

# TW HAMILTON DESIGN LIMITED

## TERMS AND CONDITIONS OF SALE

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### 1 GENERAL

These conditions shall apply to all orders, acknowledgements of order, quotations and any other sales and supply of TW Hamilton Design Ltd's goods and services. Customers should note that TW Hamilton Design Ltd's Agents, sales personnel or Representatives have no authority to agree or accept any amendment or alteration to these Conditions of Sale. These Terms and Conditions of Sale supersede and take precedence over any and all inconsistent or differing Terms and Conditions of Purchase provided by the Buyer.

### 2 CONTRACT

The Contract comprises a written Sales Order Confirmation provided by TW Hamilton Design Ltd. to the customer.

### 3 STANDARDS

Machinery and spare parts sold by us (which is the subject of this Contract) comply at the time of delivery with EC Regulations currently in force. All information whether contained in our sales literature or given by our staff or Agents and related to accuracy, speed or other performance statistics is accurate to the best of our knowledge and ability, but is given for general guidance only. Customers are therefore advised that any such information given to them does not constitute a representation by us as to these matters and should not be relied on as such. Customers should satisfy themselves that any machinery and/or spare parts which they order is of a type and specification satisfactory for their requirements and order such machinery and/or spare parts at their own risk.

### 4 LIMITATION OF LIABILITY

TW Hamilton Design Ltd. warrants that the machinery and/or spare parts supplied shall be of the type specified in the Contract. TW Hamilton Design Ltd is responsible for rectifying any faults with the machinery during the warranty period, as per the conditions specified in our Warranty document. Only the machinery is covered and not any failures of, or damage to plants or seeds or other items not provided by TW Hamilton Design Ltd, resulting from any such faults, nor for any consequential loss.

### 5 QUOTATIONS

Quotations are open to acceptance by a Customer for a period of thirty days from the date of the quotation unless otherwise specified. After this period of thirty days has expired the tender will be deemed to have been withdrawn unless otherwise agreed in writing on behalf of TW Hamilton Design Ltd.

### 6 PRICES

The prices in our current Price List are those current at the press date, and will apply unless a special quotation has been given. We reserve the right to alter the price of any goods without notice. Prices will be charged as stated in our Sales Order Confirmation. Prices are subject to the addition of Value Added Tax which will be charged at the rate current at the time of invoicing, where applicable. VAT No. GB 321 3327 06.

### 7 FLUCTUATIONS IN THE UKE

Where the goods are of foreign origin we reserve the right to adjust the price payable by the customer on any sale so as to reflect any alteration in the value of the £sterling in terms of the currency of origin of the goods between the date of order and the date of issue of the invoice for the

goods sold. We also reserve the right to alter prices without prior notice in the event of the imposition of or increase in any tariff or import levy.

