

RANSOMES JACOBSEN TERMS AND CONDITIONS OF PURCHASE

1 Definitions

- (a) "Buyer" means Ransomes Jacobsen Ltd.
- (b) "Contract" means the Order and the Seller's acceptance of the Order.
- (c) "Seller" means the person, firm, supplier or any Company to whom the Order is addressed.
- (d) "Goods" means goods, materials or services described in the Order.
- (e) "Order" means a formal written instruction issued by Ransomes Jacobsen Ltd to the Seller, incorporating these conditions.
- (f) All delivery dates shown on the Orders are the dates that the Buyer requires the Goods to reach the place of delivery specified in the Order.

2 General

- (a) Subject to any variation under clause 2(b) these Conditions are the only conditions upon which the Buyer is prepared to deal with Seller and they shall govern the Contract to the entire exclusion of all other terms and conditions.
- (b) No additions or modifications shall be effective unless accepted by the Buyer in writing.
- (c) Acceptance or execution of the Order or any part thereof shall be deemed an acceptance by the Seller of an agreement to comply with these terms and conditions together with any specific conditions that may be embodied in the framework of the Order.
- (d) No terms and conditions endorsed upon, delivered with or contained in the Seller's quotation, acknowledgement or acceptance of order, specification or similar document shall form part of the Contract and the Seller waives any rights which it otherwise might have to rely on such terms and conditions.
- (e) The Buyer will not accept any responsibility for goods or services unless supplied against an official Order signed by an authorised signatory of the Buyer.
- (f) Acknowledgements of Orders are only required if Seller can not meet specified delivery dates or prices.

3 Price

- (a) Any price stated in the Order is fixed and firm and subject to no variation or extra charges without
 - (i) a minimum of three months written notice to the Buyers; and
 - (ii) the Buyer, at its sole discretion, giving written consent to such a change
- (b) No additional charges will be allowed for packing materials or containers unless otherwise agreed by the Buyer in writing; but empties and packaging material are returnable carriage forward if so required and this should be advised in writing.
- (c) All prices are exclusive of VAT, which will be added at the appropriate rate, but inclusive of all other charges.

4 Delivery

- (a) (i) Time for delivery is of the essence in the Contract.
- (a) (ii) The Seller shall not be entitled to delay performance of the contract because of any dispute with the Buyer or any other cause provided that if delivery has to be delayed owing to events outside the control of the Seller the due date of delivery shall be extended by such a period and the likely total period of delay shall be notified forthwith to the Buyer.
- (b) Goods must be delivered properly packaged and addressed, carriage paid to the place of delivery specified in the Order. The Seller shall offload the Goods at its own risk as directed by the Buyer.
- (c) The Seller shall be responsible up to delivery for immediate replacement of any goods lost in transit and for negotiation of all claims against any carrier employed. The Seller shall be responsible for all insurance up to delivery.
- (d) Unless otherwise stipulated by the Buyer in the Order, deliveries shall only be accepted by the Buyer in normal business hours.
- (e) Where the Buyer agrees in writing to accept delivery by instalments the Contract shall be construed as a single contract in respect of each instalment. Nevertheless failure by the Seller to deliver any one instalment shall entitle the Buyer at its option to treat the whole Contract as repudiated.
- (f) If the Goods are delivered to the Buyer in excess of the quantities ordered the Company shall not be bound to pay for the excess and any excess shall be and shall remain at the Seller's risk and shall be returnable at the Seller's expense.
- (g) The Buyer shall not be deemed to have accepted the Goods until it has had 7 days to inspect them following delivery. The Buyer shall also have the right to reject the Goods as though they had not been accepted for 14 days after any latent defect in the Goods has become apparent.

5 Invoices

- (a) A separate invoice quoting the Supplier's Delivery Note and Buyer's Order Numbers must be rendered to the Buyer for each individual consignment against each Order.
- (b) Invoices must reach the Buyer by the third day of the month following month of delivery.
- (c) Statements must reach the Buyer by the seventh day of the month following month of delivery

6 Payments

- (a) Payments will be made directly by the Buyer to the Seller by the end of the second month following month of invoice.
- (b) Time for payment shall not be of the essence of the Contract.
- (c) Without prejudice to any other right or remedy, the Buyer reserves the right to set off any amount owing at any time from the Seller to the Buyer against any amount payable by the Buyer to the Seller under the Contract.

