

RECYCLING PLANT & MACHINERY LTD TERMS AND CONDITIONS OF SALE

Definitions

In these conditions "RPM" means Recycling Plant and Machinery Limited, JR Steel works, Bryntwyod., Llangyfelach, Swansea, SA5 7LE. 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 the subject of this contract, and "the Manufacturer" means any manufacturer who is the point of origin for the Machinery. "Service" means and services or provisions of labour provided by RPM.

1. General

RPM'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 Price and specification may be varied and RPM's offer to sell or supply Services withdrawn, without notice, for any reason whatsoever.

2. Supply of Goods Ordered and Services

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

3. Warranties

a. All warranties are given by the Manufacturer, and will take effect on delivery to the Purchaser. RPM provides no warranty in respect of Machinery 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. Purchasers must complete the Warranty Validation Form and return it to RPM's within 7 days of the date of delivery of the Machinery.

b. The customer 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.

c. Failure to operate the Machinery in the accordance with the Manufacturer's instructions will invalidate the Manufacturer's warranty.

d. 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.

e. All warranty claims on a Manufacturer's warranty in respect of Machinery must be notified to RPM as soon as they are discovered by telephone and in writing, no later than two working days after delivery. 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 RPM. Failure to remove the Machinery from service, may result in the warranty being invalidated.

f. In the event of a warranty claim or any other matter which necessitates the return of the Machinery to RPM (at any location RPM direct), the Purchaser is responsible for all delivery, transportation and redelivery costs and RPM will not be responsible for the Purchaser's travel costs. RPM must continue to insure the Machinery during this period and RPM will not insure the Machinery. RPM may at its discretion elect to repair the Machinery at the Purchaser's premises or at the location where RPM's repairs are usually carried out in which case RPM will be entitled to charge for its service engineers/representatives time and travel costs on its standard basis. Price lists for such charges are available from RPM's at the above address.

g. RPM is not liable for any losses, including consequential damages, as a result of the unavailability of the Machinery, while the Machinery is being repaired, nor will they provide Machinery on loan during that time.

h. RPM 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 RPM'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

RPM 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 RPM 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 RPM's yard at Newark or such other place as RPM may in its absolute discretion direct. Following inspection of the Part Exchange Machine by RPM, RPM 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 RPM within 7 days of a request for it to be delivered, RPM 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 RPM to accept a Part Exchange Machine is not valid grounds for terminating the Purchase contract for the Machinery and in the event that RPM 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, and should any encumbrance materialise, the amount will be deducted from the Part Exchange Machinery price and the Purchaser hereby authorises RPM to pay off any such amount. Title to the Part Exchange Machinery shall pass to RPM once the price for the Part Exchange Machine 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.

6. Consequential Loss and Liability of RPM

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

7. Terms of Business, Prices and Payment Terms

a. 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 RPM. No oral representations by any person are in any way imported into these terms or form any contract or collateral agreement. Even if RPM are supplied with Terms and Conditions by the Purchaser, RPM's Terms and Conditions shall prevail.

b. 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.

c. 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 these credit terms, the discount shall no longer apply and RPM shall be entitled to receive the purchase price in full.

d. Payment for the Machinery must be made by the Purchaser to RPM prior to the delivery of the Machinery. In the event that payment is not made, RPM may refuse to deliver the Machinery or, if it chooses to deliver the Machinery, RPM will be entitled to charge interest at 5% above Barclays Bank base rate on the amount outstanding until full payment received by RPM.

e. When stipulated by RPM, the Purchaser will pay a deposit on the terms specified by RPM prior to the Machinery being built by the Manufacturer.

f. In the case of after sales service parts, wear parts and repair parts or services, RPM will grant 30 days net credit terms provided the Purchaser has an approved credit account with RPM. RPM reserves the right unilaterally to vary payment terms on giving 7 days prior written notice to you. 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 RPM by reason of any right of set-off or counterclaim which the Purchaser may have or allege to have against RPM for any reason whatsoever. The Purchaser must notify RPM 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.

g. Title to the Machinery and all parts supplied in conjunction with the Machinery will remain with RPM until the total invoiced price has been fully paid by the Purchaser to RPM, without deduction. If a payment plan has been arranged with the customer, and the goods are damaged during this period the customer must still maintain the payment plan in full. Any insurance pay-outs must be transferred to RPM whilst the goods are repaired or written off, the shortfall must be made up by the customer.

h. RPM reserves the right not to execute any order if the arrangement for payment or the Purchaser's credit standing is not satisfactory to RPM.

i. In the case of any account not being paid when due, for whatever reason or any kind, RPM has the right to cancel any and all orders from the Purchaser, and suspend or continue deliveries at RPM's option.

j. In the event of one part of any account not being paid when due, the whole of the account becomes immediately due and payable, even where any 30 day credit period has not yet expired.