## 8 PAYMENT TERMS

- a. All UK customers will be expected to provide payment on delivery for machinery orders and will not normally be eligible for credit accounts for machinery purchases. Credit accounts will be permitted at the discretion of TW Hamilton Design Ltd and provided bankers' and credit references have been supplied by the Customer and have been substantiated by TW Hamilton Design Ltd. Unless otherwise agreed in writing, TW Hamilton Design Ltd will not despatch goods to the Customer until payment has been received in full by TW Hamilton Design Ltd in respect of the goods and any delivery or carriage charges payable by the Customer.
- b. For new customers, cheques or details of finance agreements should accompany first orders. Credit accounts cannot be opened until satisfactory business or Bankers' references have been supplied.
- c. Small orders and spare parts orders may be supplied on a credit account basis to existing customers, at the discretion of TW Hamilton Design Ltd, provided their account is not, and has not been, in arrears. Cheques, Postal Orders and Money Orders should be made payable to TW Hamilton Design Ltd.
- d. Where services are provided or installation or contract work is carried out, all invoices are subject to the terms as in b) above.
- e. Where accounts due within 30 days of date of invoice are not fully paid within this period:
  - i. TW Hamilton Design Ltd reserve the right to charge interest at the bank rate plus 2 ½% per annum on the outstanding amount.
  - ii. TW Hamilton Design Ltd may refuse to carry out any other work or supply any other goods to the Customer until all payments due, including any interest due or deemed due, are satisfied in full. Under these circumstances, pro-forma invoice payments will be required in any future agreement with the Customer.
- f. TW Hamilton Design Ltd reserves the right to withdraw credit facilities at any time without giving any reason, and thereafter any transactions will be subject to the terms as stated in 8a.
- g. TW Hamilton Design Ltd reserves the right to suspend or refuse to provide any further goods or services or to rescind any existing contracts, agreements or warranty agreements between TW Hamilton Design Ltd and the Customer if the Customer enters into liquidation, bankruptcy or receivership, or if TW Hamilton Design Ltd is advised by an appointed Receiver that there is any doubt over whether any payment due or deemed due is likely to be made.
- h. If the Customer fails to make any payment as due or dies all rights to goods not yet paid for in full are that of TW Hamilton Design Ltd.

## 9 DELIVERY/OFFLOADING

- a. When goods are offered for delivery to site, TW Hamilton Design Ltd's obligations will be to deliver as near as possible to the site as hard roads permit. The Customer is responsible for providing at their own cost any labour required for unloading of goods supplied by TW Hamilton Design Ltd.
- b. TW Hamilton Design Ltd will endeavour to deliver the goods and/or provide services on the date/s (if any) specified in the Sales Order Confirmation, but in all cases dates given for delivery or provision of services are estimates only and TW Hamilton Design Ltd will not be liable for any loss, damage, inconvenience or expense suffered by the customer as a result of TW Hamilton Design Ltd's failure to deliver the goods and/or provide the services on any specified date or at any specified time.

## 10 DAMAGE, DELAY OR LOSS IN TRANSIT

- a. If goods are damaged in transit it is essential that the packing/delivery notes be signed "damaged in transit". NO claim for damage can be entertained unless made in writing within three days of delivery of goods, both to the carriers and TW Hamilton Design Ltd.

- b. In the case of non-delivery or short delivery of any goods both the carriers and TW Hamilton Design Ltd must be notified within seven days of despatch, and the claim be made in writing within fourteen days from the time of despatch.
- c. If the Customer fails to notify TW Hamilton Design Ltd in writing of problems with delivery as outlined in a) and b) within the stated delivery times it will be deemed that the Customer agrees to accept all goods as those agreed in the Sales Order Confirmation and will be responsible for payment in full for those goods. No claims will be accepted after the stated period.
- d. TW Hamilton Design Ltd does not accept any responsibility or liability for any loss or damage suffered by the goods belonging to the Customer while such goods are in possession of TW Hamilton Design Ltd unless such loss or damage arises as a result of the deliberate acts of negligence of TW Hamilton Design Ltd, its servants or agents.

## 11 FORCE MAJEURE

TW Hamilton Design Ltd shall not be responsible for delay in delivery of the goods or any part thereof occasioned by an Act of God, action by any Government, strike, lockout, combination of workers, riot, or civil commotion, breakdown of machinery, power failure, fire, loss and/or detention at sea or any other contingency beyond our control. Should any of the goods be rendered unfit by reason of any of the above acts, the Contract so far as it relates to those goods shall be deemed to be discharged.

## 12 RETURN of goods for credit

- a. If the Customer wishes to request that TW Hamilton Design Ltd accept returned goods for credit then TW Hamilton Design Ltd must be notified by the Customer within two weeks of the original delivery date
- b. Acceptance of returned goods for credit is at the sole discretion of TW Hamilton Design Ltd. If it is agreed in writing by TW Hamilton Design Ltd that goods can be returned for credit then all goods returned must be unused and in original packaging and must be accompanied by the original Packing Note.
- c. Goods which were specially ordered cannot be returned for credit unless it is alleged that they are faulty or that they do not comply with the contract.
- d. TW Hamilton Design Ltd reserves the right to refuse to accept any goods for return which do not comply to the terms outlined in a) and b).
- e. TW Hamilton Design Ltd reserves the right to make a 20% charge on any goods returned for credit to cover administration and other costs.

