

# Global Machinery Solutions Limited Terms and Conditions of Sale

## Definitions

In these conditions "Global" means Global Machinery Solutions Limited, Global Way, Long Bennington, Newark, Nottinghamshire, NG23 5TU, the Company sending the quotation, selling the machine, parts or equipment or providing Services. "The Purchaser" means the other party to the contract. "The Machinery" means any machine, spare parts or equipment that is being sold, and "The Manufacturer" means any manufacturer who is the point of origin for the Machinery. "Service" means any services or provisions of labour by Global.

### 1. General

Global's offer to supply Machinery is subject to the Manufacturer's offer and the Manufacturer's conditions of sale and guarantee/warranty. Price and specification may be varied and Global's offer to sell or supply Machinery or Services withdrawn, without notice, for any reason whatsoever. Where an offer to supply contains a requirement for a deposit, no contract is binding until the deposit is paid in full. Where there is a discrepancy between the Manufacturer's conditions of sale and these Terms and Conditions, these Terms and Conditions shall prevail.

### 2. Supply of Goods Ordered and Services

All orders are subject to being procurable from a Manufacturer when required. Global are not responsible for any delays, loss or damage, consequential, direct, indirect losses or otherwise in respect of the provision of Machinery or Services caused by freight delays, manufacturer delays, war, strike, lockout, fire, accident, acts of God, government actions, national emergency, acts of terrorism, protests, riot, civil commotion, explosion, floods, epidemic, restraints or delays affecting carriers ability or inability or delay in obtaining supply of adequate or suitable material or any circumstances whatsoever. The above events are not valid grounds for failure by the Purchaser to make payment in full on the date payment falls due.

### 3. Warranties and Sale Terms

All warranties are given by the Manufacturer and will take effect on delivery to the Purchaser. Global provides no warranty in respect of Machinery or Services and makes no representation about fitness for purpose of the Machinery to meet the Purchaser's requirements. Purchasers must satisfy themselves that the Machinery being purchased will meet their operational requirements and is suitable for their operations. Any technical advice, operational data or performance parameters provided by Global orally or in writing to the Purchaser including as part of the quotation is an accommodation to the Purchaser and is not warranted by Global and does not form part of the contract terms. Items such as throughput rates and machinery performance depend on a variety of factors such as the type of material being processed and Machinery maintenance and therefore these items are not guaranteed under any circumstances. Global accepts no liability for these items and the customer relies on such advice at its own risk.

- Purchaser's must complete the Warranty Validation Form and return it to Global's Warranty Supervisor within 7 days of the date of delivery of the Machinery. Failure to do so will invalidate the Manufacturer's warranty.
- The Purchaser is responsible for all scheduled maintenance as explained in the Operators Manuals supplied with the Machinery. Failure to follow such maintenance schedules will invalidate the Manufacturer's warranty.
- Failure to operate the Machinery in accordance with the Manufacturer's instructions will invalidate the Manufacturer's warranty.
- Damage resulting from improper maintenance, negligence, accident, fire, failure to adjust, tighten or replace wear items, including but not limited to items such as knives, knife anvils, belts, lubrication fluids, bearings, filters, hydraulic components, loose nuts or bolts, will result in the Manufacturer's warranty being declared void are not covered and;
- All warranty claims on a Manufacturer's warranty in respect of Machinery must be notified to Global's warranty supervisor as soon as they are discovered by telephone and in writing, no later than two working days after discovery. In the event that damage has been caused to the Machinery, the Purchaser must withdraw the Machinery from service until the damage can be inspected by Global. Failure to remove the Machinery from service, may result in the warranty being invalidated.
- In the event of a warranty claim or any other matter which necessitates the return of the Machinery to Global (at any location Global direct), the Purchaser is responsible for all delivery, transportation and redelivery costs and Global will not be responsible for the Purchaser's travel costs. The Purchaser must continue to insure the Machinery during this period as Global will not insure the Machinery. Global may at its discretion elect to repair the Machinery at the Purchaser's premises or at the location where Global's repairs are usually carried out in which case Global will be entitled to charge the Purchaser for its Service engineers/representatives time and travel costs on Global's standard basis. Price lists for such charges are available from Global at the above address.
- Global is not liable for any losses, including consequential damages, direct or indirect losses as a result of the unavailability of the Machinery during breakdown, Service work or for any other reason. Global is under no obligation to provide a replacement machine on loan during that time or at any time.
- Global will endeavour to provide accurate information to the Purchaser, but no warranty is made that such information is up to date, accurate, complete or full.