8. Delivery and Deposits

Unless otherwise stated all prices are ex RPM'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, RPM reserves the right to retain the deposit. Orders cannot be cancelled by the Purchaser except with RPM's written consent.

9. Transit and Rejection of Goods

a. All rejected goods must be returned to RPM within 7 days of delivery. In the event that the goods are covered by warranty, the full purchase price will be credited to the Purchaser. In the event that goods are rejected and are not covered by a warranty, the purchase price will be refunded to the Purchaser, less a 15% restocking fee to cover handling charges. The Purchaser is responsible for all postage and courier costs of returning any items or Machinery to RPM.

b. Parts and items other than Machinery are not insured by RPM during transit. Insurance can be arranged at additional cost and the Purchaser must notify RPM if they require such insurance when placing their order.

c. All goods and parts must be signed for on delivery to the Purchaser. Purchasers must satisfy themselves that the goods are acceptable before signing for them as signature for goods or parts will be taken as acceptance by the Purchaser of those goods. Any pilferage or missing components must be notified on delivery.

d. You are protected by statutory rights applicable by law in England. Where any part of these terms is over-ridden by legislation, all other terms still apply.

10. Services

RPM will provide services in accordance with any written instructions received from the Purchaser for the fee agreed in writing. In default of agreement RPM shall be entitled to charge for services performed at its standard rates for such work, available on request from RPM. Work will be charged for in full where less than 3 business days notice is given and the Purchaser agrees to accept any invoice for all services booked should you fail to give such cancellation notice. RPM 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 you provide RPM staff with a safe working environment. The Purchaser is responsible for any damage caused to RPM's property when on your site, fair wear and tear excepted. The Purchaser hereby indemnifies RPM 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 services or supply of goods. RPM will use reasonable skill and care in carrying out the services. RPM accepts 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 (i) loss of anticipated profits or expected future business (ii) damage to reputation or goodwill (iii) damages, costs or expenses payable by you to any third party (iv) loss of any order or contract (v) indirect or consequential loss of any kind (vi) environmental damage.

11. Termination

Without prejudice to any other rights, a party may terminate the contract if (i) 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 (ii) 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 carried out up to and including the date of termination shall be due immediately from you 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 RPM of the cost of any commitments or contracts entered into by RPM on the assumption that this contract would continue.

12. Confidentiality and Copyright

All information provided by RPM, including pricing, is for your use only and you must not disclose this to any third party without RPM's prior written consent. All copyright in the Operating Manuals and videos supplied to Purchasers belongs to and will remain with the Manufacturer. Purchasers must not reproduce, copy, disseminate or utilise the information or documentation provided by RPM, except as expressly provided for in writing by RPM, 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 law of England, and the parties must submit to the exclusive jurisdiction of the courts of England. Any claim relating to the services or Goods must be brought within 6 months of the date of delivery of the Machinery or provisions of the Services. RPM excludes all liability for claims brought outside this time limit. RPM's liability in respect of any claim in contract, tort or negligence shall be limited to the price quoted for the services or goods provided, save in respect of personal injury or death. RPM do not accept any responsibility for damage to Goods, other property or persons caused by third party haulage contractors.

14. Miscellaneous

a. If two or more parties jointly engage RPM, they shall be jointly and severally liable for payment of the full amount in respect of the services or goods and there shall be no obligation on RPM to pursue both parties.

b. Any notice by either party shall be deemed to have been properly given if delivered by hand or sent by 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.

c. 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.

d. Failure by RPM in enforcing or partially enforcing any provision of this Contract will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the contract. Any waiver by RPM 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.

e. A person who is not a party to this contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any condition of this Contract.

f. Any customer complaints must be made in writing to the Managing Director at Recycling and Plant Machinery Limited, JR Steel works, Bryntwyod, Llangyfelach, Swansea, SA5 7LE

LANDLORD WEIVER: ON AGREED PAYMENT TERMS SHOULD YOUR COMPANY DEFAULT ON THIS RPM LTD WILL NOT BE DENIED ACCESS TO RECOVER THEIR PROPERTY. TRANSFER OF TITLE WILL ONLY PASS ON RPM LTD'S RECEIPT OF FINAL PAYMENT.