

## STANDARD CONDITIONS OF SALE

### 1. DEFINITIONS

- 1.1 In these conditions "Seller" means Bag & Bale Ltd. "Buyer" means any company, firm or individual or agent there of to whom the Seller's quotation or acknowledgement of order is addressed. The "Goods" means the products to be supplied by the seller.

### 2. APPLICABILITY OF CONDITIONS

- 2.1 The Seller concludes contracts for the supply of Goods subject only to these Conditions. The Buyer accepts that these Conditions shall govern relations between Buyer and Seller to the exclusion of any other terms including without limitation conditions and warranties written or oral expressed or implied even if contained within any of Buyer's documents which purport to provide that the Buyer's own terms shall prevail. No variation or qualification of these Conditions or of any quotation or contract arising herefrom shall be valid unless in writing by the Seller.
- 2.2 The time limit for validity or acceptance of Seller's quotation is as standard Condition's of sale.
- 2.3 The Contract shall be deemed to have been entered into when the Buyer has sent an acceptance in writing before the expiry of the time limit provided that there shall be no binding Contract unless the acceptance reaches the Seller not later than one week after the expiration of such time limit.
- 2.4 If Buyer order varies the Goods and/or Conditions set out in Seller's quotation the Contract shall be deemed to have been entered into when upon receipt of an order the Seller has sent an acknowledgement in writing within the time limit (if any) set by the Buyer.

### 3. SCOPE OF SUPPLY

- 3.1 The supply includes only the Goods specified and quantified in Seller's quotation or order acknowledgement. In the event that the Goods stated in the quotation are not the same as stated in the order acknowledgement the latter shall prevail.

### 4. MODIFICATIONS, EXTRA WORK AND PRICE VARIATION

#### 5. VAT: IMPORT PERMITS, LICENCES AND DUTIES

- 5.1 Unless otherwise stated in the quotation or acknowledgement the contract price is deemed to exclude Value Added tax. To the extent that the tax is properly chargeable on the supply of the Goods provided by the contract in the country of origin or the country of delivery the Buyer shall pay such tax as an addition to payments otherwise due to the Seller under the contract.
- 5.2 For delivery of the Goods to countries other than the United Kingdom the Buyer shall obtain all import or licences required for any and all parts of the Goods in a reasonable time having regard to the time for delivery of the Goods. The Buyer shall pay all customs and imports duties and taxes arising from the importation of the goods into the country in which the Goods are to be installed.

### 6. PAYMENT TERMS

- 6.1 In the event that Buyer is not able to take delivery on due date for whatever cause the despatch shall be invoiced on due date to and shall be payable by Buyer.
- 6.3 Under our terms of trade and in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, our company charges interest on late payments, being the Bank of England Base rate plus 8% for each day the account remains overdue.
- 6.4 The Seller herein (Bag & Bale Ltd) shall retain a specific, as well as a general lien, over goods upon which the Seller has performed services, at the specific request of the buyer as security for monies owing to the Seller by the buyer whether on this or any other contract between the parties. In the event of an invoice submitted to the buyer, by the Seller, remaining unpaid for a period of 40 Days, the sellers shall seek compensation from the courts for collection of the monies owed.

### 7. BONDS AND FINANCIAL GUARANTEES

- 7.1 Seller does not undertake to enter into Bonds, Financial Guarantees, Securities or other similar arrangements.

### 8. DELIVERY

- 8.1 The place of delivery shall be as stated in the quotation or order acknowledgement. In the absence of any stated place delivery shall be ex-works Seller's premises.
- 8.2 The time for delivery shall be as stated in the quotation or order acknowledgement.
- 8.3 Should delay in delivery be caused by any of the circumstances mentioned in Clause 16 or by an act or omission of the Buyer and whether such cause occurs before or after the time or extended time for delivery there shall be granted such extension of the delivery time as is reasonable having regard to all the circumstances of the case.
- 8.4 Time of delivery or performance shall on no event be of the essence of the contract.

### 9. PACKING, TRANSPORT AND STORAGE

- 9.1 Goods shall not be packed for delivery or storage except when specifically in the quotation or order acknowledgement.

## **10. BUYER MATERIALS**

- 10.1 Materials or components supplied by Buyer without charge for use on or in connection with the Goods shall remain at Buyer's risk.  
10.2 Seller accepts no responsibility for suitability or otherwise of Buyer supply items.

## **11. PROPERTY AND RISK**

- 11.1 Property in the Goods shall not pass to Buyer and Buyer shall keep the Goods as bailee for the Seller (returning the same to the Seller on request) until the contract price shall have been paid in full to Seller.  
11.2 Risk in the Goods shall pass to Buyer at the time and place of delivery. In the event that Goods are placed in storage by Seller as clause 9.4 risk in the Goods shall pass to Buyer as soon as Goods are in storage.

