

TERMS & CONDITIONS OF SALE

1. INTERPRETATION

1.1 In these Conditions the following words have the following meanings:

Word	Meaning
"Ancillary Services"	means the installation, commissioning of the Goods and training in relation to the goods as set out in the Quotation;
"The Buyer"	the person(s), firm or company to whom the Quotation is addressed;
"The Company"	Hayneswood Engineering (UK) Limited (Company Number 4792896);
"Contract"	the contract between the Company and the Buyer for the sale and purchase of the Goods, incorporating these Conditions;
"Delivery Point"	the place where delivery of the Goods is to take place Under condition 4;
"Goods"	The goods to be supplied to the Buyer by the Company as described in the Quotation;
"Quotation"	means the detailed Quotation addressed to the Buyer by the Company to which these Conditions are attached;
"Safety Memorandum"	means the Safety Memorandum relating to The Goods and their use and operation the current Version of which is attached to the Quotation and Which may be varied by the Company from time to Time.

1.2 In these Conditions references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted and replaced.

1.3 In these Conditions references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires.

1.4 In these Conditions headings will not affect the construction of these Conditions.

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.3 the Contract will be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 No terms or conditions endorsed upon, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document will form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 The Conditions apply to the Sale of Goods by the Company to the Buyer and any variation to these Conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by the Managing Director of the Company.

2.4 Any acceptance or purported acceptance of the Quotation by the Buyer shall be in writing and shall be deemed to be an offer by the Buyer to purchase the Goods subject to these Conditions. Any acceptance must be accompanied by the Safety Memorandum duly signed by a Director of the Buyer. No acceptance will be treated as valid without such signed Safety Memorandum.

2.5 No acceptance of the Quotation by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Buyer.

2.6 The Quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.

3. DESCRIPTION

3.1 The description of the Goods shall be as set out in the Quotation.

3.2 All drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They will not form part of this Contract.

4. DELIVERY AND ANXILLIARY SERVICES

4.1 Unless otherwise agreed in writing by the Company delivery of the Goods shall take place at the Company's place of business. The Goods are delivered on an "Ex-Works" basis as such terms are defined in Incoterms 1990 and consequently the Buyer shall be responsible for packaging, insurance cover, export and import duty and any other taxes, duties or costs relating to the transport of the goods from the Delivery Point.

4.2 The Buyer will take delivery of the Goods within 14 days of the Company giving it notice that the Goods are ready for collection from the Delivery Point.

4.3 Any dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery will be within a reasonable time.

4.4 Subject to the other provisions of these Conditions the Company will not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods, (even if caused by the Company's negligence), nor will any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 180 days.

4.5 If for any reason the Buyer will not accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:

4.5.1 risk in the Goods will pass to the Buyer (Including for Loss or damage caused by the Company's negligence);

4.5.2 The Goods will be deemed to have been Delivered; and

4.5.3 The Company may store the Goods until Delivery whereupon the Buyer will be liable for all related costs and expenses (including without limitation storage and insurance)

4.6 The Ancillary Services will be undertaken by the Company as soon as is reasonably practicable after the Buyer has delivered the Goods to its premises. In order to allow the Company to carry out the Ancillary Services the Buyer shall:

4.6.1 Provide to the Company all assistance Reasonably requested by the Company for this purpose;

4.6.2 Allow the Company and its authorised Representatives, access to the premises where the Goods are to be installed, its staff and all other materials and information that the Company may reasonably require; and

4.6.3 Appoint a Health and Safety Advisor in Order to assist the company in providing the Ancillary Services.

5. OBLIGATIONS ON THE BUYER AND INDEMNITY

5.1 The buyer shall at all times:

5.1.1 Implement the safety recommendations set out in the Safety Memorandum or any revised Safety Memorandum issued by the Company from time to time or any written instructions received from the Company;

5.1.2 Install and keep installed warnings throughout the Premises where the goods are installed including on and near machinery pursuant to the Safety Memorandum or any written instructions;

5.1.3 Be familiar and ensure its employees (Including new recruits) are familiar with the standard operating procedures relating to the wash-up procedures on the Goods;

5.1.4 Use the equipment in accordance with such Instructions and recommendations set out in the Company's training manual and on site training sessions all of which relate to the safe operation and safety of the Goods used by the Buyer and its employees as may be updated in writing by the Company from time to time;

5.1.5 Ensure that the guards and the running mechanism of The Goods are not interfered with modified or removed;

5.1.6 ensure that it and its employees attend all training Sessions organised by the Company or the Buyers Health and Safety Officer or other Officers;

5.1.7 distribute the Company's full training manual to all Of its employees who are to use, operate or clean the Goods Including any new employees;

5.1.8 make its employees aware of the dangers and risks Involved in the use of the Goods and the workplace;

5.1.9 Ensure all new employees are familiar with all the Above sub-clauses 5.1.1 - 5.1.9 (all sub-clauses inclusive).

5.2 In the event of the Buyer's failure to comply with any of the obligations listed in 5.1 above, the Buyer shall indemnify and hold harmless the Company against all losses, claims, liabilities, damages, fines, penalties, costs or other financial losses the Company may suffer or incur arising directly or indirectly by reason of the Buyers failure to comply with its obligations under clause 5.1.

5.3 Ensure rights of access by the organisation, their customer, and regulatory authorities to all facilities involved in the order and to all applicable records.

5.4 Ensure requirements for the supplier to flow down to sub-tier suppliers the applicable requirements in the purchasing documentation.

