

## Hako Machines Limited - Terms of Sale (Goods)

### Contract Structure and Acceptance

1. These terms, together with the details (and any special terms which expressly override these terms) in any valid order form (or similar) accepted by us (an **Order**), form a contract between you and us which becomes binding as set out in clauses 3 and 4 below. No other terms will apply to this contract unless expressly agreed in writing and signed by one of our authorised representatives.
2. Each Order represents a separate contract which includes these terms. Termination or amendment of any one of those separate contracts will not affect any of the others unless expressly stated or agreed.
3. The contract becomes binding (and completely replaces any other terms which may be in place) whenever one of the following things happen, whichever happens first:
  - 3.1 our express acceptance of an Order from you (however that acceptance is communicated);
  - 3.2 your indication of acceptance of these terms in respect of an Order, whether by email, signature or any other means;
  - 3.3 your acceptance of any Goods; or
  - 3.4 your payment of any Charges in respect of the Goods.
4. Any purchase order, order confirmation or other form of acceptance by you which tries to amend or replace these terms:
  - 4.1 will be valid agreement to these terms and the Order; but
  - 4.2 will not otherwise have the effect of in any way amending or replacing the contract.

### Definitions

5. In this contract, certain words and phrases start with upper-case letters or have a special meaning. The following meanings apply to those words and phrases:

**Additional Items** means any:

- (a) packaging costs;
- (b) transport and delivery costs (including any associated insurance costs);
- (c) storage costs; and / or
- (d) taxes (including value added tax), duties or other charges imposed by any governmental or other authority in respect of the sale, delivery, export or import of any of the Goods (but excluding taxes assessed on profits or gains).

**Defect** means, in respect of the Goods, a failure to meet the characteristics and quality standards imposed by this contract and (to the extent not excluded by this contract) the general law.

**Goods** means any item (or part of an item) sold by us to you, as set out in an Order.

## Insolvency Event

means, in respect of a party, that it:

- (a) suspends, or threatens to suspend, payment of its debts;
- (b) is unable to pay its debts as they fall due or admits inability to pay its debts;
- (c) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (**IA 1986**) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;
- (d) commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors, other than for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or for a solvent reconstruction;
- (e) is the subject of a petition filed, a notice given, a resolution passed, or an order made, for or in connection with its winding-up;
- (f) it is the subject of an application made to court, or an order made, for the appointment of an administrator, or a notice of intention to appoint an administrator
- (g) has an administrator is appointed over it;
- (h) is the subject of the holder of a qualifying floating charge over its assets having become entitled to appoint or having appointed an administrative receiver;
- (i) is the subject of a person having become entitled to appoint a receiver over all or any of its assets or a receiver having been appointed over all or any of its assets;
- (j) is the subject of a creditor or encumbrancer attaching or taking possession of (or a distress, execution, sequestration or other such process being levied or enforced on or sued against) the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (k) is the subject of any event which occurs, or proceeding taken, in any jurisdiction that has an effect equivalent or similar to any of the events mentioned in (a) to (j) above; or
- (l) suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

<b>Order</b>	has the meaning given in clause 1.
<b>Price</b>	has the meaning given in clause 21.
<b>Warranty Period</b>	has the meaning set out in the Appendix to these terms.
<b>we, us, our</b>	or related words refer to Hako Machines Limited.
<b>Working Hours</b>	means 08.00-17.00, Monday to Friday, excluding bank holidays and other statutory holidays.
<b>you, your</b>	or related words refer to the company (or other entity) buying the Goods under these terms (as named on the Order).

6. Any words following “including”, “includes”, “for example”, “in particular” or any similar expression are illustrative only and do not change the sense of the wider clause they are used in.

### **Sale of the Goods**

7. In return for you paying the Price, we will sell the Goods to you.
8. You will only become the owner of the Goods once they (and any Additional Items relating to them) have been paid for in full. If any Goods are in your possession for any time before that then you hold them on our behalf and you must not, during that period, do any of the following things (or allow them to be done) without our express permission:
- 8.1 label or in any other way mark any of those Goods with your name or details, or otherwise indicate that any of those Goods belong to you;
  - 8.2 remove or deface any existing identification marks or numbers on any of those Goods;
  - 8.3 grant anyone else a charge or allow anyone else to gain any other rights over any of those Goods;
  - 8.4 use any of those Goods to raise money or guarantee any of your obligations;
  - 8.5 claim any capital allowances on those Goods;
  - 8.6 lend or give any of the Products to anyone else;
  - 8.7 allow anyone else to take (or take control of) any of those Goods to settle your debts;
  - 8.8 re-site or move any of those Goods away from the premises they were delivered to (but this does not prevent you from using the Goods away from those premises as part of your ordinary use, provided the Goods are returned to those premises after each use);
  - 8.9 modify any of those Goods in any way; or
  - 8.10 any other thing which is inconsistent with the fact that you do not own the Goods.