## **12. SITE WORK**

- 12.1 Where installation and/or commissioning of the products is included in the contract the site of such installation and /or commissioning shall be as stated in the quotation or in the order acknowledgement.  
12.2 Where included in the contract installation and/or commissioning of the products shall commence immediately upon delivery to the installation site. The estimated time periods in working days for installation and commissioning are indicated in the quotation or order acknowledgement.  
12.3 Mechanical installation services by the Seller comprise the following -  
(1) provision of skilled labour, tools and tackle  
(2) erection, positioning and fastening-down of the products  
Except where specifically included in the scope of supply the Buyer shall provide the following -  
  - clearance/preparation of the installation and access area prior to Seller commencement
  - all civils, pits, building modifications, and similar
  - suitable lifting equipment
  - precautionary fire-fighting equipment for "hot" working
  - electrical supplies at 110V/240V required for handtools
  - lighting of the work area
  - removal/disposal of material and redundant equipment in the installation area.  
12.4 Electrical installation services by the Seller comprise the following -  
(1) provision of skilled labour, tools and tackle  
(2) supply and fitting of cabling and cable supports between electrical components and control panel(s) included in the quotation or order acknowledgement  
  
12.5 Except where specifically included in the scope of supply the Buyer shall provide the following -  
  - provision and cabling of controlled power supply to Seller control panel(s)  
12.5 Commissioning services by the Seller comprise the following -  
(1) running and checking each item of the Goods for correct functioning  
(2) running and checking all items together without materials and then with the materials to be handled to demonstrate satisfactory performance  
(3) where specifically included in the contract training of Buyer's staff in the operation of the Goods  
For the commissioning service the Buyer shall supply the capable and willing operatives necessary for operation, a sufficient quantity of the materials to be handled, suitable power and other services, containers and other devices required for normal operation.  
12.6 For installation and commissioning services the Seller's standard working times are 0830 to 1730 with 30 minute lunch break Monday to Friday excluding Public Holidays. Additional hours and weekend/Public Holiday working will be undertaken when included in the contract or agreed as Extra Work pursuant to Clause 4.

## **13. ACCEPTANCE**

- 13.1 The products shall be accepted by the Buyer upon completion of installation and satisfactory commissioning. Acceptance shall not be delayed or refused unreasonably by Buyer nor by reason of minor defects which do not materially affect the capability and functionality of the products.  
13.2 The criteria for acceptance shall be as stated in the contract and/or in any acceptance schedule agreed between Buyer and Seller.  
13.3 On completion of satisfactory commissioning an Acceptance Certificate will be presented by Seller for signature by Buyer and Seller. Any minor defects remaining shall be recorded on the Certificate.  
13.4 On conclusion of the Acceptance Certificate and on payment of any moneys due pursuant to Clause 6 the products will be handed over to Buyer and released for use.

## **14. DRAWINGS AND OTHER DOCUMENTS**

- 14.1 Dimensions, weights, capacity, performance rating, and other data shown on drawings, catalogues, specifications and similar documents submitted with quotations or order acknowledgement shall not be binding save the extent that they are by reference expressly included in the contract.  
14.2 Any drawing or technical documents intended for use in the construction of the Goods and submitted to the Buyer prior to or subsequently to the formation of the contract shall remain the property of the Seller and shall not, without Seller's consent, be utilised by the Buyer nor copied, reproduced or communicated to a third party.  
14.3 Seller accepts no responsibility for consequences of whatsoever nature arising from errors and inaccuracies in documents and technical information provided by Buyer and by Buyer's suppliers.

14.4 Buyer approval of certain technical documents will be sought by Seller during the contract and such approval shall not be unreasonably withheld or delayed. Approval does not relieve Seller of his obligations under the contract.

## **15. WARRANTY**

15.1 The warranty for used equipment, is for a period of 3 months from completion of delivery as Clause 8 whichever is the sooner, there shall appear in the Goods any defect which arises under proper use solely from faulty design materials or workmanship, the Buyer shall give written notice thereof to the Seller. Provided that the defective Goods or parts have been returned free of charge to Seller's premises or as otherwise agreed, the Seller shall make good the defective Goods at his option by repair or replacement. Any Goods returned to the Seller shall be transported to the Buyer under the same terms as the original delivery.

15.2 In the event that the repair or replacement work needs to be carried out on site then this will be carried out by Seller without charge during normal weekly working hours providing that Buyer allows full and free right of access to the Goods.

