



## BELLE ENGINEERING (Sheen) LIMITED – GENERAL CONDITIONS OF SALE

### 1. APPLICATION

The placing of an order with BELLE ENGINEERING (SHEEN) LIMITED (“the Company”) shall be deemed to constitute an acceptance of these Conditions by the Customer. No variation shall be effective unless expressly accepted in writing by a Director of the Company. In the event of there being any conflict between these general Conditions of Sale and anything appearing on the face of the order the latter shall prevail.

### 2. QUOTATIONS

- (i) The Company may refuse to accept any order for goods which constitutes a part only of the quotation offer or tender.
- (ii) Quotations offers and tenders are valid for a period of twenty eight days from their date.
- (iii) All orders must be in writing or be confirmed in writing within forty eight hours.
- (iv) These Conditions of Sale shall supersede any contrary provisions sought to be incorporated by the Customer.
- (v) No order shall be binding on the Company unless and until it is accepted by the Company on its Acknowledgement of Order Form.
- (vi) Once accepted by the Company orders may not be cancelled. Goods returned to the Company without its consent in writing will not be credited to the Customer except by agreement with the Company.

### 3. DELIVERY

- (i) Delivery shall take place ex works in the case of Skid Steer Loaders and all export deliveries, however in the case of mixers and spares, delivery shall take place at the Customer’s premises.
- (ii) Delivery may at the option of the Company be made by instalments and each delivery made hereunder shall constitute a separate contract.
- (iii) All dates specified for delivery of the Goods shall be estimates only and shall not be of the essence of the contract. The period for delivery shall run from the receipt by the Company of the last of the following items:-
  - (a) the order signed by the Customer;
  - (b) all information necessary to enable the Company to commence the work;
  - (c) the deposit and letter of credit (if applicable);
  - (d) proof of issue of an import licence (if required);If any of the above items is not received within a reasonable time the Company may at its option either extend the time for delivery or cancel the contract. Specific delivery dates are subject to all of the above items being received by the Company within fourteen days of the date of acceptance of the order.
- (iv) Subject to the provisions of (v) below the Customer shall be entitled to cancel the contract or to refuse to accept delivery of the Goods and obtain a refund of any deposit paid if the goods are not delivered within three months of the specified delivery date or any agreed extension. In the event of cancellation of the contract by the Customer in accordance with this provision, the Company’s liability shall be limited to twice the contract value or Five thousand pounds, whichever is lesser.
- (v) Should performance of the Company’s obligations be prevented, delayed or in any way interfered with due for force majeure including shortage of labour, equipment, materials or supplies or breakdown of machinery, non-delivery by the Company’s suppliers, damage or destruction of the whole or any parts of the Goods or any other cause beyond the Company’s reasonable control, the Company may suspend performance of or cancel its obligations under the contract without liability for any losses, such suspension or cancellation being without prejudice against the Company’s rights to recover all sums owing to it in respect of Goods delivered to the Customer prior to the date of suspension or cancellation.
- (vi) If the Customer refuses to accept any delivery of the Goods the Company shall be entitled to charge the Customer for and be paid for all costs incurred by the Company as a result of such refusal.
- (vii) No claim against the Company may be made unless:
  - a) in the event of non-delivery the Company receives notification within 14 days of the invoice date, or,
  - b) in the case of damage or defect the carrier’s receipt is endorsed with the details and written confirmation is received within three days of delivery.
- (viii) Where the goods are sold F.O.B. the responsibility of the Company shall cease immediately the Goods are placed on board ship and the Company shall not be under any obligation to give the Customer the notice specified in Section 32(3) of the Sale of Goods Act 1979.

#### 4. TITLE & RISK

- (i) Title to the Goods shall not pass to the Customer until payment in full has been made of all sums due from the Customer to the Company under this or any other contract. The Company shall be entitled to sell the Goods in the ordinary course of its business to a bona fide purchaser for value in which event title to such Goods shall be deemed to have passed to the Customer immediately prior to delivery of Goods to the purchaser provided that the proceeds of sale shall be held by the customer in trust for the Company. Promptly on receipt thereof the Customer shall account to the Company in respect of such proceeds of sale and pending such payment to the Company being made such monies shall not be mingled with other monies or paid into any overdrawn bank account and shall at all times be identifiable as the Company's money and the Company shall be entitled to trace all such proceeds of sale received by the Customer through any bank or other account maintained by the Customer. The Customer further authorises the Company to require the purchaser of such Goods to make payment directly to the Company whose receipt therefore shall be a good and sufficient discharge for the payment obligation owed by such purchaser to the Company in respect thereof.
- (ii) Pending full payment therefore being made the Customer shall keep the Goods insured to their full replacement value against fire, theft and other usual risks and shall indemnify the Company in respect of any loss thereof or any damage thereto and shall hold the proceeds of any such policy of insurance in trust for the Company.
- (iii) The risk in the Goods shall pass to the Customer on delivery of the Goods to the Customer or its agent.