### **The Goods**

9. It is your responsibility to check that the Goods specified in an Order are correct and meet your needs. We do not offer you any assurance that the Goods will be suitable for any specific purpose, and any information given by us or our representatives, including information in brochures or on websites, is only for guidance.
10. The quantities of the Goods will be as set out in the Order.
11. We are allowed to make changes to the specification, design, materials, appearance or finish of the Goods, without this being a breach of our obligation to supply the Goods set out in the Order, where:
- 11.1 the change is needed to comply with safety or legal requirements (in which case we will tell you about the change); or

11.2 the change does not materially and adversely affect the quality or performance of the Goods, or any aspect of the appearance that is expressly set out in the Order.

### **Delivery, Rejection and Acceptance of the Goods**

12. In the following clauses 13 to 17 below, “delivery” will include collection, unless that would not make sense in context.
13. Where we agree to arrange delivery of the Goods to a place other than our UK premises that is not fundamental to the contract.
14. At the same time as (or as soon as reasonably possible after) we accept your Order, we will contact you to agree a place and reasonable date(s) for proposed delivery of the Goods. We and you will act reasonably when trying to reach agreement. If agreement is not reached, the place of delivery will be at our UK premises and the proposed date(s) of delivery will be the earliest date(s) on which we can be reasonably confident the Goods will be ready for you.
15. The delivery dates referred to in clause 14 above are only estimates and we are not liable to you for any costs, losses or other amounts of any sort if we fail to deliver the Goods by those dates. Where we become aware that a proposed delivery date will not be met, we will liaise with you to agree (in accordance with clause 14 above) a new proposed delivery date.
16. If we fail to deliver the Goods within 3 months of our original proposed delivery date, you are entitled to cancel the Order in accordance with clause 45 below. This is your only remedy for late delivery.
17. The Goods may be delivered in instalments. No failure or breach by us in respect of one or more specific instalments gives you any rights or remedies against us in respect of any other instalments.
18. You are only allowed to reject Goods that suffer from a Defect. To reject the Goods in those circumstances, you must inform us in writing, giving details of the alleged Defect, and:
  - 18.1 reject the Goods at the point of delivery, where the existence of the Defect ought to be revealed by an examination of the Goods; or
  - 18.2 reject the Goods within one month in all other cases.
19. Where you validly reject Goods in accordance with clause 18 above, we will, at our choice, either:
  - 19.1 supply replacement Goods (in which case the replacement Goods will be treated as being under a new Order on the same terms as the relevant original Order); or
  - 19.2 cancel the relevant part of the Order in accordance with clause 45 below.

This clause 19 sets out your only remedy in respect of your rejection of Goods under clause 18, but does not affect your remedies under clause 30 below.
20. All Goods which are not rejected in accordance with clause 18 will be treated as having been accepted by you. You will not be entitled to withhold any payment (or claim any refund) for accepted Goods. That does not affect your remedies under clause 30 below.

### **Price Changes**

21. The price payable for the Goods and Additional Items (the **Price**) will, subject to any changes as described in clause 22 below, be:
  - 21.1 in respect of the Goods, as set out on the Order or, if no price is set out on the Order, our published list price for the Goods in question at the time of the Order; and
  - 21.2 in respect of the Additional Items, as set out in the Order or as notified to you from time to time (which will, to the extent reasonably practicable, be before you become liable for the Additional Items in question).

