

# Mecmesin

## Terms & Conditions

All goods are sold subject to these terms & conditions and any other terms and conditions referred to herein and any Special Terms in the Order which constitute the entire agreement between the parties with respect of its subject matter, supersede all previous agreements and understandings between the parties, excludes any other terms and conditions inconsistent therewith which the Buyer might seek to impose even though such other terms and conditions may be submitted in a later document and/or purport to exclude or supersede any terms or conditions inconsistent with them or may be contained in any offer acceptance or counter offer made by the Buyer, and may not be modified except by an instrument in writing signed by the duly authorised representatives of the parties. Where there is any conflict between these terms and any properly incorporated terms, these terms shall prevail, except for Special Terms which shall prevail over these terms.

### 1. Charges

All prices quoted are exclusive of (where applicable) postage, packaging, carriage, insurance and VAT charges.

### 2. Designs

Where the Buyer has specified that the Goods shall be of a certain size colour manufacture type or material such specifications shall be subject to reasonable commercial variation other than where specifically agreed with the Seller in writing.

### 3. Suitability of Goods

The Buyer shall be solely responsible for the suitability of the Goods for its purpose. All specifications drawings particulars of weight and dimensions are subject to normal tolerances. Descriptions and illustrations contained in catalogues price lists and other advertisements are intended to merely present a general idea of the Goods described therein and do not form part of the contract.

### 4. Quotations and Acceptances

Quotations are valid for thirty (30) days and represent no obligations until the Seller accepts the Buyers order. The Buyers order must be identified with an order number and must contain all information necessary to enable the Seller to process. An order will only become an accepted order when the Seller has sent a Sales Order Acknowledgement Form to the Buyer.

### 5. Prices and Amendments

The Price delivery dates or other terms relating to any Goods are based upon the Seller's assessment of materials labour and buy-in prices from manufacturers and are subject to revision in respect of any increased cost to the Seller in respect thereof PROVIDED THAT the Seller shall give notice of any such intended revision and the Buyer may within 2 days of receiving notice cancel the Order if the Price or delivery time would increase by more than 25% in which case neither party shall be liable to the other except that the Seller shall be entitled to payment for the work it has done on a time and materials basis at its usual rates.

### 6. Despatch

Time given for despatch is the estimated date given in the Sales Order Acknowledgement Form. WE WILL USE OUR REASONABLE ENDEAVOURS TO DESPATCH ON THE DATE GIVEN BUT WILL ACCEPT NO LIABILITY FOR FAILURE TO DO SO AND IN NO CIRCUMSTANCES SHALL TIME BE OR BE CAPABLE OF BEING MADE OF THE ESSENCE OF THE CONTRACT UNLESS A GUARANTEE HAS BEEN GIVEN IN WRITING WITH AN AGREED SUM AS LIQUIDATED DAMAGES FOR LATE DESPATCH AND YOU HAVE SUFFERED LOSS BY OUR DELAY. Should despatch be hindered or delayed by your instructions or by any event of Force Majeure (as defined in clause 18) a reasonable extension of time shall be granted. Each delivery shall be considered a separate contract and failure to make any delivery shall not vitiate or affect the contract as to other deliveries. Method of despatch of Goods shall be at the Sellers option and shall not constitute a reason for non-acceptance of Goods by the Buyer. Delivery may be made by instalments if the Seller so requires. Unless otherwise stated in the Order delivery of Goods shall be at the Seller's premises or as specified in the Order.

### 7. Freight Damage Loss In Shipment and Risk in Goods

Our shipments are packed with the greatest care and are delivered to the transportation company in good order. The transporter is responsible for safe carriage. If any damage, defacement or loss occurs to the Goods or their container during transit the appropriate notation must be made on the signed freight bill at the time of delivery and a claim must be filed promptly with the transporter. WE CANNOT ACCEPT RESPONSIBILITY FOR THE LOSS OR DAMAGE OF GOODS WHICH MAY OCCUR IN TRANSIT nor can we make claims since the proof is in your possession. Any compensation for loss must come from the transporter. Be sure to preserve your delivery note and freight receipt as the transporter will demand these documents in considering your claim.

