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Bulk Handling
Shiploaders & Eco-Hoppers
SAMSON® Material Feeders
SAMSON STORMAJOR®



SAMSON Materials Handling Limited – Standard Terms And Conditions Of Purchase

1 Definitions

- 1.1 “**Company**” Shall mean SAMSON Materials Handling Ltd.
- 1.2 “**Deliverables**” means the goods or services to be supplied by the Supplier to the Company as identified in the Purchase Order.
- 1.3 “**Goods**” means all goods, materials, equipment, parts and any other ancillary activity provided by the Supplier to the Company identified in the Purchase Order.
- 1.4 “**Supplier**” means the person supplying the goods or performing the services as identified in the Purchase Order.
- 1.5 The term “**Purchase Order**”, means the purchase order setting out the Goods to be supplied by the Seller, to which these General Terms of Purchase are attached or into which these General Terms of Purchase are incorporated by reference.

2 Applicability

- 2.1 These General Conditions of Purchase apply to all orders of the Buyer in respect of purchasing of Goods from the Seller or rendering of services by the Seller. Where differences exist between any terms or conditions shown on the face of the Purchase Order (or elsewhere in the documentation forming part of the Contract) and these General Conditions of Purchase, then for this order only, the terms and conditions on the face of the Purchase Order (or elsewhere in the documentation forming part of the Contract) will supersede the relevant clause or clauses in these conditions.
- 2.2 The Seller's quotation is incorporated in and made part of this Purchase Order only to the extent of specifying the nature and description of the Goods and service ordered and then only to the extent that such items are consistent with the other terms of this Purchase Order.
- 2.3 No other terms or conditions (including, in particular, the Seller's own terms of supply) shall be binding upon the Buyer unless specifically accepted by a Director of the Buyer in writing.

3 **Quality**

3.1 The Goods must be new, of the very best quality and workmanship and subject to the Buyer's approval and must conform to the quantity, quality, standards and description specified in the order and to any relevant applicable Standard. The Goods must be fit in all respects for use to which they will be put to, provided that such is the normal commercial or industrial use of the Goods or that the Buyer has informed the Seller of the use to which the Goods will be put.

4 **Inspection**

4.1 The Buyer reserves the right to inspect the Goods, and will have full power to reject any or all of the material found not to be in accordance with the specification or description of this Contract. Such inspection shall not constitute acceptance of the Goods and notwithstanding such inspection, these terms and conditions shall remain in full force and effect and will not relieve the Seller of responsibility under the warranty.

5 **Placing an Order**

5.1 An order will only be regarded as having been placed if it has been issued by the Buyer in writing and the Seller has received an official Purchase Order from the Buyer. Orders placed orally or by phone are only binding on the Buyer if the Buyer has acknowledged them by subsequent confirmation in writing through the issue of a Purchase Order. Under no circumstances should the Seller proceed without having first received a Purchase Order from the Buyer.

5.2 The Seller shall acknowledge in writing acceptance of orders and modifications of orders requested by the Buyer within two weeks from the date of the order or the communication modifying the order. If an order or modification of an order is not confirmed to the Buyer within this time, the Buyer is entitled to revoke the order or modification.

5.3 The Seller shall inform the Buyer of in writing of any deviations in quantity and quality. Such deviations shall only be regarded as agreed when the Seller receives written confirmation from the Buyer. Any deviation in quantity may result in the Buyer issuing a revised Purchase Order to the Seller.

5.4 Drawings, tools, samples, models, prototypes, brands and designs or the like provided by the Buyer or which are produced to the Buyer's order remain the Buyer's property and may only be supplied to third parties with the Buyer's explicit written approval. Subject to individual arrangements between the Buyer and the Seller set out in the relevant Purchase Order (or elsewhere in the documentation forming part of the Contract), the Seller is to return to the Buyer all such property of the Buyer without delay upon completion of the order.

6 Acceptance

6.1 This clause 6 shall apply subject to any specific acceptance testing or similar provisions set out in the Purchase Order (or elsewhere in the documentation forming part of the Contract).

