & Tests

8.1 The Purchaser or his nominee shall have the right to inspect the supply and the Seller's drawings relating thereto at any reasonable time and place and such inspections and/or approval of drawings shall not relieve the Seller of his obligations under this Order.

## 9. Information

9.1 Within the times agreed between the Seller and the Purchaser, the Seller shall submit to the Purchaser for approval such information and in such form paper or electronic as may be called for therein. Any loss or expense arising from an error or omission in, or any delay in confirmation of the information by the Purchaser shall be borne by the Purchaser.

## 10. Delivery

10.1 Times and dates for delivery or performance (including installation) are estimated only. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Seller shall use its best endeavours to deliver or perform by the time or date quoted but will not be liable for any loss of any type claimed to have arisen from any delay in delivery or performance.

## 11. Free Issue Materials

11.1 Provision of free issue materials, equipment, parts and services by the Purchaser shall be delivered to the Seller or location agreed in writing between the Seller and the Purchaser free of any delivery, offloading and insurance cost to the Seller.

## 12. Intellectual Property & Fees

12.1 The Purchaser shall defend, indemnify and save harmless the Seller against any and all losses, damages, claims, costs and expense on account of any and all suits and judgements arising out of the sue or sale of the supply which infringe or are alleged to infringe any letters, patents, registered design, copyright, trades mark or similar property or any right there under.

12.2 The Purchaser shall be responsible for all fees, royalties and commissions payable in relation to the supply or whatever these shall occur.

## 13. Confidential Information

13.1 The Seller agrees not to make use of data, design, specifications, artwork or other information provided to it by the Purchaser or created pursuant to this Order, except for performance of the Order. All documentation provided by the Purchaser remains the property of the Purchaser and it shall be returned upon request.

13.2 The Seller shall neither publish any matter or detail relating to this Order nor deal with any third party, (including the Purchaser's client and representatives) without the prior written permission of the Purchaser.

## 14. Force Majeure

14.1 If either party shall be delayed in fulfilling its obligations by reason of war, blockade, lockout, riot, civil commotion, epidemic, fire, explosions, accident, flood or other similar circumstances beyond its reasonable control, it shall notify the other party immediately of those circumstances and then supply supporting documentation reasonably required by the other party. The party so delayed shall for the duration of the circumstances giving rise to the delay be relieved of its obligations under this





Order provided always that the party so delayed shall have within seven days of the circumstances arising, advised the other party of the possibility of delay and that all reasonable efforts have been made to minimise the effect of such circumstances

**15. Set-off**

15.1 The Purchaser shall not be entitled to deduct from the payments due to the Seller under this Order such sums which may be considered in dispute between the Seller and the Purchaser on any other contract or order between the Seller and Purchaser.

**16. Law**

16.1 This Order shall in all respects be construed and take effect in accordance with the Law of England, and the Purchaser hereby submits to the exclusive jurisdiction of the English Courts.

16.2 If any Clause of this Order is held by any competent authority to be invalid or unenforceable in whole or in part, the remainder of this Order shall continue in full force and effect.