The risk in the Goods shall pass to the Buyer on delivery at the Seller's works immediately prior to loading onto appropriate transport but if the Buyer fails to accept delivery by loading onto such transport when required so to do by these terms and conditions the risk shall pass at the time the Buyer was obliged to accept delivery by such loading. As soon as the risk passes to the Buyer he shall keep the Goods insured in the amount at which the Goods were sold to the Buyer against all insurable risks. Any amounts paid under such insurance before the Buyer has fully paid all accounts owing to the Seller shall be paid immediately to the Seller to the extent of the outstanding accounts.

### 8. Payment Terms

Sales to the United Kingdom - 28 days from date of invoice subject to our granting of credit facilities without which payment will be required with your order. The granting of credit facilities is entirely at the discretion of the Seller. Sales outside the United Kingdom are by mutual agreement but in any event will not exceed 60 days open account. All banking costs in remitting funds by whatever means to the UK are for the cost of the Buyer. Contracts for annual maintenance will be invoiced in advance and must be settled immediately upon receipt. It is a condition of service being provided that payment has been received. Interest shall be payable on overdue accounts at 3% above Lloyds Bank base rate from time to time calculated on a daily basis without prejudice to the Sellers right to receive payment on the due dates. Payments shall be made in UK Pounds Sterling without any deduction or deferment on account of any disputes or cross claims whatsoever and the aforementioned time within which the Buyer is to pay for the Goods shall be of the essence of the contract. Payment shall be made by direct bank transfer or by cheque. If in the case of the contract or any order involving more than one delivery default is made in payment on the due date the Seller shall have the right to suspend all or any further deliveries pending payment or to terminate the contract entirely by notice in writing to the Buyer.

### 9. Cancellation

If an accepted order is subsequently cancelled by the Buyer a cancellation charge will be made relating to the amount of work performed to date to fulfil the order and any deposit paid may be retained.

### 10. Returns

Goods will not be accepted for return without prior written authorisation from the Seller at which time the Seller will stipulate how the Goods are to be returned.

### 11. Restocking

Goods correctly supplied may not be returned without prior written agreement by the Seller. Goods are returned entirely at the Buyers risk and expense. A credit of 80% will be given against the Nett invoice value for the Goods providing that they are returned in the original containers complete and in original condition. No credit will be given for the initial packing and delivery charges. Minimum restocking charge is £25.00 plus VAT per item. Goods returned not in original condition will only be credited according to their condition and the work necessary to rectify faults as decided by the Seller.

### 12. Guarantee

12.1 The Seller warrants that the Goods are free from defects in workmanship or materials in normal service for a period of 24 months from the date of delivery. The Buyer must examine the Goods immediately upon delivery and within 7 days thereafter notify the Seller in writing of any discrepancy relating to the shipment of Goods or any defects and notify any discrepancy or return any allegedly defective Goods to the Seller or as the Seller shall direct at the Buyer's expense within 18 days of delivery and pay to the Seller the costs of return thereof to the Buyer in the event that no liability attaches to the Seller in respect of defects. In default the Buyer will be deemed to have examined and accepted the Goods. The Seller will at its own cost repair or replace any part or parts in respect of which the Seller considers the materials or workmanship to be defective. The Seller shall reimburse reasonable costs to the Buyer for returning any Goods found to be defective by the Seller. The Seller may at its absolute discretion appoint accredited agents to perform fully warranted repairs and in such circumstances the Seller will reimburse the appointed agents for the costs of any parts fitted together with their reasonable labour costs.

12.2 The Seller shall have the right whether before or after the date of the Order to alter the specification or design of the Goods or any part thereof without notice to the Buyer provided that such alteration shall not adversely and materially affect the performance of the Goods and for the avoidance of doubt it is agreed that the sale and purchase shall not be a sale and purchase by sample

12.3 Section 35A of the Sale and Supply of Goods Act 1994 shall not apply to any Order and if the Buyer accepts part of the Goods he loses his right to reject the rest. Non payment of invoices in accordance with these terms and conditions constitutes a breach of contract and will consequently invalidate all guarantees on the Goods.