## 13 COMPLAINTS

No complaint under the terms of these conditions of sale can be considered unless clear proof can be given that the machinery and/or spare parts alleged to have performed unsatisfactorily was in fact supplied by TW Hamilton Design Ltd and that it was used correctly as stated in the Operators Manual or instructions provided by TW Hamilton Design Ltd, treated carefully and correctly throughout and not subject to any conditions as were likely to cause any problem or failure. All contracts shall be governed by English Law and the English courts will have sole jurisdiction in any dispute.

## 14 TITLE

- a. Goods supplied by TW Hamilton Design Ltd to the Customer shall remain the sole and absolute property of TW Hamilton Design Ltd as legal and equitable owner until such time as the Customer has paid to TW Hamilton Design Ltd the full price for the goods as set out in the Invoice/s delivered to the Customer in respect of the goods.
- b. Unless by arrangement, the risk for the goods shall be solely that of the Customer from the time the goods leave the premises of TW Hamilton Design Ltd, and insurance for the protection of the goods is the responsibility of the Customer from this time also.
- c. The Customer irrevocably authorises TW Hamilton Design Ltd by its agents or servants to enter any of the Customer's premises (using reasonable force if necessary) for the purpose of searching for, marking or removing any goods which have been supplied by TW Hamilton Design Ltd to the Customer but which have not been paid for in full.

## 15 SERVICING/REPAIR/INSTALLATION WORK

- a. TW Hamilton Design Ltd reserves the right to tender an interim invoice or invoices in respect of work done up to the date of such invoice or invoices at any time during the term of any Contract for the provision of services or installation work and each such invoice shall be subject to the terms as stated in paragraph 8.
- b. If interruptions in the initial work programme are experienced by the engineer/service personnel from TW Hamilton Design Ltd due to circumstances controllable or deemed to be controllable by the Customer, then TW Hamilton Design Ltd will charge for any additional journeys to and from the Customer's site at normal day work rates to include labour, accommodation and mileage plus any other expenses incurred as a result of the interruption.
- c. TW Hamilton Design Ltd will not carry out any work additional to that originally quoted for and which appears in the original Sales Order Acknowledgement unless agreed to in advance by TW Hamilton Design Ltd and detailed in a subsequent Sales Order Acknowledgement.
- d. The Customer shall be liable for and shall indemnify TW Hamilton Design Ltd against any expense liability, loss, claim or proceedings in respect of any injury or damage whatsoever to any property real or personal in or so far as such injury or damage arises out of or in the course of or by reason of the carrying out of works on site unless the same shall be due to any act or neglect of TW Hamilton Design Ltd of any person for whom TW Hamilton Design Ltd is responsible.

## 16 CANCELLATION

Contracts and orders may be cancelled by the Customer only with the written agreement of TW Hamilton Design Ltd and TW Hamilton Design Ltd reserve the right to charge a cancellation fee.

## 17 WARRANTY

Goods supplied by TW Hamilton Design Ltd are subject to six months Warranty as set out in the Warranty Agreement and subject to the terms and conditions therein. The Warranty Agreement is supplied with all machinery orders.

## 18 ACCEPTANCE OF TERMS

The giving or sending of an order to TW Hamilton Design Ltd or our Agent or Representative constitutes an acceptance of these terms by the Customer.

## 19 JURISDICTION

These Terms and Conditions shall be interpreted according to English law and the buyer hereby accepts the jurisdiction of such Courts, whether in England or elsewhere, and only the English Court shall have jurisdiction.

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