6.2 In the case of Goods delivered by the Seller not conforming with the Contract, whether by reason of being of a quality or in a quantity not stipulated, or being unfit for the purpose made known in writing to the Seller, the Buyer shall have the right to reject such Goods within a reasonable time of their delivery and to purchase elsewhere Goods as near as practicable to the same Contract specifications and conditions as circumstances shall permit but without prejudice to any other right which the Buyer may have against the Seller. The making of payment shall not prejudice the Buyer's right of rejection. Before exercising the said right to purchase elsewhere the Buyer shall give the Seller reasonable opportunity to replace rejected Goods with Goods which conform to the Contract. Nothing in these conditions shall affect the statutory rights of the Buyer under Section 13-15 of the Sale of Goods Act 1979.

7 Re-Work

7.1 Both Buyer and Seller agree that In the case of errors or mistakes in Drawing or document information, minor errors in supply requiring rework or rectification that the first 5 hours of any one incident will be included within the contract and that both parties will notify in advance of re-work the proposed costs for authorisation by the other, no claims will be accepted without prior notification.

8 Variations to contract

8.1 Both Buyer and Seller agree that In the case of Variations to Contract they will notify the other party in writing of the proposed scope and costs for the "**Variation to Contract**", and await written authorisation by the other party to proceed. Any resulting claims will only be accepted upon receipt of written prior notification and agreement.

9 Delivery, Title, Risk And Insurance

9.1 The date of delivery of the Goods shall be that specified in the Purchase Order. Unless specified in the Purchase Order, the Seller shall furnish such programmes of manufacture and delivery as the Buyer may reasonably require and the Seller shall give notice to the Buyer forthwith if such programmes are, or are likely to be, delayed.

9.2 Goods must be delivered at the Buyer's delivery address unless otherwise specified in the Purchase Order.

9.3 In the event of delayed delivery due to default by Seller a penalty of 2% Order value will be applied per week up to a maximum of 10% of Order value. Further, the additional cost incurred by the Buyer due to late delivery will also be applied at discretion on the Buyer.

- 9.4 If Goods are not supplied according to the Purchase Order, the Seller will be liable for any additional costs incurred completing the contract.
- 9.5 Unless otherwise stated in the Purchase Order, all packing and protection is to be included in the price and is non-returnable. The Seller must use the packing prescribed by the Buyer and make sure that the Goods are protected by the packing against damage or deterioration during transportation or storage. At the time of delivery of the Goods, the Seller will deliver to the Buyer documentation in English relating to CE and other relevant regulatory compliance.
- 9.6 Delivery to the Buyer will take place when the Goods are delivered to the delivery address specified in the Purchase Order and the relevant delivery note signed for by, or on behalf of the Buyer. All deliveries must be accompanied by a delivery note, quoting the Buyer's order number, component part number and detailing the Goods in the consignment.
- 9.7 Title to and property in the Goods will transfer from the Seller to the Buyer upon acceptance of the delivery.
- 9.8 The risk in the Goods shall remain with the Seller until delivered at the correct destination.

10 Terms of Payment

- 10.1 Unless otherwise specifically agreed by a Director of the Company in writing, payment to the Seller shall be made by the Buyer within 30 days from the month end in which the invoice is approved provided that the Seller has complied with the delivery instructions as above. Failure to comply with the delivery instructions will result in a delay in payment.
- 10.2 The Buyer and Seller may agree rebates and discounts for early payment as part of the Contract.

11 Warranty

- 11.1 The Seller warrants that the Goods are new and free from defects and comply with their specifications and the requirements of clause 3 of these General Conditions of Purchase.
- 11.2 If within 12 months from the date the Goods are put to use, the Buyer notifies the Seller of a defect (being a fault in workmanship, material or design, or a discrepancy from the Contract description or specification) or any breach of the warranty set out above, the Seller will repair or replace the defective Goods at the Seller's expense (including adequate packing and carriage). The repaired or replacement Goods shall be subject to a like warranty.
- 11.3 If within 7 days of such notification the Seller does not undertake to effect such repair or replacement and complete the same within an agreed and reasonable time the Buyer may do so and the costs and expenses incurred without limits or restrictions will be recoverable from the Seller.