### 13. Liability

EXCEPT AS PROVIDED BY THESE CONDITIONS AND EXCEPT WHERE THE GOODS ARE SOLD TO A PERSON DEALING AS A CONSUMER (WITHIN THE MEANING OF THE UNFAIR CONTRACT TERMS ACT 1977) ALL WARRANTIES

CONDITIONS OR OTHER TERMS IMPLIED BY STATUTE OR COMMON LAW ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW, EXCEPT IN RESPECT OF DEATH OR PERSONAL INJURY CAUSED BY THE SELLER'S NEGLIGENCE THE SELLER SHALL NOT BE LIABLE TO THE BUYER BY REASON OF ANY REPRESENTATION OR ANY IMPLIED WARRANTY CONDITION OR OTHER TERM OR ANY DUTY AT COMMON LAW OR UNDER THE EXPRESS TERMS OF THIS AGREEMENT FOR ANY CONSEQUENTIAL LOSS OR DAMAGE (WHETHER FOR LOSS OF PROFIT OR OTHERWISE) COSTS EXPENSES OR OTHER CLAIMS FOR CONSEQUENTIAL COMPENSATION WHATSOEVER (AND WHETHER CAUSED BY THE NEGLIGENCE OF THE SELLER ITS EMPLOYEES OR AGENTS OR OTHERWISE) WHICH ARISE OUT OF OR IN CONNECTION WITH THE SUPPLY OF THE GOODS FOR THE USE OR RESALE BY THE BUYER BEYOND THE TOTAL PRICE PAID BY THE BUYER UNDER THE RELEVANT CONTRACT, OR, WHERE THE LIABILITY IS COVERED BY THE SELLER'S INSURANCE POLICY, BEYOND THE AMOUNT OF COVER OF THE INSURANCE POLICY.

### 14. Reservation of title and right of disposal

14.1 Until payment by the Buyer in full of the price and any other monies payable to the Seller in respect of Goods:

14.1.1 The title in the Goods shall remain with the Seller;

14.1.2 The Buyer shall hold the Goods as bailee for the Seller and shall so store them so that they shall at all times be identifiable as goods of the Seller;

14.1.3 The Buyer shall insure the Goods against all normal commercial risks to their full replacement value with an insurance company of repute.

14.2 The Buyer shall be deemed not to have paid the Seller for Goods in the possession of the Buyer at any time unless the Buyer is able to prove that payment has been received by the Seller.

14.3 At any time prior to the payment in full of the price and other monies payable to the Seller in respect of the Goods the Seller may demand the immediate return of the Goods and the Seller or its agents may enter the premises of the Buyer and take possession of any Goods in which the title remains with the Seller and remove dispose of them as the Seller thinks fit. The Seller shall apply the proceeds of disposal (after deduction of all expenses) in discharge of the amount unpaid by the Buyer. Any balance of monies owing after application of the Nett sale proceeds to the Buyers account will be immediately payable by the Buyer.

### 15. Maintenance

The Seller operates a full maintenance and service support department which is subject to additional terms and conditions which will be made available upon request.

### 16. Calibration

Where the Seller deems that Goods sold to the Buyer will require calibration before leaving the factory the Seller will at its own expense fully calibrate the equipment within the parameters laid down by the Seller. Assuming certification at Mecmesin prior to dispatch a calibration certificate would be available upon request. A particular piece of equipment will not be guaranteed to hold its calibrated value for any specific length of time due to the uncontrollability by the Seller of the conditions the Goods may encounter once they have left the factory. To ensure maximum efficiency and accuracy of the equipment it will be necessary to periodically check and recalibrate and in this respect the Seller recommends that this is performed at least twice a year.

### 17. Confidentiality

All information supplied by the Seller in any form (other than information in the public domain) is supplied in confidence and must not be used by the Buyer for any other purpose than the Order and must not be disclosed to any other party without the Seller's express written consent and then only on conditions equivalent to this condition and with an express notification that the information was provided for the Buyer only and is not intended to be relied upon by any other party.