#### 5. PRICE AND PAYMENT

- (i) All prices quoted are strictly net and no discount will be allowed or is to be taken unless and then only subject to the conditions in the invoice,
- (ii) The Customer shall make arrangements for off loading the Goods upon delivery and will ensure that suitable securing arrangements are in place for the physical transportation of the goods where the customer has arranged the same. If, in the reasonable opinion of the company there is not in place such suitable arrangements, it may refuse to deliver the goods until they are and the Company's delivery obligations will be construed accordingly,
- (iii) All prices quoted are exclusive of VAT which shall be added to the invoice (VAT will be chargeable even if the goods are to be exported unless and until a proof of export is produced).
- (iv) All sums due shall be payable in the U.K. in the currency in which the price of the Goods is quoted without any deduction.
- (v) The time specified for payment shall be of the essence.
- (vi) Any deposit paid by the Customer shall not be refundable except in the circumstances referred to in paragraph 3 (iv).
- (vii) Unless otherwise agreed payment shall be due thirty days from the date of invoice.
- (viii) If the goods are delivered in instalments payment shall be due in respect of the goods so delivered in accordance with the terms of payment and notwithstanding any delay in or failure to deliver the balance of the goods.
- (ix) Payment of the purchase price of any outstanding balance shall become immediately due and payable in the event of any of the following:-
  - (a) non payment of any instalment on its due date;
  - (b) the Customer committing or suffering any of the acts or things mentioned in paragraph 13;
  - (c) the Customer failing to open a letter of credit or otherwise arrange payment in accordance with the terms of the contract;
  - (d) the Customer indicating howsoever and by whatsoever means that it does not intend to be bound by the terms of the contract or that it is unable or unwilling to accept delivery of or pay for the Goods.
- (x) The Company shall be entitled to charge interest at an annual rate equal to the base rate for the time being of National Westminster Bank PLC plus 4% on any overdue payment from the date on which payment was due to the actual date on which payment is received by the Company.
- (xi) Where there is any delay in payment of the price or any instalment thereof the Customer shall pay all reasonable costs, fees and expenses incurred by the Company in obtaining payment.

#### 6. STORAGE

If sufficient forwarding instructions are not received by the Company within fourteen days after notification to the Customer or its agents that the Goods are ready for despatch or if the Customer shall not be prepared to accept delivery of the Goods in accordance with the contract the Goods shall:-

- (a) be paid for as if they had been delivered: and
- (b) be deemed to have been accepted by the Customer: and
- (c) be at risk of the Customer who shall be responsible for all storage, delivery, insurance and other charges in respect thereof.



## 7. ACCEPTANCE OF GOODS

Unless otherwise agreed in writing all Goods shall be deemed to have been accepted by the Customer fourteen days after the arrival at the Company's premises.

## 8. SPECIFICATION AND PERFORMANCE

- (i) All descriptive matters specifications and drawings and all particulars of weights and dimensions are approximate only. Developments in the design of the Goods are continually taking place and the Company reserves the right to make reasonable alterations to its specifications without notice to the Customer.
- (ii) Any facts or figures relating to performance and published or communicated by the Company are given in good faith. They shall not form part of the contract nor involve the Company in undertaking to obtain equivalent results in specific cases.
- (iii) Performance figures may be agreed in specific cases subject to agreed and liquidated damages also being agreed in respect of any failure to achieve the specified figures. If it is claimed the Goods fail to achieve any guaranteed performance figures the Company should be given reasonable time and opportunity to rectify their performance. If the Customer becomes entitled to reject the Goods, the Company will pay the Customer such amount as may be due in accordance with the scale of agreed liquidated damages and such payment shall be in the final settlement of any claim which the Customer may have (whether in negligence or in contract) in respect of the failure of the Goods to achieve the specified performance figures.
- (iv) The Company shall not be responsible for defects in the goods due to compliance with the Customer's instructions.

## 9. TOOLING

The Customer will pay an agreed proportion of the cost of any tools required to produce the Goods to the specific requirements of the Customer provided that such tools shall remain the property and in the possession of the Company. The Company shall keep such tooling for a minimum period of three years after the last date of delivery. Should the Customer before the end of this period give notice that within the following year further orders will be placed, the Company will continue to keep the tooling but should this notice not be given the tooling will be at the Company's disposal.

## 10. PATENTS

The Customer warrants that any Goods manufactured in the design of the Customer do not infringe any patent, trademark, registered design or other similar protection of the provisions of any statute, statutory instrument or regulation for the time being in force and agrees to indemnify and hold harmless the Company against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any such right or provision.

