

MAF Composting Systems Terms and Conditions of Sale

1. **DEFINITIONS** In these terms and conditions, the following words will have the meaning set out opposite them:

1.1 Seller shall mean MAF Composting Systems.

1.2 Goods shall mean all goods supplied by the Seller.

1.3 Buyer shall mean the person or company placing an order with the Seller for Goods in accordance with these terms and conditions.

2. GENERAL CONDITIONS APPLICABLE

2.1 These conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions, including any terms and conditions which the Buyer may purport to apply under any purchase order, conformation of order or similar document.

2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these conditions.

2.3 (Initial payment following confirmation order and/or acceptance of delivery of goods shall be deemed conclusive evidence of the Buyer's acceptance of these conditions.

2.4 Any variation of these conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller.

2.5 No binding contract shall exist unless confirmed in writing as such by the Seller.

2.6 Performance of the Contract may be suspended wholly or in part in the event of a stoppage, delay or interruption of work in the Seller's establishment or that of its suppliers as a result of strikes, lockouts, trade disputes, plant breakdown, accident or any cause whatsoever beyond the Seller's control. Contracts shall not be cancelled without the written consent of the Seller and the Seller shall not be liable for any loss or damage whatever due to failure by the Seller to deliver Goods (or any of them) promptly or at all.

2.7 The Price of the Goods shall be the seller's quoted price which shall be binding on the Seller provided the Buyer shall accept the seller's quotation within 30 days. The Seller may, by giving notice to the Buyer at any time up to 30 days before delivery, increase the price of Goods to reflect any increase in the cost to the Seller which is due to factors occurring after the making of the Contract which are beyond the reasonable control of the Seller (including, without limitation, foreign exchange fluctuations, taxes and duties and the cost of labour, materials and other manufacturing costs.)

2.8 Unless specifically agreed to the contrary, all trade terms shall (subject to these conditions) be interpreted in accordance with INCOTERMS current at the date of order.

2.9 If the Buyer fails to make any payment on the due date then, without prejudice of any of the Seller's other rights, the Seller may:

2.9.1. Suspend or cancel delivery of any Goods due to the Buyer and/or

2.9.2. Appropriate any payment made by the Buyer to such Goods as the Seller may in its sole discretion think fit.

3. **CONSULTING SERVICES** The consulting service which the Seller provides in connection with its industrial products is part of its sale service. Any advice and assistance is given at the Buyer's sole risk and the Seller shall not be liable for any loss, damage or claims arising either directly or indirectly arising there from other than in respect of death or personal injury resulting from the Seller's negligence.
4. **IMPORT OR EXPORT LICENSES** The Buyer shall promptly obtain all necessary Import Licences/clearances and other consents necessary for the purchase of the Goods.
5. **WARRANTY**
 - 5.1 In the event of any breach of this Contract by the Seller the remedies of the Buyer shall be limited to damages. Under no circumstances shall the liability of the Seller exceed the price of the Goods.
 - 5.2 All terms, conditions and warranties (whether implied or made expressly) whether by the Seller or its servants or agents or otherwise (other than those express warranties set out in the Seller's quotation) relating to the quality and/or fitness for purpose of the Goods are excluded.
 - 5.3 The Buyer may not rely on any statement other than one made in writing by the Seller.
 - 5.4 Save for any liability for death or personal injury resulting from negligence on the part of the Seller, the Seller's liability for defective Goods shall in no case extend beyond the repair or replacement of the defective items.
 - 5.5 The warranty covers a period of 1 year from the date of dispatch from the country of origin, manufacturing plant, subject to proper installation within published (or separately specified) operating limits. It does not apply to defects arising from fair wear and tear or to manufactured products not of the Seller's own manufacture.
 - 5.6 The Seller shall be under no liability to the Buyer in respect of any consequential financial loss, whether direct or indirect, suffered by the Buyer arising out of breach by the Seller of this Contract.
6. **NOTIFICATION FOR SPECIAL INSPECTION** Arrangements for unit to be inspected by outside inspectors must be made in advance, allowing a minimum of 10 working days notice. The Seller reserves the right to make a charge for such special inspection.
7. **NON ACCEPTANCE OF GOODS** The Buyer must take delivery at the time specified in the Contract. In cases where delivery cannot be accepted at these times, the Seller reserves the right to invoice on the date delivery is due.
8. **PATENTS** The Buyer shall indemnify the Seller against all damages, penalties, costs and expenses to which the Seller may become liable as a result of work done in accordance with the Buyer's specification which involves the infringement of any letters patent, registered, design, copyright or other form of intellectual property.
9. **Tax** The appropriate amount of any V.A.T., purchase tax, sales tax or other tax payable will be charged at the rate ruling on the date of shipment in addition to the price.
10. **CONFIDENTIAL INFORMATION AND INDUSTRIAL PROPERTY RIGHTS** All materials of commercial value including machinery, drawings, documents, confidential records, computer software and other information supplied by the Seller are supplied on the express understanding that copyright is reserved to the Seller and that the Buyer will not, without written consent of the Seller, either give away, loan, exhibit or sell any such materials, drawings,