6. RISK/TITLE

6.1 The Goods are at the risk of the Buyer from the time of delivery.

6.2 Ownership of the Goods shall not pass to the Buyer until the company has received in full (in cash or cleared funds) all sums due to it in respect of:

6.2.1 The Goods; and

6.2.2 All other sums which are or which Become due to the Company from the Buyer on any account.

6.3 Until ownership of the Goods has passed to the Buyer, the Buyer must:

6.3.1 Hold the Goods on a fiduciary basis as the Company's bailee;

6.3.2 Store the Goods (at no cost to the Company) Separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;

6.3.3 Not destroy, deface or obscure any identifying mark Or packaging on or relating to the Goods;

6.3.4 Maintain the Goods in satisfactory condition insured On the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company, and;

6.3.5 Hold the proceeds of the insurance referred to in condition 6.3.4 on trust for the Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

6.4 The Buyer's right to possession of the Goods shall terminate immediately if:

6.4.1 the Buyer as a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or (being a body of corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager,

administrator or administrative receiver appointed of its undertaking or any part of thereof, or a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possibly insolvency of the Buyer, or

6.4.2 the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe / perform any of his / its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts within the meaning of section 1.2.3 of the Insolvency Act 1986 or the Buyer ceases to trade; or

6.4.3 the Buyer encumbers or in any way charges any of the Goods,

6.5 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.

6.6 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

7. PRICE

7.1 Unless other wise agreed by the Company in writing the price for the Goods and Anxillary Services shall be the price set out in the Quotation.

7.2 The price for the Goods and Anxillary Services shall be exclusive of any value added tax and all costs or charges in relation to loading, unloading, carriage and insurance all of which amounts the Buyer will pay in addition when it is due to pay for the Goods.

8. PAYMENT

8.1 Payment of the price for the Goods and the Anxillary Services is due on the dates set out in the Quotation.

8.2 Time for payment shall be of the essence.

8.3 No payment shall be deemed to have been received until the Company has received cleared funds.

8.4 All payments payable to the Company under the Contract shall become due immediately upon termination of this Contract despite any other provision.

8.5 The Buyer shall make all payments due under the Contract in Sterling without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.

8.6 If the Buyer fails to pay the Company any sum due pursuant to the Contract the Buyer will be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of HSBC Plc, accruing on a daily basis until payment is made, whether before or after any judgement.

9. QUALITY

9.1 The Company warrants that (subject to the other provisions of these Conditions) upon delivery [and for a period of [12] months from the date of delivery,] the Goods will;

9.1.1 be of satisfactory quality within the meaning of the Sale of Goods Act 1994;

9.1.2 be reasonably fit for any particular purpose for which the Goods are being bought if the Buyer had made known that purpose to the Company in writing and the Company has confirmed in writing that it is reasonable for the Buyer to rely on the skill and judgement of the Company.

The Company shall not be liable for a breach of any of the warranties in condition 9.1 unless.

9.1.2 the Buyer gives written notice of the defect to the Company, and (if the defect is as a result of damage in transit) to the carrier, within 60 days of the time when the Buyer discovers or ought to have discovered the defect; and

9.1.3 the Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Buyer's cost for the examination to take place there.

9.3 The Company shall not be liable for a breach of any warranties in condition 9.1 if;

9.3.1 the Buyer makes any further use of such Goods after giving such notice; or

9.3.2 the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or

9.3.3 the Buyer alters or repairs such Goods without the written consent of the Company.

9.4 Subject to conditions 9.2 and 9.3, if any of the Goods do not conform with any of the warranties in condition 9.1 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the *pro rata* Contract rate provided that, if the Company so requests, the Buyer shall, at the Buyer's expense, return the Goods or the part of such Goods which is defective to the Company.

9.5 If the Company complies with condition 9.4 it shall have no further liability for a breach of any of the warranties in condition 9.1 in respect of such Goods.

10. LIMITATION OF LIABILITY

10.1 Subject to condition 9, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of;

10.1.1 any breach of these Conditions; and

10.1.2 any representation, (other than fraudulent misrepresentation) statement or tortious act or omission including negligence arising under or in connection with the Contract.

10.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Nothing in these Conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or for fraudulent misrepresentation.

10.4 Subject to conditions 10.2 and 10.3;

10.4.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the price of the Goods set out in the Quotation; and

10.4.2 the Company shall not be liable to the Buyer for any loss of profits or indirect or consequential loss or damage (whether for loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

11. ASSIGNMENT

11.1 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

11.2 The Company may assign the Contract or any part of it to any person, firm or company.

12. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials Provided that, if the event in question continues for a continuous period in excess of 90 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

13. GENERAL

13.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

13.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

13.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.

13.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.

13.5 The formation, existence, construction, performance, validity, and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

14. COMMUNICATIONS

14.1 All communications between the parties about this Contract must be in writing and delivered by hand or sent by pre-paid first class post or sent by facsimile transmission;

14.1.1 (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Buyer by the Company; or

14.1.2 (in case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of this Contract or such other address as shall be notified to the Company by the Buyer.

14.2 Communications shall be deemed to have been received;

14.2.1 if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);

14.2.2 if delivered by hand, on the day of delivery;

14.2.2 if sent by facsimile transmission on a working day prior to 4.00pm, at the time of transmission and otherwise on the next working day.

14.3 Communications addressed to the Company shall be marked for the attention of the Managing Director.