### 4. Machinery

All descriptions are to the best of Global's knowledge accurate but are only given as an aid to identification, and sales are subject to the Purchaser carrying out his own inspection. Used Machinery is sold in as is condition, and it is the responsibility of the Purchaser to ensure its fitness at the time of purchase. No warranty is given or implied as to the condition of used machinery, nor the suitability of any Machinery for any specific purpose.

### 5. Part Exchange Machinery

Global may, in its absolute discretion, agree to accept another machine in exchange for part of the purchase price for the Machinery (a "Part Exchange Machine"). Where Global is prepared to consider accepting a Part Exchange Machine it will provide the Purchaser with an estimate of the price that will be allocated to the Part Exchange Machine, subject to detailed inspection of the Part Exchange Machine, which will determine the actual price. The Purchaser is responsible for the cost of delivery of the Part Exchange Machine to Global's yard at Newark or such other place as Global may in its absolute discretion direct. Following inspection of the Part Exchange Machine by Global, Global will notify the Purchaser within 5 days of inspection of the Part Exchange price and this will be deducted from the cost of the Machinery being purchased. If the proposed Part Exchange Machine is not delivered to Global within 7 days of a request for it to be delivered, Global shall be under no obligation to take the Part Exchange Machine and the full purchase price for the Machinery will be due and payable by the Purchaser. Failure by Global to accept a Part Exchange Machine is not valid grounds for terminating the Purchase contract for the Machinery and in the event that Global refuses to accept a Part Exchange Machine, the full amount payable for the Machinery will fall due from the Purchaser. The Purchaser warrants that the Part Exchange Machinery is free and clear of any and all encumbrances including financing, and should any encumbrance or financing materialise, the amounts will be deducted from the Part Exchange Machinery price and the Purchaser hereby authorises Global to pay off any such amount or this will be reclaimed in full from the Purchaser. Title to the Part Exchange Machinery shall pass to Global once the price for the Part Exchange Machinery has been agreed and the Machinery paid for. The Part Exchange Machinery must be in a safe workable condition, and if found to be otherwise the repairs necessary to render the Machinery safe and workable will be charged to the Purchaser in full or will be deducted from the Part Exchange Machine price. In the event that the purchase price is not paid by the Purchaser in full Global shall be entitled to exercise a lien over the Part Exchange Machinery until such time as payment is received in full.

### 6. Consequential Loss and Liability of Global

Global is not responsible or liable for consequential, direct or indirect losses, loss of profit or contract, or damage due to use, breakdown or delay in repair of new or used Machinery or for any other reason whatsoever. Global is not responsible for the loss or damage to Machinery of any kind whilst on Global's premises or in the charge of Global's employees, however caused at any time.

### 7. Terms of Business, Prices and Payment Terms

- All orders for any model of Machinery are accepted solely on the basis of these Terms of Business, and no variation of the same is accepted, unless expressly agreed in writing by Global. No oral representations by any person are in any way imported into these Terms or form any contract or collateral agreement. Even if Global are supplied with Terms and Conditions by the Purchaser, which the Purchaser asserts shall prevail, they shall not prevail and Global's Terms and Conditions shall prevail.
- The prices quoted are those applicable at the time of the quotation and are subject to variation in market conditions. The actual prices charged will be those applicable on the date of delivery. Value Added Tax at the current legislative rate will be added to the prices charged.
- Where any trade discount is applicable, the Purchaser is only entitled to this discount when payment is made in accordance with the credit terms set out in this agreement. Where payment is made outside of these credit terms, the discount shall no longer apply and Global shall be entitled to receive the purchase price in full. Global has the right to withdraw any trade discount at its absolute discretion for any reason whatsoever.
- Payment for the Machinery must be made by the Purchaser to Global prior to the delivery of the Machinery. In the event that payment is not made, Global may refuse to deliver the Machinery or, if it chooses to deliver the Machinery, Global will be entitled to charge interest at 3.5% above Barclays Bank base rate on the amount outstanding until full payment is received by Global. In the event that the Machinery is delivered without payment in full, the Purchaser will be responsible for any damage or repair cost to the machine unless payment is received in full. These costs will include any loss of resale value of the Machinery becoming a used machine rather than new.
- When stipulated by Global, the Purchaser will pay a deposit on the terms specified by Global prior to the Machinery being built by the Manufacturer. This deposit is non-refundable. Where a deposit is payable the sale contract is not formed and binding on Global until the deposit has been paid.
- In the case of after sales service parts, wear parts and repair parts or Services, Global will grant 30 days net credit terms provided the Purchaser has an approved credit account with Global. Global reserves the right unilaterally to vary

