

Howard Marshall Engineering Ltd - Terms & Conditions

1. These terms and conditions shall apply to any contract for the sale of any goods by Howard Marshall Engineering Ltd whether the contract arises out of:
 - a. Any offer made by Howard Marshall Engineering Ltd and accepted by the purchaser; or
 - b. Any offer made by the purchaser and accepted by Howard Marshall Engineering Ltd, including any such offer made by the purchaser in response to a quotation from Howard Marshall Engineering Ltd, and shall override any terms and conditions upon which the purchaser may trade whether or not Howard Marshall Engineering Ltd shall have been given notice thereof.
2. Acceptance of any goods supplied under an order of the purchaser shall constitute acceptance of these terms and conditions.
3. Quotations are valid for 30 days from the date of issue.
4. The warranty for good provided is as followed:
 - a. 12 months from the date of delivery for Howard Marshall Engineering Ltd manufactured products;
 - b. As specified by the manufacturer for 3rd party products from the date of delivery;
 - c. As specified upon the quotation for used goods;
 - d. 90 days from the date of delivery for spare parts for good covered items 4,a & 4,b;
5. Liability in respect of any defect in or failure of the goods delivered is limited to either repair, replacement or the cost of replacement (as the case maybe) of the goods or the portion thereof which are defective where the defect, under proper use, arises from faulty materials or workmanship within the timescale specified of the date of delivery. The course of action being at the discretion of Howard Marshall Engineering Ltd. This warranty is in lieu of and to the exclusion of any conditions, guarantees or warranties expressed or otherwise implied by law.
6. No alteration or variation of these terms and conditions shall be effective unless agreed in writing and signed on behalf of Howard Marshall Engineering Ltd by an authorised representative.
7. The quoted price for the goods may be varied by Howard Marshall Engineering Ltd at any date up to the date of contract and the purchaser shall pay such additions to the quoted price as part of the contract price.
8. The quoted price is:
 - a. exclusive of VAT or any similar purchase tax effective from time to time which tax will be added to Howard Marshall Engineering Ltd's invoice at the rate appropriate to the goods at the date of delivery.
 - b. strictly net and not subject to any discount unless expressly agreed between Howard Marshall Engineering Ltd and the purchaser in writing.
9. The contract price shall be paid by the purchaser to Howard Marshall Engineering Ltd without any deductions of set-off in cash prior to delivery or in the case of customers so authorised by Howard Marshall Engineering Ltd in writing within thirty days of the date of Howard Marshall Engineering Ltd's account ("the due date for payment") in Sterling.
10. Any amount not paid by the purchaser to Howard Marshall Engineering Ltd on the said due date for payment shall bear interest at the rate of 2% per month, accruing from day to day, from the due date for payment until the actual date of payment.
11. Delivery shall be deemed to have occurred
 - a. on the date agreed therefore between the parties; or
 - b. when the purchaser is notified that the goods are available for collection and shall occur prior to the commencement of loading.
12. Time for delivery shall not be of the essence of the contract.
13. Without prejudice to the foregoing term, if for any reason, the purchaser fails to accept delivery of the goods at the time delivery is deemed to have occurred, Howard Marshall Engineering Ltd shall if its storage facilities permit store the goods and take all reasonable steps to prevent their deterioration until their actual delivery and the purchaser shall be liable to Howard Marshall Engineering Ltd for the reasonable costs (including insurance) of it so doing. This provision shall be in addition to and not in substitution for any other payment or damages for which the purchaser may be liable to Howard Marshall Engineering Ltd in respect of his failure to take delivery.
14. The risk in the goods shall pass from the purchaser at the time of delivery as herein defined and the purchaser hereby agrees to keep Howard Marshall Engineering Ltd indemnified from all claims and losses resulting from damage to the said goods from any cause whatsoever after the said date.
15. In the event that Howard Marshall Engineering Ltd is requested by the purchaser to engage a carrier to transport the goods on behalf of the purchaser, then Howard Marshall Engineering Ltd shall, subject to arrangement to the contrary, act as the purchaser's agent and the purchaser hereby agrees:
 - a. that Howard Marshall Engineering Ltd is authorised, subject to express written requirements to the contrary, to engage a carrier on such terms and conditions as it deems fit;
 - b. that the purchaser shall indemnify Howard Marshall Engineering Ltd against all demands and claims which may be made against it by the carrier and all liability which Howard Marshall Engineering Ltd may incur to the carrier and any other person arising out of the transportation of the goods and
 - c. that delivery shall have taken place prior to the goods passing into the hands of the carrier and that the goods are transported at the risk of the purchaser.
16. Notwithstanding the delivery of any goods to the purchaser, ownership shall not pass until Howard Marshall Engineering Ltd has received payment of the contract price in full. Until the date of payment of the contract price in full the purchaser, if so required by Howard Marshall Engineering Ltd, will store the goods in such a way that they are clearly the property of Howard Marshall Engineering Ltd. The purchaser agrees that if the goods or any part of them are used to make new goods or the said goods are incorporated with any others or in any other way become constituents of other goods then Howard Marshall Engineering Ltd will be given ownership of the new goods so made as surety for the contract price and all other amounts due hereunder. To this end the purchaser and Howard Marshall Engineering Ltd hereby agree that the ownership of any goods so created, whether finished or not, is to be transferred to Howard Marshall Engineering Ltd and that this transfer of ownership will be considered to have taken place through and at the moment of the operation or event by which the goods are converted or incorporated into the new goods. Until payment in full of all

