

## GENERAL CONDITIONS OF SALE



### REEKIE MACHINE (SALES) LIMITED

FOR GOODS SOLD, REPAIRED, OR WORKMANSHIP DONE IN THE UNITED KINGDOM, OR FROM THE UNITED KINGDOM FOR SHIPMENT ABROAD "RM(S)" SHALL MEAN REEKIE MACHINE (SALES) LTD., INCHINNAN BUSINESS PARK RENFREWSHIRE PA4 9RL SCOTLAND

#### ARTICLE 1 – Extent of Delivery Obligations

- (1) **General.** Tenders for the supply and delivery are not binding on RM(S), until RM(S)'s written order confirmation has been issued to the Purchaser and any alteration, addition or modification thereto shall require RM(S)'s written confirmation.  
A qualified acceptance of RM(S) tender must be accompanied by sufficient information to enable RM(S) to confirm their acceptance. Acceptance of RM(S) tender impliedly includes acceptance of the following terms and conditions and no other terms and conditions, unless otherwise specified in RM(S) tender.
- (2) **Documents, Drawings, Etc.** Documents forming part of the tender and containing illustrations, drawings or weights and dimensions or other similar information are approximate only and R.M(S) will not be liable for any error or omission therein or with regard thereto, unless they are expressly indicated as being binding. R.M(S) reserves their proprietary rights and their copyright to estimates and drawings and such documents shall not, without RM(S) consent, be made available to third parties.
- (3) **Validity.** Unless previously withdrawn RM(S) tender is open for acceptance for the period stated therein or, if none, within thirty days from the date of the tender RM(S) tender is subject to confirmation at the time of such acceptance.
- (4) **Limits of Contract.** RM(S)'s tender includes only such goods, accessories and works as are specified therein.
- (5) **Tests.** RM(S) manufactures are, where practicable, submitted to their standard tests before despatch. If special tests are required these, unless otherwise agreed, shall be made at RM(S) works and will be charged extra. In the event of any delay on Purchaser's part in attending such tests after seven days' notice that RM(S) are ready, the tests will proceed in Purchaser's absence and shall be deemed to have been made in the Purchaser's presence. RM(S)'s responsibility for tests on proprietary of sub contract goods shall not exceed that accepted by the said Supplier of Sub-Contractor.
- (6) **Performance.** Any performance figures given by RM(S) are indicative only and are subject to the tolerances recognised by British manufacturers if the material in question. RM(S) accept no liability if those figures are not obtained unless RM(S) specifically guarantee them.

#### ARTICLE 2 – Prices and Terms of Payment

- (7) **Price Variation.** The tender is based on costs ruling at the date thereof, unless otherwise specifically stated in the tender. If between the date thereof and the date or dates of delivery there are any increases (or decreases) in the cost of materials and labour expenses, transport or other costs which affect directly or indirectly the manufacture of the products, the stated prices shall be increased (or decreased) appropriately, no increase shall give rise to any right of cancellation by the Purchaser.

- (8) **Price Basis.** Unless there is written agreement to the contrary, the quoted price shall be for delivery ex Works, inclusive of Protection/Packing for transport within the United Kingdom. Any amounts indicated for freight trans-shipment, insurance, cartage, unloading and erection are quoted without RM(S)'s responsibility and RM(S) shall be reimbursed by the Purchaser for the actual costs so incurred. F.O.B. or other special packing required will be chargeable as extra.
- (9) **Export.** Regarding export, any taxes, duties or legal provisions levied outside the United Kingdom will be borne by the Purchaser. Any fees for the legalisation of certificates of origin, consular invoices, etc., will also be invoiced to the Purchaser.
- (10) **Terms of Payment.** (a) Home Contracts – Goods will be invoiced on readiness for despatch, and payment is due on receipt of invoice. (b) Export Contracts – Payments in full in Sterling in respect of the goods to be shipped is due upon presentation of shipping documents and invoices in the United Kingdom, or, if from any cause beyond RM(S)'s control they are unable to despatch goods or if obtaining Bills of Lading is not their obligation, then payment of the contract value of the goods shipped is due upon presentation of the invoice and notification from RM(S) that the goods are ready for despatch, after having been tested as may be required by Clause 5. Any liability on RM(S)'s part is subject to the strict observance of Terms of Payment and all other obligations to them under the contracts. When goods are bought outside the United Kingdom the quoted price is based upon rates of exchange ruling at the date of R.M. tender; any variation will be to customer's account. Failure to pay for any delivery or installment shall entitle R.M. to suspend further deliveries without prejudice to any other right of R.M.
- (11) **Delay in Payment.** If Payment is delayed interest on the arrears at 3% p.a. over and above the official Bank of England discount rate will be charged. In the event of default no special notice by RM(S) to the Purchaser is required.
- (12) **Set Off.** Withholding or set-off by the Purchaser of any payment against any claim not recognised by RM(S) is excluded.
- (13) **Extra Cost.** In the event of suspension of the work by Purchaser's instructions or lack of instructions or supply of promised free-issue material or special tools and equipment the contract price shall be increased to cover any extra expense thereby incurred by RM(S).