documents, records, software or other information or extracts thereof or use them in any way except in connection with the Goods in respect of which they are issued.

11. TERMS OF PAYMENT The Seller's standard terms of payment are:

11.1 First payment or deposit is due upon acceptance of the conformation of order.

11.2 Second payment is due when goods leave factory CIF.

11.3 Final payment is due upon successful installation of goods by seller or seller's agent or after 30 days from date of delivery unless delays caused by seller or seller's agent.

11.4 Overdue invoices will be subject to interest charges from the due date for payment to the date of actual payment at a rate equivalent to 2% above the base rate of HSBC bank in force at the time when payment was due.

12. TIME OF DELIVERY Where specifications are supplied by the Buyer these must be provided in reasonable time to enable the Seller to complete delivery within the time specified. All reasonable effort will be made to meet the Buyer's delivery requirements, but no liability can be accepted from delays. Commencement of delivery schedule begins upon receipt of first payment or deposit.

13. OCCUPATIONAL HEALTH AND SAFETY ACT The installation, maintenance and operating instructions must be carefully followed. Further information, if required, is available from the Seller.

14. RISK AND TITLES

14.1 Risk shall pass to the Buyer so that the Buyer is responsible for all loss, damage or deterioration of the Goods:

14.1.1. At the time when the Goods or a relevant part thereof leave at the place of delivery or

14.1.2. In all other circumstances at the time when the Goods or a relevant part thereof leave the premises of the Seller whether or not the Seller arranges transport and where the Goods are delivered by carrier any claims for loss or damage in transit must be made by the Buyer against the carrier in accordance with the carrier's conditions.

14.2 In spite of delivery having been made properly, property of the Goods shall not pass from the Seller until:

14.2.1. the Buyer shall have paid the Price plus all charges and taxes incurred with delivery; and

14.2.2. no other sums whatever shall be due from the Buyer to the Seller.

14.3 Until property in the Goods passes to the Buyer in accordance with condition 14.2 the Buyer shall hold the Goods and each of them on a fiduciary basis as bailiff for the Seller. The Buyer shall store the Goods (at no cost to the Seller) separately from all other goods in its possession and marked in such a way that they are clearly identified as the Seller's property.

14.4 Notwithstanding that the Goods (or any part of them) remain the property of the Seller the Buyer may sell or use the Goods in the ordinary course of the Buyer's business at full market value for the account of the Seller. Any such sale or dealing shall be a sale or use of the Seller's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal when making such sales or dealings. Until property in the Goods passes from the Seller the entire proceeds of sale otherwise of the Goods shall be held in trust for the Seller and shall not be mixed with other money or paid in to any overdrawn bank account and shall

be at all material times identified as the Seller's money.