11.4 The Seller will be liable for any loss, damage, cost or expense incurred by the Buyer arising from the supply by the Seller of any such faulty Goods or materials, or any Goods or materials not being suitable for the purpose for which they are required.

12 Assignment

12.1 The order must be fulfilled by the Seller and may not be assigned or sub-let to any third party without the prior consent in writing of the Buyer. Notwithstanding such consent the Seller shall remain liable to the Buyer under all the provisions of this order.

13 Termination

13.1 If the Seller is in breach of any of the provisions of the Purchase Order and fails within five days of notice by the Buyer to take such steps as are reasonable to rectify such breach. The Buyer may without prejudice to any other of its rights, terminate the Purchase Order forthwith by notice in writing to the Seller.

13.2 If the Seller becomes insolvent or (being a Company) makes an arrangement with its creditors or has a liquidator or a receiver appointed or commences to be wound up (other than for the purposes of amalgamation or reconstruction whilst solvent), the Buyer may without prejudice to any of its rights terminate the Purchase Order forthwith by notice to the Seller or any person in whom the Purchase Order may have become vested. In such an event it shall be lawful for the Buyer to enter the premises where the Goods are situated and take possession of the Goods and any materials and work the property in which has passed to or is vested in the Buyer.

13.3 The Buyer may cancel or suspend this Purchase Order at any time for convenience by giving notice in writing to the Seller and in such event the Buyer shall pay to the Seller the contract value of the Goods already delivered at the date of such cancellation. In the event of cancellation or suspension of the Purchase Order the Buyer rejects all claims for costs associated with the advice and similarly rejects all claims for Consequential losses or for any loss incurred by the Seller in these circumstances.

14 Confidentiality

14.1 The Seller shall treat all Purchase Orders and all design, drawings, specifications and information supplied or paid for by the Buyer as confidential and shall not disclose any details thereof to any person, firm or company nor shall the Seller make use of the same other than in connection with a Purchase Order by the Buyer.

14.2 The Seller and the Buyer shall comply with the provisions of the Data Protection Act 1998.

15 Intellectual Property

15.1 The Seller warrants that the Goods (or any use of them) will not infringe any patents or other intellectual property rights of third parties. The Seller shall indemnify the Buyer against any and all claims that the Goods (or any use of them) infringe any patent or third party intellectual property rights. This indemnity will not apply if the Seller has produced the Goods in accordance with drawings, samples or equivalent other descriptions or instructions provided by the Buyer and the Seller is not aware of the infringement.

16 Force Majeure

16.1 Should the Buyer be prevented from taking or the Seller from giving delivery of the Goods or any part thereof by reason of Act of God, war, plague, pestilence, famine, strike, lockout, fire, interference with transport or shipment, peril of the sea, riot, civil commotion, revolution or any accident or incident beyond the control of the Buyer or the Seller, the party so prevented shall not be liable to the other for damages or otherwise under this Contract in respect of such failure to take or give delivery and further in the event of delay in taking or giving arising from any of the said causes, the Buyer may call upon the Seller to suspend deliveries under this Contract until the cause or causes of delay are removed when the Seller shall resume deliveries hereunder.

17 Disputes

17.1 The Seller and the Buyer shall negotiate in good faith (including with the assistance of a mediator where appropriate) to resolve all disputes which may arise under, out of, in connection with, or in relation to this Contract.

17.2 If the parties are unable to resolve any dispute by good faith negotiations, such dispute shall be submitted to arbitration by a single Arbitrator (who will act as an arbitrator and not an expert), who shall be agreed between the parties or who failing such agreement shall be appointed at the request of either party by the President for the time being of the Law Society. The arbitration shall be in accordance with the provisions of the Arbitration Act 1996 or any statutory modification or re-enactments thereof.

18 Language

18.1 All correspondence between Buyer and Seller shall be in the English language

19 Law

19.1 Unless otherwise agreed in writing, the Contract shall in all respects be treated and construed as an English contract and subject to the Laws of England.

DO NOT PRINT

DOCUMENT CONTROL:

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| C | Clause 7 Variations to contract added. | 14/10/05 | ALM |
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