#### ARTICLE 3 – Delivery

- (14) **Delivery.** Delivery shall be deemed to have been effected when the equipment on order has been despatched from RM(S) Works or RM(S) have notified the Purchaser that the equipment on order is ready for despatch, whichever shall first occur.
- (15) **Delay in Delivery.** Notwithstanding any other provision thereof, should the manufacture, supply or despatch of the whole or any part or the equipment on order be interrupted, prevented or hindered by any cause whatsoever beyond RM(S)'s control, RM(S) shall not be liable for any delay in any delivery or deliveries or for any non-delivery directly or indirectly resulting therefrom without limiting the generality of the cause or causes referred to above, the same shall include war, act of God, civil disturbance, requisition, Government or parliamentary restrictions, prohibition or enactment of any kind, import or export regulations, fire, accident, breakdown of plant or machinery, strikes, combinations or workmen and lockouts whether affecting the R.M. Works or those supplying contractors or carriers, non-delivery or delay in delivery or materials or any other circumstances (of whatsoever nature and not limited to the foregoing), which directly or indirectly interrupt, prevent or hinder the due performance of the contract. Failure to pay for any delivery or installment shall entitle R.M. to suspend further deliveries without prejudice to any other right of R.M.

#### ARTICLE 4 – Despatch and Packing

- (16) **Packing.** Ordinary packing material (series manufactured wooden cases, cardboard boxes, etc) will not be taken back and so no credit note will be issued for such empties. Any other special packing material if in good condition, and returned carriage paid, within 3 months from the date of despatch, provided that such return is reasonable, will be taken back at full invoice price.
- (17) **Partial Shipments.** Partial shipments are permissible.

- (18) **Damage in Transit and Non-Delivery.** On home contracts, if RM(S) price includes delivery and the goods arrive damaged or deficient in weight or quantity, notification must be made to the carrier with a copy to RM(S) within seven days of delivery. RM(S) will then replace, free or charge, goods damaged in transit. In the case of non-delivery, no claim can be entertained unless notice of such non-delivery is received by RM(S) within 14 days of the date of their Despatch Advice Note. Failure to comply with these provisions absolves them from all responsibility. On contracts where RM(S) price is on basis of delivery ex RM(S) Works, RM(S) shall not be responsible for carriage or insurance while the goods are in transit. Where specifically requested, RM(S) will be pleased to arrange carriage and insurance, but this will be chargeable as extra. For export contracts RM(S) will not be responsible for loss or damage to goods beyond the point of shipment, nor shall they be under any other obligation to give Purchaser further notice, statutory or other, that they accept no responsibility. Where Bills of Lading are taken out by RM(S) they will, on Purchaser's instructions and at Purchaser's expense, insure against loss or other risk and will, on receipt of Purchaser's indemnity, take all reasonable steps to recover from the Underwriters any loss or damage for which they may be liable.
- (19) **Delay in Despatch.** If despatch is delayed for reasons not imputable to RM(S) the responsibility shall pass to the Purchaser on the day on which the equipment has been ready for despatch. However, RM(S) shall, upon the Purchaser's request and at the Purchaser's expense, effect any insurance which the Purchaser may require.

#### ARTICLE 5 – Reservation of Proprietary Rights

- (20) **Proprietary Rights.** RM(S) reserves his proprietary rights to the equipment on order, until all payments under the contract have been duly effected and until such event the property therein shall not pass to the Purchaser. During such time, Purchaser may neither mortgage, pledge or otherwise make over the equipment on order by way or security. In the event of seizure or confiscation thereof or any other restraint thereon by the act of a third party, the Purchaser shall immediately notify, RM(S) of any such events.
- (21) **Patents.** RM(S) will indemnify customer against any claim of infringement of Letters Patent, Trade Mark or Registered Design (published at the date of the contract/order) by the use or sale of any article or material supplied by RM(S) to Purchaser and against all costs and damages which Purchaser may incur in any action for such infringement or for which Purchaser may become liable in any such action. Provided always that this indemnity shall not apply to any infringement which is due to RM(S) having followed a design or instruction furnished or given by Purchaser or to the use of such article or material in a manner or for a purpose or in a foreign country not specified by or disclosed to RM(S) and provided also that this indemnity is conditional on Purchaser giving to RM(S) the earliest possible notice in writing of any claim being made or action threatened or brought against Purchaser and on Purchaser permitting RM(S) at their own expense to conduct any litigation that may ensue and all negotiations for a settlement of the claim. Purchaser on his part warrants that any design or instructions furnished or given by him shall not be such as will cause RM(S) to infringe any Letters Patent, Registered Design or Trade Mark in the execution of Purchaser's order.