payment terms on giving 7 days prior written notice to the Purchaser. A charge of £25 will be made to cover bank charges and administration costs each and every time a cheque or bank transfer is dishonoured. The Purchaser may not withhold payment of any invoice or other amount due to Global by reason of any right of set off or counterclaim which the Purchaser may have or allege to have against Global for any reason whatsoever. The Purchaser must notify Global within 7 days if the correct amount is not billed. All advertised/advised/published pricing is subject to change at any time without notice due to market/currency fluctuations and other factors.

- Title to the Machinery and all parts supplied will remain with Global until the total invoiced price has been fully paid by the Purchaser to Global, without deduction. Global shall have the right to exercise a lien over, and to sell, any other equipment owned by the Purchaser in Global's position where payment for Machinery or Services has not been made in full.
- Global reserves the right to not execute any order if the arrangement for payment or the Purchaser's credit standing is not satisfactory to Global.
- In the case of any account not being paid when due for whatever reason of any kind, Global has the right to cancel any and all orders from the Purchaser and suspend or continue deliveries at Global's option.
- In the event of one part of any account not being paid when due, the whole account becomes immediately due and payable, even where any of the 30-day credit period has not expired.
- Global is entitled to recover from the Purchaser any credit control and debt collection costs as a result of failure by the Purchaser to pay any sums due to Global.
- Global is entitled to charge interest on any overdue payments at 3.5% above Barclays Bank base rate from the time when payment should have been made to the date when payment is received.

### 8. Delivery and Deposits

Unless otherwise stated all prices are ex Global's premises and the cost of delivery and any additional taxes will be borne by the Purchaser. In the event of the Purchaser failing to accept delivery or failing to complete an order for which he has paid a deposit, Global reserves the right to retain the deposit. Orders cannot be cancelled by the Purchaser except with Global's written consent.

### 9. Transit and Rejection of Goods

- All rejected goods must be returned to Global's yard within 7 days of delivery to the Purchaser. In the event that the goods are covered by warranty, the full purchase price will be credited to the Purchaser. In the event that the goods are rejected and are not covered by a warranty, the purchase price will be refunded to the Purchaser less 15% restocking fee to cover handling charges. The Purchaser is responsible for all postage and courier costs of returning any items of Machinery to Global. Goods can only be rejected if they are faulty or proved to be not fit for purpose.
- Parts and items and Machinery are not insured by Global during transit. Insurance can be arranged at an additional cost and the Purchaser must notify Global if they require such insurance when placing the order. The Purchaser is responsible for insuring the Machinery in transit. All goods and parts and Machinery must be signed for on delivery to the Purchaser. Purchaser's must satisfy themselves that the goods are acceptable before signing for them as a signature for goods or parts or Machinery will be taken as acceptance by the Purchaser of those goods. Any pilferage or missing components must be notified on delivery.
- Global do not accept any responsibility for damage to Goods or Machinery, or other property or persons caused by any third party including haulage contractors.
- The Purchaser is protected by statutory rights applicable by law in England. Where any part of these terms is overridden by legislation, all other terms still apply.