7 Risk and Property

The risk and property in the goods shall pass from Seller to Buyer upon delivery (after off-loading and stacking) without prejudice to the rights of rejection and/or other remedies therein after provided for to the Buyer.

8 Cancellation

- (a) In the case of failure by the Seller to deliver or complete within or by the date specified in the Order or failure to comply with any of these conditions, the Buyer without prejudice to any other rights or remedies to which it may be entitled:
 - (i) cancel the Contract in whole or in part; and/or
 - (ii) refuse to accept any subsequent delivery of the Goods which the Seller purports to make;.
 - (iii) recover from the Seller any expenditure reasonably incurred by the Buyer in obtaining the Goods in substitution from another buyer;

- (iv) claim any damages for any additional costs, loss or expenses incurred by the Buyer which are in any way attributable to the Seller's failure.
- (b) If the Buyer is prevented from taking delivery by any act outside its control, it shall be entitled to rescind without liability any Contract for goods which have not at that point of time been delivered in whole or in part or at its option to require the Seller to suspend delivery for any period.
- (c) If the Seller should become bankrupt or insolvent or go into voluntary liquidation, then the Buyer shall be entitled at its discretion to either:
 - (i) cancel the contract by notice in writing without incurring any liability to the Seller, or
 - (ii) give any receiver or liquidator or other person the option of carrying out and completing the contract, or
 - (iii) in the case of work where materials or tooling or gauges have been sent by the Buyer to the Seller for the purpose of executing the contract, enter the premises of the Seller without notice and retrieve them from the Seller.
- (d) The Seller shall, at all times, label and keep labelled all such items referred to in subclause 8(c)(iii) to identify them as to the Buyer's property and shall maintain adequate insurance thereon in respect of any damage or loss which occurs thereto whilst in the Seller's custody.

9 Seller's Undertakings

- (a) It shall be a condition of the Contract that:
 - (i) The Seller shall supply sound goods which are suitable for the purpose intended and shall furnish the highest grade of suitable materials and render first class workmanship throughout. The Seller shall not supply any goods or parts which have been produced by use of old or used materials or by reclaiming or reworking in any way without the Buyer's prior written approval.
 - (ii) The Seller undertakes to repair or replace free of charge or to take back for full repayment any items which within twenty-four months from being put into service by the Buyer or its appointed agent proved to be defective owing to design (except where goods have been manufactured in accordance with the Buyer's detailed drawings) and/or through materials or workmanship or through the failure to comply with the instructions and/or conditions detailed in the Order.
 - (iii) Goods shall be fully in accordance with the latest specification and/or drawings applicable to the Order.
- (b) The obligations of the Seller under this condition shall be in no way affected by whether or not Goods are bought by description or are specified under a patent or trade name or whether or not the Buyer has examined the Goods or samples thereof or whether the defect would have been apparent if the Buyer had examined them.
- (c) Notwithstanding the aforesaid provisions, if the goods do not comply strictly with the specifications and drawings applicable to the Contract or are otherwise defective, the Buyer may reject goods or any part thereof without prejudice to any other rights it may have. The Buyer shall be entitled to inspect goods supplied in connection with this contract before, on or after delivery at his discretion but such inspection shall not relieve the Seller of any obligation under contract.
- (d) The Buyer shall not be bound to return rejected items to the Seller but, in the event of the Buyer deciding to do so, they shall be returned at the risk and expense of the Seller.
- (e) The Seller shall also indemnify the Buyer against any cost, damages, losses or expense which the Buyer may suffer by reason of the Seller having supplied an item that proved to be defective or having failed to comply with the specification and/or drawings.
- (f) In the event of the Seller failing to rectify, repair or replace defective or incorrect goods within the period specified, the Buyer shall be at liberty to cancel the Contract and to order the goods elsewhere at the cost and expense of the Seller to the extent that the Buyer incurs additional cost and expense.