- 14.5 The Seller shall be entitled to recover the Price notwithstanding that property in any of the Goods has not passed from the Seller.
- 14.6 Until such time as property in the Goods passes from the Seller, the Buyer shall upon request deliver up such of the Goods as have not ceased to be in existence or resold to the Seller. If the Buyer fails to do so the Seller may enter upon any premises owned, occupied or controlled by the Buyer where the Goods are situated and repossess the Goods. On the making of such request the rights of the Buyer under condition 14.4 shall cease.
- 14.7 The Buyer shall not pledge or in any way charge by way of security of any indebtedness any of the Goods which are the property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer does so all sums what ever owing by the Buyer to the Seller shall forthwith become due and payable.
- 14.8 The Buyer shall insure and keep insured the Goods for the full Price against 'all risks' to the reasonable satisfaction of the Seller until the date that the property in the Goods passes from the Seller, and shall whenever requested by the Seller produce a copy of the policy of insurance. Without prejudice to the other rights of the Seller, if the Buyer fails to do so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.

15. DEFECTS, DAMAGES, LOSS OR NON DELIVERY

- 15.1 The Buyer shall inspect the Goods on delivery and shall within 5 days of delivery, notify the Seller in writing of any alleged defect, shortage in quantity, damage or failure to comply with description or sample. The Buyer shall afford the Seller the opportunity to inspect the Goods within a reasonable time following delivery and before any use is made of them. If the Buyer shall fail to comply with these provisions, the Goods shall conclusively be presumed to be in accordance with the Contract and free from any defect or damage and the Buyer shall be deemed to have accepted the goods.
- 15.2 The Seller shall not be liable for loss from an unpacked consignment.
- 15.3 If the Goods are not in accordance with the Contract for any reason, the Buyer's sole remedy shall be limited to the Seller making good any shortage by replacing such Goods or, if the Seller shall elect; by refunding a proportionate part of the Price.
- 15.4 If the Buyer properly rejects any Goods which are not in accordance with the Contract, the Buyer shall nonetheless pay the full Price for such Goods, unless the Buyer promptly gives notice of rejection to the Seller, and, at the Buyer's cost, return such Goods to the Seller before the date when payment therefore is due.

16. RETURN OF GOODS WHICH CONFORM TO THE CONTRACT

- 16.1 No Goods delivered to the Buyer which are in accordance with the Contract will be accepted for return without prior written approval of the Seller (in accordance with the Seller's returns authorization procedure) and on terms to be determined at the absolute discretion of the Seller.
- 16.2 If the Seller agrees to accept any Goods for return the Buyer shall be liable to pay a handling charge as outlined in the Supplier's returns approval letter. Such Goods must be returned by the Buyer carriage paid to the Seller in their original condition.
- 16.3 Goods without the prior written approval of the Seller may, at the Seller's absolute discretion, be returned to the Buyer or stored at the Buyer's cost without prejudice to any

other rights or remedies the Seller may have.

17. **SEVERANCE** Any provision of this Contract which is or may be invalid or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision of this contract.
18. **WAIVER OF CONDITIONS OR INDULGENCE** Any indulgence granted by the Seller to the Buyer or any waiver by the Company of its rights under these conditions in respect of any particular transaction or series of transactions, shall not be deemed to be a waiver of the Seller's rights in respect of any further transactions nor to be an agreement to confer the same indulgence in respect of any further transactions.
19. **DISCLAIMER** The Seller will accept no responsibility for the safety or performance of any of its products which are modified subsequent to dispatch from the Seller. In circumstances where the Company supplies Goods to the Buyer for incorporation with or use ancillary to any composite products to be produced, manufactured, processed or supplied by the Buyer ("The Products") the Buyer shall forthwith on demand produce for inspection by the Seller copies of written instructions, information and warnings to be supplied by the Buyer in relation to the Products ("the information") provided nonetheless that such inspection shall not be deemed to constitute acceptance or approval on the part of the Seller of the Information and the Buyer shall indemnify the Seller against all losses and damages that the Seller may incur in the event of any claim being made against the Seller relating to the Products in circumstances where the Goods supplied by the Seller either were not the defective part of the Products or were only rendered defective part of actions or omissions of the Buyer or by reason of instructions information or warnings given by the Buyer or other supplier of the products.
20. **LAW OF CONTRACT** All disputes arising out of, or in connection with, the terms of this contract shall be governed by the United Nations Convention on Contracts for the International Sale of Goods (CISG) and subject to the exclusive jurisdiction of the Courts of Germany.