22. We can change the Price by a reasonable amount to reflect our additional internal and external costs (if any) and associated profit where:
- 22.1 you fail (either at all or within a reasonable time of being asked) to give us any instructions or other input needed from you to enable timely supply of the Goods;
  - 22.2 you make (and we agree to) any changes to your Order; or
  - 22.3 you request (and we agree to) any changes to any delivery date agreed (or fixed) under clause 14 above, or you fail to accept delivery of (or, as relevant, fail to collect) the Goods on such an agreed delivery date.
23. For the purposes of defining what is a “reasonable” internal cost under clause 22 above, the costs reflected in the original Price (subject to any changes in circumstance since that Price was agreed) and the amounts we charge other customers in the same or similar circumstances will be taken into account, together with any other relevant factors.
24. We will use reasonable endeavours to tell you about any changes to the Price (including actual or estimated amounts of such changes) as soon as reasonably possible after they arise (or, in the case of an agreed change to your Order, before that change is formally agreed), but any failure to tell you will not prevent the changes from applying.

### **Payment**

25. Unless the Order says something different (in which case what the Order says will apply), we will invoice you at the same time as (or shortly after) despatching the Goods or making them available for collection.
26. Each invoice will cover the Price relating to the Goods in question.
27. Unless it says something different on the Order (in which case what the Order says will apply instead), your payment for each invoice must reach the account specified on the invoice, in cleared funds and in the currency stated on the invoice, within the period stated on the invoice (which will be based on our assessment of your creditworthiness) or, if no period is stated, within 7 days of the invoice date.
28. If, in good faith, you dispute any invoice, you must tell us about that (giving reasons for your dispute and enough information to enable us to properly consider it) before the due date for payment of the relevant sums. You must still pay any undisputed amount on or before the due date.
29. If you fail to pay any sum on time, we have the right to charge daily interest on that sum at the annual rate of 5% above the Santander base rate from time to time. Interest will be charged from the payment due date until actual payment. Such interest charged will be subject to a minimum charge of £25.00, reflecting our additional administrative costs associated with dealing with late payments. This clause will apply both before and after any court judgement we may obtain against you and will survive and apply after termination.

### **Warranty and Other Remedies**

30. Where a Defect affecting any Goods becomes apparent and is notified to us within the Warranty Period that applies to those Goods, we will, subject to the requirements set out in clause 31 below and the provisions of the Appendix to these terms, repair or replace (at our choice) the affected Goods or part of the Goods at no extra charge to you. This (together with your right to reject Goods under clause 18 above) is your only remedy in respect of Defects and replaces any remedy contained in the general law.
31. Our obligations under clause 30 above will only apply:
- 31.1 where you own the Goods in question, in accordance with clause 8 above;
  - 31.2 where you tell us about the Defect immediately on becoming aware of it and take reasonable steps to avoid making it worse;
  - 31.3 where the Goods in question have at all times been operated under normal conditions;

- 31.4 where the Goods in question have at all times been used and (demonstrably) maintained in accordance with the manufacturer's instructions;
  - 31.5 where you have not removed any identification numbers or plates from the Goods in question;
  - 31.6 where you have not in any way altered the Goods in question (unless consented to or instructed by us);
  - 31.7 to the extent that the Defect does not arise from any design, specification or alteration provided or requested by you; and
  - 31.8 to the extent that the Defect does not arise from, accident, misuse, neglect or overloading, or solely from wear and tear.
32. Where any invoice for Goods (and / or any Additional Items associated with those Goods) remains unpaid by you more than 30 days after the due date for payment:
- 32.1 if the Goods are (or come into) in your possession, clause 34 below will apply; or
  - 32.2 if the Goods are not yet in your possession, we can cancel the Order in accordance with clause 45 below, sell the Goods to someone else and / or claim against you for any additional loss we suffer.
33. If you are the subject of an Insolvency Event (whether or not we terminate the contract as a result) or the contract is terminated, clause 34 below will apply.
34. Where (under clause 32 or 33 above) this clause applies, we, or people appointed by us, may, during business hours, enter any premises controlled by you recover any Goods not yet owned by you in accordance with clause 8 above. You now grant us the necessary access rights to give effect to this clause and will comply with our reasonable requests for further information. When exercising this right we must act reasonably and keep any disruption to your business and operations to a reasonable minimum. Our exercise of any rights under this clause does not affect any other remedies we may have.
35. We have no liability to you, and you have no remedy against us (except as set out in clause 16 above or clause 36 below) in respect of any failure or breach by us to the extent that:
- 35.1 the failure or breach is caused by an event or circumstances beyond our reasonable control;
  - 35.2 we tell you that this is the case; and
  - 35.3 we continue to use reasonable endeavours to overcome the effects of the event or circumstances in question.
36. Where clause 35 above applies to prevent us fulfilling all or substantially all of our obligations in respect of an Order for a continuous period of 30 days or more, either you or we may immediately cancel the entire remainder of the affected Order by written notice, in which case clause 45 below will apply.