### 18. Force Majeure

THE SELLER SHALL NOT BE LIABLE TO THE BUYER FOR ANY LOSS OR DAMAGE WHICH MAY BE SUFFERED BY THE BUYER AS A DIRECT OR INDIRECT RESULT OF THE SELLER BEING PREVENTED HINDERED OR DELAYED IN THE PERFORMANCE OF ITS OBLIGATIONS UNDER THE CONTRACT IN RESPECT OF ANY FORCE MAJEURE CIRCUMSTANCES AS FOLLOWS: ACT OF GOD, WAR, RIOT, STRIKE, LOCKOUT, TRADE DISPUTE, LABOUR DISTURBANCE, EPIDEMIC, ACCIDENT PLANT OR MACHINERY BREAKDOWN, FIRE, EXPLOSION, FLOOD, DROUGHT, GOVERNMENT ACTION, LABOUR SHORTAGE MATERIALS OR TRANSPORT CONFISCATION OR OTHER CIRCUMSTANCES OUTSIDE THE CONTROL OF THE SELLER AFFECTING THE PROVISION OF THE GOODS AND/OR SERVICES PROVIDED BY THE SELLER.

### 19. Copyright and Patents

FOR ITEMS OF SPECIAL MANUFACTURE THE BUYER SHALL FULLY INDEMNIFY THE SELLER AGAINST ALL LIABILITY AND COSTS IN RESPECT OF ANY INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS RESULTING FROM COMPLIANCE BY THE SELLER WITH THE BUYERS INSTRUCTIONS EXPRESS OR IMPLIED.

The Buyer covenants with the Seller that it shall forthwith notify the Seller of any allegation of infringement of any Intellectual Property Rights enjoyed by the Seller.

### 20. Miscellaneous

The Seller may use its connection with the Buyer in its advertising of its Goods. The Seller may assign or sub-contract such part or parts of any order as it sees fit

### 21. Notices

Any notifications required to be given in connection with a contract shall be deemed to have been duly given if sent by first class mail postage paid and addressed to the party concerned at its principal place of business or last known address.

### 22. Termination

22.1 Either party shall be entitled forthwith to terminate this Agreement by written notice to the other if that other party:

22.1.1 commits any continuing or material breach of any of the provisions of this Agreement and, in the case of such a breach which is capable of remedy, fails to remedy the same within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;

22.1.2 shall be adjudged insolvent or bankrupt or shall be unable to pay its debts as they fall due or shall make assignment for the benefit of its creditors generally or have a receiver appointed for it or for any of its property or assets or if it shall discontinue or abandon or dispose of the whole or a substantial part of its business or shall have a petition presented or a resolution passed for its winding up or if a notice is issued convening a meeting for the purpose of passing any such resolution the other party shall have the right at any time thereafter to terminate this agreement forthwith by notice to the first mentioned party.

22.2 For the purposes of clause 22.1.1, a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).

22.3 Additionally the doing or permitting of any act by which the Seller's Intellectual Property Rights may be prejudiced or put in jeopardy shall be deemed a fundamental and repudiatory breach which shall determine this Agreement immediately.

### 23. Invalidity and Severability

If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision

### 24. Dispute Resolution

All disputes differences or questions arising out of this Agreement or as to the rights and liabilities of the parties hereto or as to the construction of interpretation hereof shall be referred to the decision of a single person acting as an expert to be agreed between the parties or, in default of agreement, appointed at the request of either party by the President for the time being of the Chartered Institute of Accountants in England and Wales. Dispute Resolution shall take place in English in London.

### 25. Overseas Aspects

This agreement shall be governed by and construed in all respects in accordance with English law. The Buyer submits to the jurisdiction of the English courts. All necessary consents licences or permissions of the United Kingdom the Buyers country or elsewhere for import and export are the responsibility of the Buyer.

### 26. Definitions and Interpretation

In these conditions:- (i) "Seller" means Mecmesin Ltd and or its subsidiaries in title. (ii) "Buyer" means the purchaser of the Goods from the Seller. (iii) "Goods" means the articles equipment goods or services of the Seller. (iv) "Factory" means the place of manufacture by the seller of the Goods. (v) "Order" means an order accepted by the Seller and includes contracts to provide services and also authorised amendments to an Order.

(vi) "Intellectual Property Rights" means patents, copyright, all registered or unregistered trademarks, trade names, logos, designs, technical or commercial information (including drawings, plans, specifications and research data) know-how, application, installation and other technical matter including electronic circuitry and biological technology and computer programmes together with the benefit of all rights for the protection thereof and of all applications for such rights.

Any reference to any statutes regulations or other matters includes reference to any extensions enactments or replacements of the same.

The headings in this agreement are for convenience only and shall not affect its interpretation.