SOLUTIONS PROVIDER TO THE AGRICULTURAL AND GROUNDCARE INDUSTRY

VAT Reg. No. GB598691953 Company Reg. No. 8581123 EORI. No. GB598691953000

- monies due hereunder to Howard Marshall Engineering Ltd by the purchaser, the purchaser shall keep all the goods and the new goods for Howard Marshall Engineering Ltd as fiduciary owner and, if required, shall store all such goods in a manner which recognises this. Nevertheless, the purchaser shall be at liberty to sell all such goods to third parties within the framework of the normal carrying on of business and to deliver them on condition that, if required to do so prior to discharge of all monies due to the purchaser thereunder, the purchaser will do all things necessary to transfer to Howard Marshall Engineering Ltd all claims that the purchaser has against his buyer, to the extent of the amounts remaining due to Howard Marshall Engineering Ltd hereunder, emanating from such transactions.
17. All the specifications, illustrations, drawings, diagrams, price list, dimensions, performance figures and other technical data furnished by Howard Marshall Engineering Ltd in respect of the goods, whether in writing or not, are furnished only on the basis that they are expressly warranted or guaranteed in writing by Howard Marshall Engineering Ltd and are, as such, expressly stated by Howard Marshall Engineering Ltd to form part of the contract.
 18. If the goods or any part of them are to be manufactured or supplied in accordance with any specifications, measurements or other instructions furnished by the purchaser, the purchaser (or purchaser's customer) shall have no claim of any nature whatsoever against Howard Marshall Engineering Ltd and shall keep Howard Marshall Engineering Ltd indemnified from:
 - a. any loss or damage sustained by the purchaser (or purchaser's customer) as a result of any error, discrepancy or defect in the specifications, measurements or other instructions provided;
 - b. if the goods in question are not suitable for the purposes for which they were required, whether those purposes are known to Howard Marshall Engineering Ltd or not;
 - c. all damages, costs and expenses to which Howard Marshall Engineering Ltd may become liable by virtue of the work done in accordance with the purchaser's specification involving any infringement of a registered design or patent.
 19. Howard Marshall Engineering Ltd shall be exempted from and shall not be liable under any circumstances whatsoever for:
 - a. any indirect or consequential damage of any nature or any loss of profit or special damages of any nature and whether in the contemplation of the parties or not which the purchaser (or purchaser's customer) may suffer as a result of any breach by Howard Marshall Engineering Ltd of its obligations under the contract;
 - b. any death or personal injury to any person, except to the extent that such death or injury results from the negligence of Howard Marshall Engineering Ltd, its servants or agents;
 - c. any other loss which may result from the carrying out of Howard Marshall Engineering Ltd's obligations under this contract, whether due to the negligence of Howard Marshall Engineering Ltd's servants or agents or otherwise;
 - d. any claims for any alleged non-delivery or failure of the goods to comply with the contract unless written notice of the claim is received by Howard Marshall Engineering Ltd within seven days after delivery of the goods by Howard Marshall Engineering Ltd to the purchaser or seven days from the date of actual receipt, whichever is later.
 20. In so far as any of Howard Marshall Engineering Ltd's obligations under the contract are carried out by any of its servants, agents or sub-contractors the provisions of the preceding conditions are stipulated for their benefit as well as Howard Marshall Engineering Ltd's and each of them shall be exempted accordingly.
 21. The purchaser (or purchaser's customer) shall have no claim whatsoever against Howard Marshall Engineering Ltd for any failure by Howard Marshall Engineering Ltd to carry out any of its obligations under the contract as a result of force majeure including, without prejudice to the generality of the foregoing, act of God, war or hostilities or threat or apprehension thereof, blockade, embargoes, insurrection, mobilisation, governmental direction, intervention of civil, naval or military authorities or other agencies or government or of provincial port or other authority riot, civil commotion, strikes, lock-outs, slow-downs, sabotage, prolonged failure due to shortage of electric current, plague or other epidemics, quarantine, fire, flood, ice, frost, accidents or break-down of machinery affecting activities of Howard Marshall Engineering Ltd, the manufacturers or suppliers to Howard Marshall Engineering Ltd or any other person, firm or corporation directly or indirectly connected with the sale, manufacture, transport or delivery of the goods or any other cause of whatsoever nature beyond the control of Howard Marshall Engineering Ltd, and in the event of the aforementioned occurring, Howard Marshall Engineering Ltd shall have the option either to cancel this contract wholly or partially or to extend the time for delivery during such period as the circumstances or any of them shall continue and in the event of such postponement by Howard Marshall Engineering Ltd the purchaser (or purchaser's customer) shall have no claims whatsoever against Howard Marshall Engineering Ltd.
 22. In the event of any amount(s) owed by the purchaser to Howard Marshall Engineering Ltd from any cause whatsoever not being paid on the due date then, without prejudice to any other right which it may have, Howard Marshall Engineering Ltd may:
 - a. require that all amounts then owed to it by the purchaser from any cause whatsoever (and whether the contract or not) shall immediately become due and payable;
 - b. retain possession of any goods ordered by the purchaser, whether delivered or not, until all such amounts have been paid;
 - c. until such payment is made, suspend the carrying out of any of its then incomplete obligations from any cause whatsoever, whether under the contract or not;
 - d. terminate any credit facilities granted to the purchaser, whether under the contract or not.
 23. If the purchaser shall make default in or commit any breach of this contract or of any other of its obligations to Howard Marshall Engineering Ltd, or if any distress or execution shall be levied upon the purchaser's property or assets, or if the purchaser shall make or offer to make any arrangement or composition with its creditors or commit any act of bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against him or if the purchaser is a limited company any resolution or petition to wind up such company's business (other than for the purpose of amalgamation or reconstruction) shall be passed or presented or if a receiver of such company's undertaking property or assets or any part thereof shall be appointed, Howard Marshall Engineering Ltd shall have the right forthwith to determine this contract and upon written notice of such termination being posted to the purchaser, this contract shall be deemed to have been determined without prejudice to any claim or right which Howard Marshall Engineering Ltd may otherwise have and no relaxation which Howard Marshall Engineering Ltd may have permitted on any occasion in regard to the carrying out of the purchaser's obligations hereunder shall prejudice or be regarded as a waiver of Howard Marshall Engineering Ltd's rights to enforce those obligations on any subsequent occasion.
 24. Upon the termination of the contract for any reason whatsoever prior to the payment in full of all amounts due hereunder:

SOLUTIONS PROVIDER TO THE AGRICULTURAL AND GROUND CARE INDUSTRY

VAT Reg. No. GB598691953 Company Reg. No. 8581123 EORI. No. GB598691953000

- a. all amounts at that date owed by the purchaser to Howard Marshall Engineering Ltd under the terms of the contract shall become due and payable forthwith;
 - b. Howard Marshall Engineering Ltd shall be at liberty to retake possession of any goods in respect of which the ownership has not passed and, if necessary, the purchaser hereby gives Howard Marshall Engineering Ltd full right and liberty to enter onto the property of the purchaser in order to execute this right.
25. Any promissory note, bill of exchange or other negotiable instrument received by Howard Marshall Engineering Ltd from the purchaser shall not be a negation of the debt for which it is given and the purchaser hereby waives presentment, notice of dishonour and protest where applicable.
26. Any notice authorised or required to be given hereunder:
- a. by the purchaser, shall be sent by first class post to the registered office of Howard Marshall Engineering Ltd; and
 - b. by Howard Marshall Engineering Ltd, shall be sent by first class post to the last known address of the purchaser or address given by the purchaser for that purpose;
 - c. and shall be deemed to have been served on the working day next following the date of posting.
27. Each condition hereof is to be construed as an individual and separate condition and the invalidity of any one or more conditions shall not affect the validity or enforceability of the remainder.
28. These terms and conditions shall be subject to and construed in accordance with the laws of England and the purchaser hereby agrees and declares that Howard Marshall Engineering Ltd may institute proceedings arising out of the contract in the County Court with jurisdiction over its main office, whether or not the cause or place where the cause of action arose is beyond the jurisdiction of that court.
29. Site Specific Requirements:
- a. The Purchaser should inform Howard Marshall Engineering Ltd of any site regulations, training or site induction requirements, special PPE requirements or security clearances required within five days of Howard Marshall Engineering Ltd submitting a quotation to the Purchaser and before the Purchaser submits their purchase order;
 - b. Howard Marshall Engineering Ltd reserves the right to amend the quotation based upon any additional costs required to comply with the items mentioned in paragraph 29.1 above, before a purchase order is submitted by the Purchaser;
 - c. Howard Marshall Engineering Ltd reserves the right to raise additional charges on the Purchaser if any costs required to comply with the items mentioned in paragraph 29.1 above are not made known to Howard Marshall Engineering at the time the purchase order is placed;
30. Export terms
- a. Where the Goods are supplied for export from the United Kingdom, the provisions of this clause shall (subject to any contrary terms agreed in writing between the Customer and Howard Marshall Engineering Limited) override any other provision of these Conditions.
 - b. The Customer shall be responsible for complying with any legislation governing the importation of the Goods into the country of destination; and the export and re-export of the Goods and shall be responsible for the payment of any duties on it.
 - c. Unless otherwise agreed in writing between the Customer and Howard Marshall Engineering Limited, the Goods shall be delivered free on board the air or sea port of shipment and Howard Marshall Engineering Limited shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.
 - d. Howard Marshall Engineering Limited shall be responsible for arranging for the testing and inspection of the Goods at Howard Marshall Engineering Limited's premises before shipment.
 - e. The Customer shall pay the price for the Goods in pounds sterling in full by international bank transfer on placement of the Order. The Customer will be responsible for any bank charges it incurs in making payment.