### 10. Services

- Global will provide Services in accordance with any written instructions received from the Purchaser for the fee agreed in writing. In default of agreement Global shall be entitled to charge for Services performed at its standard rate, for such work available on request from Global. Work will be charged for in full where less than 3 business days' notice of cancellation is given and the Purchaser agrees to accept any invoice for all Services booked should the Purchaser fail to give such cancellation notice. Global is not responsible in the event that the service or goods provided do not meet the Purchaser's expectations or where work cannot be carried out due to access, weather or other conditions. The Purchaser must ensure that all legislative health and safety requirements are complied with and that the Purchaser provide Global staff with a safe working environment. The Purchaser is responsible for any damage caused to Global's property when on the Purchaser's site, save where such damage is caused by an act of Global. The Purchaser hereby indemnifies Global against claims brought by third parties (including all liabilities, losses, reasonable legal fees and internal costs arising from such claims) as a result of or connected with the service or supply of goods. Global will use reasonable skill and care in carrying out the Services. Global accept no responsibility for any external factors or any matters of which Global were not aware and will not be liable for any of the following arising from the provision of Services:

- Loss of anticipated profits, loss of contracts or expected future business, including direct or indirect losses
- Damage to reputation or goodwill
- Damaged, costs or expenses payable by the Purchaser to any third party
- Loss of any order or contract
- Direct or indirect or consequential loss of any kind
- Environmental damage

### 11. Termination

Without prejudice to any other rights, a party may terminate the contract if

- the other party commits a material irremediable breach or fails to remedy a material and remediable breach within 14 days of receipt of written notice to do so
- the other party has an administrator or administrative receiver appointed over all or any of its assets or goes into or threatens to go into insolvent liquidation or administration

Payment due for all Services and goods and Machinery carried out up to and including the date of termination shall be due immediately from the Purchaser on termination. This includes all Services carried out up to and including the date of termination whether they have been invoiced or not and reimbursement to Global of the cost of any commitments or contracts entered into by Global on the assumption that this contract would continue.

### 12. Confidentiality and Copyright

All information provided by Global, including pricing is for the Purchaser's use only and the Purchaser must not disclose this to any third party without Global's prior written consent. All copyright in the Operating Manuals and videos supplied to Purchaser belongs to and will remain with the Manufacturer. The Purchaser must not reproduce, copy, disseminate or utilise the information or documentation provided by Global, except as expressly provided for in writing by Global, and is not to be sold or resold to any other party.

### 13. Legal Construction and Time for Claiming

The law relating to all orders and to these Terms and Conditions shall be the laws of England, and the parties must submit to the exclusive jurisdiction of the courts of England and Wales. Any claim relating to these Services or goods must be brought within 6 months of the date of delivery of the Machinery or provision of Services by commencing proceedings in Court. Global excludes all liability for claims brought outside of this time limit and any claim purported to be brought after that time shall be time barred. Global's liability in respect of any claim in contract, tort or negligence or otherwise shall be limited to the price quoted for the Services or goods provided, save in respect of personal injury or death.

### 14. Miscellaneous

- If two or more parties engage Global, they shall be jointly and severally liable for payment of the full amount in respect of the Services of goods and there shall be no obligation on Global to peruse both parties.
- Any notice by either party shall be deemed to have been properly given in delivery by hand or sent first class recorded delivery post to the other party and shall be deemed to have been delivered two days after the date of posting or on the day of delivery if delivered by hand.
- Any condition found to be invalid or unenforceable shall be severed and the remaining conditions of this Contract shall continue to have full force and effect. A Court of competent jurisdiction may replace any of the invalid or unenforceable provisions with any appropriate provision.
- Failure by Global in enforcing or partially enforcing any provision of the Contract will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of this Contract. Any waiver by Global of any of its rights will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of this Contract.
- A Person who is not a party to this contract has no rights under the Contracts (Right of Third Parties) Act 1999 to enforce any condition of this Contract.
- The Purchaser must not during the provision of Global's Services and for a period of 12 months following the provision of the Services, without Global's prior written consent, make any offer of employment, or employ, any Global member of staff who has carried out any work in connection with the Services provided to the Purchaser. If the Purchaser is in breach of this position, Global will be entitled to be paid by the Purchaser on demand a sum equal to 30% of the total annual remuneration paid by Global to that member of staff immediately prior to their departure. The Purchaser acknowledges that this sum represents a genuine and fair assessment of the likely loss to Global.
- Any Customer complaints must be made in writing to the Managing Director at Global Machinery Solutions Limited, Global Way, Long Bennington, Newark, Nottinghamshire, NG23 5TU.