#### ARTICLE 6 – Liability for Defects in the Equipment

- (22) **General Liability and Maintenance Guarantee.** All warranties, conditions, or liabilities implied by Scots Law and all other liability expressed or implied in respect of any defect in or failure of the goods supplied, or for any loss or damage attributable thereto, are hereby excluded and in lieu thereof RM(S) shall only be liable to supply new parts or repair parts, defects in which, under proper use, appear therein and arise solely from faulty design, materials or workmanship within a period of six calendar months after the original goods shall have been first despatched from RM(S), at the termination of which period all RM(S) liability shall cease. Such defective parts must be promptly returned carriage paid to RM(S) Works, unless otherwise arranged. The repaired or new parts will be delivered free of charge to F.A.'s British port of shipment on export contracts and free within Railway's free delivery area on home contracts.
- In respect of goods not of RM(S) manufacture their liability shall not exceed that accepted by the Supplier of such goods and shall not extend beyond the limits of liability accepted by RM(S) in the preceding paragraph of the clause. RM(S) shall be under no liability in contract reparation or otherwise for any injury to person or property and loss or damage of whatsoever kind or howsoever caused or for anything done or omitted in connection with the goods or any work in connection therewith.
- The foregoing guarantee does not include the stripping or re-assembly of the complete unit, or the taking out or putting back into any vehicle, plant, etc.

- (23) **Repair Work.** For repaired equipment or parts thereof, RM(S) assume the guarantee only for the proper execution of the workshop or erection work and that only, for a period of six months from the date of delivery or from the date at which the repair work has been carried out. If, during the repair or during the installation of the repaired work, other defects should develop in the repaired or other parts so that the satisfactory operation of the equipment is adversely affected, the cost for remedying will be to the Purchaser's account.
- (24) **Limit of Guarantee.** No Liability is assumed by RM(S) either in respect of parts which, owing to their physical properties or to the use to which they are put, are subject to premature wear, or in respect of defects due to normal wear and tear, wrong or negligent use, improper erection or putting into operation by the Purchaser, faulty or negligent handling, excessive strain, the use of unsuitable material for operation and maintenance, ingress of foreign matter, defective masonry, faulty workmanship of equipment delivered by a third party, chemical, electro-chemical or electrical influences and atmospheric or other natural causes.  
In respect of the operation and performance of RM(S) products, the test results obtained on the RM(S) test stand shall be binding and conclusive.
- (25) **Expiry of Guarantee.** If repaired work or replacement parts show defects, the above mentioned provisions governing delivery time and guarantee shall apply; but any guarantee will expire at the end of the guarantee period applying to the original equipment.
- (26) **Purchaser's Obligation.** RM(S) may refuse to remedy any defects if the Purchaser has not fulfilled his obligation.

#### ARTICLE 7 – Customer/Purchaser Patterns, Drawings or Equipment

- (27) **Customer/Purchaser Patterns, Drawings or Equipment.** Where the Customer/Purchaser supplies patterns, drawings or equipment R.M. Shall be entitled to assume that the same are in all respects suitable and accurate and R.M. shall have no responsibility if they are not in all respects suitable and accurate. While R.M. will take all responsible care of the Customer/Purchasers drawings and equipment it accepts no liability for loss or damage thereto howsoever arising.  
R.M. reserves the right to destroy or dispose of the Customer/Purchasers patterns, drawings and equipment not collected by the Customer/Purchaser within 12 month of their ceasing to be required for the order or any subsequent order. Where patterns, drawings and equipment are not supplied by the Customer/Purchaser, only those which are charged separately to the Customer/Purchaser in full shall become the property of the Customer/Purchaser.

#### ARTICLE 8 – Sub-Contract and Site Contract Work

- (28) **Sub-Contract and Site Contract Work.** Purchaser's material shall be delivered free RM(S) Works and will be delivered by RM(S) in accordance with their quotation. Carrying out the work as defined in RM(S) quotation shall be deemed complete fulfilment of contract and RM(S) assume that material will be covered under Purchaser's insurance arrangements while the material is away from the Purchaser's works, including the period of transit.  
If material is spoiled, RM(S) do not accept responsibility for the value or replacement of such material or the cost of any prior operations performed thereon and this shall also apply to finished parts sent for fitting or other purposes. Material shall be reasonably soft, homogeneous, and suitable for rapid machining within its class and should any material be spoiled owing to hard places or defective material; RM(S) are to be paid for the work done and any consequential damage to tools. RM(S) are not responsible for the replacement or for failure of parts due to any defects whatsoever and do not undertake to check Purchaser's material. All metal removed becomes RM(S) property unless otherwise arranged and is allowed for in RM(S) estimate.  
Rectification on any of our workmanship must not be carried out without our prior consent in writing, otherwise no responsibility whatsoever will be assumed by RM(S) for costs involved.

#### ARTICLE 9 – Disputes

- (29) **Arbitration.** Any dispute arising out of the Contract shall be amicably settled between the contracting parties, failing which it shall be referred for a decision to a single Arbitrator in Glasgow to be appointed by agreement, between RM(S) and Purchaser, or in default of agreement, by a President for the time being of the Glasgow Chamber of Commerce, which reference shall be deemed to be a submission to arbitration for the purposes of the Arbitration Act, 1950, or any modification or re-enactment thereof for the time being in force.

#### ARTICLE 10 – General Conditions

(30) **Assignment.** Without RM(S)'s prior written consent, the Purchaser may not assign his contractual rights to a third party.

(31) **Legal Construction.** This contract shall be governed by the Law of Scotland.