15.3 By way of exception to Clause 15.1 and 15.2 the Seller limits liability under the following circumstances -

- (1) Seller specifically excludes from Warranty all consumable and wear parts
- (2) Seller specifically excludes from Warranty any items of equipment so specified in quotation or order acknowledgement and such equipment shall then be warranted only as stated therein
- (3) Warranty shall be void unless installation, commissioning and maintenance are carried out by personnel authorised by the Seller
- (4) Warranty shall be void if Goods are put into operation by Buyer or by Buyer's supplier(s) before Acceptance pursuant to Clause 13
- (5) Buyer is responsible for ensuring that all necessary and reasonable maintenance is regularly carried out

15.4 Such repair, replacement or remedial services will be the absolute limit of Seller's liability and Seller will not be liable in any circumstances whatsoever for loss or damage of any kind suffered by the Buyer or by any third party howsoever caused.

## **16. RELIEF**

16.1 The following shall be considered as cases of relief if they intervene after the formation of contract and impede its performance: Force majeure, Industrial disputes and any other circumstances (e.g. fire, shortage of transport, general shortage of materials, restriction in use of power) when such other circumstances are beyond the control of the parties.

16.2 The party wishing to claim relief by any said circumstances shall notify the other party in writing without delay on the intervention and on the cessation thereof.

16.3 The effects of the said circumstances, so far as they affect the timely performance of their obligation by the parties, are defined in Clauses 6 and 8.

## **17. LIMITATION**

17.1 The Seller shall in no circumstances be liable -

- (1) for any consequential or special loss or damage or claim by the Buyer including without limitation delay, loss of production, loss of profit, loss of time, charges or liabilities to third parties.
- (2) for any loss or damage in excess of the contract price (or in the case of a defect in a part only then the cost of such part) and this limitation will apply (even in the case of breach of a fundamental term or repudiation by the Seller and) even if further performance of the contract is frustrated.
- (3) save where the Buyer has given written notice to the Seller that Buyer is not effecting insurance (thus enabling the Seller to effect its own insurance and to reflect the costs thereof in the contract price) for any loss or damage covered by insurance or which would ordinarily be covered by insurance.

## **18. ARBITRATION**

Should any dispute arise in connection (other than a claim for payment of the price of the Goods and interest thereon) it shall be referred to an arbitrator to be agreed between the parties. If the parties fail to agree upon an arbitrator within 21 days then an arbitrator may be appointed on the application of either party to the President for the time being of the Institution of Mechanical Engineers. Such arbitration shall be subject to Clause 19. The decision of the arbitrator shall be final.

## **19. GOVERNING LAW**

19.1 The quotation or any contract that result therefrom shall be governed in all respects by English Law.

## **20. TERMINATION**

20.1 Termination of the contract from whatever cause arising shall be without prejudice to the rights of the parties accrued up to the time of termination.

20.2 Termination by either party shall be made in writing and effective on date of receipt by the other party.

20.3 The Seller shall be entitled to terminate the contract at any time without liability to the Buyer if:

- (1) the Buyer makes any voluntary agreement with its creditors or becomes subject to an administration order or goes into liquidation (other than for the purpose of amalgamation or reconstruction on terms previously agreed in writing by Seller) or - being an individual or firm - is or becomes insolvent or is or becomes bankrupt: or
- 20.3.2 a receiver or an administrative receiver is appointed for any of the property or assets of the Buyer; or
- 20.3.3 the Buyer ceases or threatens to cease to carry on business.
- 20.3.4 \*All goods and/or parts used by the company in performing the contract on behalf of the customer, shall be, and shall remain, both legally and equitably, the property of the Company until such time as the invoice price has been paid in full by the customer.

20.3.5 The Seller herein (Bag & Bale Ltd) shall retain a specific, as well as a general lien, over goods upon which the Seller has

performed services, at the specific request of the buyer as security for monies owing to the Seller by the buyer whether on this or any other contract between the parties. In the event of an invoice submitted to the buyer, by the Seller, remaining unpaid for a period of three months, the sellers shall seek compensation from the courts for collection of the monies owed.

**21. INDEMNITY AND INSURANCE**

- 21.1 The supply is covered by Seller by a public liability insurance policy with a limit of indemnity of £ST 5m (five million pounds sterling)
- 21.2 In the event that transport is within Seller's scope the Goods are covered by Seller insurance during transit subject to Clause 11.2. Such cover ceases at the moment of arrival at delivery place.
- 21.3 The Seller will indemnify the Buyer up to a maximum sum of £100000 against liability, loss or costs awarded against or paid by the Buyer in connection with any claim that the products infringe the patent, design copyright, trade mark or other intellectual property rights of other person or persons.