10 Sub-Contracting

The Seller will not without the Buyer's prior consent in writing assign, transfer or sub-contract this contract or part thereof to any other person. Where consent is given, the Seller will prohibit such an assignee or sub-contractor from further delegating performance of the Seller's Order and will also indemnify the Buyer against any costs incurred by failure by the assignee or sub-contractor.

11 Patents

The Seller shall protect and indemnify the Buyer, its agents or customers against any and all liability, loss or expense arising from any claim, action or litigation in respect of any alleged or actual infringement of any patent, copyright or trade mark (either foreign or domestic) resulting from the use or resale of goods unless manufactured solely to the Buyer's design.

12 Designs

- (a) Any plans, drawings or designs supplied by the Buyer to the Seller in connection with this Order shall remain the property of the Buyer and any information derived therefrom or otherwise communicated to the Seller shall be regarded by the Seller as secret and confidential and shall not, without prior written consent of the Buyer, be published or disclosed to any third party or made use of by the Seller except for the purpose of implementing this Order. It is the responsibility of the Seller to ensure that the Buyer's intellectual property is protected at all levels in his supply chain.
- (b) The Seller will not (save with the Buyer's consent in writing) in any way whatsoever advertise or publish the fact that the Seller has contracted to supply the goods or materials herein mentioned to the Buyer.

13 Service Parts

It is the term of the contract that service parts for any goods supplied pursuant to this Order shall continue to be made available to the Buyer for a reasonable time after execution of the Order in respect of both production assemblies and other parts.

14 Indemnity

- (a) *Statutory obligations and contractual insurance.* The Seller will be responsible for complying with and insuring that any sub-contractors comply with all statutory obligations and for paying all contractual insurances.
- (b) *Health & Safety at Work Act 1974.* The Seller warrants that the design, construction and quality of the goods (as applicable) to be supplied shall comply with all statutory requirements, including the Health & Safety at Work Act 1974 and any subsequent amendments.
- (c) *Textron Environmental, Health & Safety Policy.* The Seller warrants that the design, construction and quality of the goods (as applicable) to be supplied comply with the Textron Environmental, Health & Safety Policy 1998 and any subsequent amendments. Particular reference is given to working in confined spaces and elevated heights (above 4 feet) where non-compliance could result in cancellation of contract without liability to the Buyer. A copy of the regulations is available from the Purchasing Department on request.
- (d) *Claims for Loss or Injury.* The Seller will be liable for and will indemnify the Buyer against any claim for loss or injury suffered by any person, firm or Company either to its property or person by reason of any defects in goods or as the result of any negligence of the Seller or its sub-contractors.
- (e) *Insurance cover.* The Seller shall ensure that it has adequate insurance cover in line with any United Kingdom or EEC regulations that may be in force at the time.

15 Seller's Business Systems

No failure of Seller's internal business systems related to the proper processing of date information that results in any defect or failure in products or services, deliveries, or any other aspect of performance by Seller or its subcontractors in connection with this Order shall be considered beyond the reasonable control of Seller or excused as an event of Force Majeure.

16 Law

The construction, validity and performance of the Contract shall be governed by the laws of England and any claim or dispute arising therefrom shall be subject to the jurisdiction of the English Courts.

17 Arbitration

Any question or differences arising out of or in relation to any Order hereunder shall be submitted to an arbitrator acceptable to both parties or, failing agreement of such an arbitrator, two arbitrators (one to be appointed by either party) and their umpire pursuant to the provisions of the Arbitration Act 1996 or any reenactment or statutory modification thereof for the time being enforced.

18 Notices

Any notice required to be sent to Seller or Buyer hereunder shall be delivered or sent by recorded delivery to the address stated herein or any other address notified to the party sending such notice. Any notice shall be deemed to be served 48 hours after delivery to the postal services or, if delivered by hand, to have been served forthwith upon such delivery.

19 General

- (a) It must be noted that these are general conditions of purchase and may be modified by agreement from time to time in accordance with any legislation or any special needs which may arise in pursuance of a special contract.
- (b) Each right or remedy of the Buyer under the Contract is without prejudice to any other right or remedy of the Buyer whether under the Contract or not.
- (c) 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.
- (d) Failure or delay by the Buyer in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- (e) Any waiver by the Buyer of any breach of, or any default under, any provision of the Contract by the Seller shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- (f) The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.