## 11. WARRANTY

- (i) The Company shall at its option either repair or replace free of charge any item which fails within twelve months from the date of delivery where it is shown to the Company's reasonable satisfaction that such failure results from the Company's faulty design, workmanship or material and provided further that in respect of parts not of the Company's own manufacture, the Company gives to the Customer only such guarantee as the manufacturer gives to the Company. The repaired or replacement part shall be supplied free of charge but the Company's liability as to delivery and fitting or other expenses shall be limited to carriage paid in the U.K. or F.O.B. U.K. port. The defective part shall become the property of the Company and shall be held to its order.
- (ii) Save as is provided in paragraph (i) above, and save in respect of death or personal injury arising from the negligence of the Company, its employees or agents, the Company's liability for any claim or claims for direct, indirect or consequential injury, loss or damage (including loss of profit arising out of or in connection with any defect in the Goods or any act, omission, neglect or default (whether or not the same constitutes a fundamental breach of the contract or breach of a fundamental term thereof) of the Company its employees or agents in the performance by the Company of its obligations under the contract shall be limited to (twice) the contract value or the sum of (five thousand) pounds whichever shall be the lesser.
- (iii) Except as expressly provided in these Conditions of Sale the Company shall be under no liability whatsoever to the Customer (whether in contract or in negligence) and all other conditions, warranties or obligations whether express or implied by law, trade custom, practice or otherwise are hereby excluded.

- (iv) Except where the customer is able to prove that the Company was guilty of any negligence or breach of contract giving rise to a claim hereunder the Customer shall indemnify the Company in respect of any liability which the Company may incur whether by way of court proceedings or by bona fide out of court settlement as a result of any claim against the Company under Part 1 of the Consumer Protection Act 1987 or otherwise.
- (v) The Customer shall take all steps necessary to ensure that all safety instructions and advice supplied by the Company in relation to the Goods are passed on to the end user and will ensure so far as it is able to do so that the Goods are used only in accordance with the Company's recommendations as to safety and in any event in accordance with the Company's operating instructions.

## 12. RESPONSIBILITY FOR CUSTOMER'S GOODS AND MATERIAL

All work carried out on the Customer's goods and material shall be carried out at the Customer's risk and the Company's liability for the damage so such goods or materials shall be limited to (twice) the contract value or the sum of (five thousand) pounds which ever shall be the lesser.

## 13. SUSPENSION

If any payment due prior to or after delivery under this or any other contract made between the Company and the Customer is not made on its due date or if the Customer commits an act of bankruptcy or takes or suffers any step leading to liquidation or has a Receiver or Administrative Receiver appointed over any of its assets the Company may suspend or withhold delivery of the Goods (without prejudice to all other rights and remedies the Company may have) until the full amount of the contract price is received by the Company or may at its option immediately cancel this and/or any other contract between the Company and the Customer.

## 14. WASTE ELECTRICAL & ELECTRONIC EQUIPMENT REGULATIONS 2006 (THE "REGULATIONS")

- (i) The Purchaser shall be responsible for the costs of collection, treatment, recovery & environmentally sound disposal of the Product and Replaced Product in accordance with the Regulations.
- (ii) The Purchaser shall not dispose of the Product or the Replaced Product other than in accordance with the Regulations.
- (iii) The Purchaser agrees to indemnify, & keep indemnified, the Seller from & against any & all loss, damage or liability (whether criminal or civil) suffered, & legal fees & costs incurred by the Seller resulting from a breach of this clause.

## 15. GENERAL

- (i) The granting of any time or other indulgence by the Company to the Customer shall not affect the Company's rights hereunder.
- (ii) The Customer shall not without the Company's consent in writing assign or transfer the contract.
- (iii) The Company shall be entitled to cancel the contract if it is unable to obtain the approval of its insurers or any other competent authority thereto and the Customer shall have no claim in respect of such cancellation.
- (iv) These Conditions together with any terms appearing on the face of the order constitutes the entire agreement between the parties relating to the subject matter hereof and no representation, warranty or statement whether written oral or implied shall be capable of being treated as forming part of the contract or as an inducement by the Company for the Customer to enter into the contract.
- (v) In the event that any term or provision for contract shall for any reason be invalid illegal or unenforceable in any respect such invalidity illegally or enforceability shall not affect any other term or provision hereof and the contract shall be construed and interpreted as if such term or provision to the extent that the same shall have held invalid illegal or unenforceable had never been contained therein.
- (vi) Because the potential losses which the Customer might suffer as a result of any breach of contract by the Company are more readily ascertainable by the Customer and because such losses could be wholly disproportionate to the contract price and so that the Company may keep the contract price as low as is reasonably possible it is agreed that the Company's liabilities shall be limited in accordance with the provisions of these Conditions of Sale.
- (vii) The legal construction of the clauses of these Conditions of Sale shall not be affected by their titles.
- (viii) These Conditions of Sale and the contract shall be governed by and construed in accordance with the laws of England and any dispute arising between the parties shall be submitted to the jurisdiction of the English Courts to the jurisdiction of which Courts the Customer hereby agrees to submit and which Courts shall have exclusive jurisdiction in respect thereof without prejudice however to the Company's right to bring proceedings in any Court having jurisdiction over the Customer.