## **Liability**

- 37. Nothing in this contract limits or excludes any liability (yours or ours) for death or personal injury caused by negligence or any other liability that the law does not allow to be limited or excluded.
- 38. We give no warranties that are not expressly set out in this contract.
- 39. We have no liability to you under or in relation to this contract for any loss of profit, loss of opportunity, loss of goodwill, reputation damage, or any other indirect loss.
- 40. Our liability to you under or in relation to this contract is limited to the total amount paid or payable by you under this contract.
- 41. You indemnify us on demand for all costs, claims, losses, damages, charges, penalties and expenses (including our reasonable legal expenses) arising from your resale of any of the Goods.
- 42. Where we become aware that we have a claim against you under clause 41 above, we will:

- 42.1 promptly tell you;
- 42.2 not admit any liability to a third party without your consent; and
- 42.3 at your request, allow you or advisers appointed by you to conduct the defence of any third party claim, demand or other action.

### **Cancellation and Termination**

- 43. You may not cancel any Order or part of an Order except as expressly set out in these terms.
- 44. We may cancel any Order or part of an Order as expressly set out in these terms or at any time up to 14 days after your receipt of the confirmation for the Order for the Goods in question (in which case clause 45 below will apply).
- 45. Where this clause applies:
  - 45.1 the cancellation must be in writing and must give at least 14 days' advance notice unless these terms expressly say otherwise;
  - 45.2 the cancellation will not affect any Goods (and associated Additional Items) already despatched or made available for collection at the point of cancellation;
  - 45.3 where the cancellation is only partial (and partial cancellation is not permitted under clause 36 above), the cancellation notice will specify which Goods it applies to and will therefore not apply to any remaining Goods that are not specified (and if no Goods are specified then the cancellation notice will be treated as a full cancellation);
  - 45.4 we will promptly reimburse you any amounts already paid by you for Goods (and any associated Additional Items) that have not been despatched to (or made available for collection by) you at the point of cancellation, but excluding any Goods still to be provided under a partial cancellation; and
  - 45.5 if the cancellation is not partial, the contract will automatically terminate at the same time as the cancellation.
- 46. A termination of the contract as a whole also has the effect of cancelling the Order covered by the contract.
- 47. Without affecting any other right or remedy we may have, we may terminate this contract immediately by writing to you if:
  - 47.1 you fail to take delivery of (or to collect) any Goods within 14 days of us telling you that they are available for delivery (or collection);
  - 47.2 you commit a material breach of any term of this contract and, if the breach can be remedied, fail to remedy it within 7 days (or such other reasonable period as we may specify) of us telling you to; or
  - 47.3 you fail to pay any overdue sum due under this contract 30 days after us notifying you that it is overdue.
- 48. This contract will automatically terminate if you are the subject of an Insolvency Event. You must immediately tell us if you are the subject of an Insolvency Event.
- 49. On termination of this contract for any reason, any sums that have already been invoiced but not yet paid will become immediately due for payment.
- 50. Any term of this contract that expressly or by necessary implication is intended to survive termination will continue to apply after termination for as long as is necessary to give effect to it.

### **General**

- 51. You confirm that any information provided by you to populate the Order is accurate and complete.
- 52. Any change to this contract must be in writing and expressly agreed to by an authorised person for both parties.
- 53. You must not assign or otherwise transfer or attempt to transfer this contract without our prior written consent.

54. Any formal notice under this contract must be in writing and sent by recorded delivery. Notices to us should be marked for the attention of the Finance Controller.
55. If any part of this contract is found to be invalid or unenforceable, that will not affect any other part of this contract, which will, to the full extent possible, continue to apply and be enforceable.
56. English law applies to this contract, its subject matter and formation, and the English Courts have exclusive jurisdiction over any disputes arising about those things.



## Appendix – Warranty Terms

### Warranty Definition:

- Repairs required due to the premature failure of component parts as a result of manufacturing defect.
- All warranty is subject to preventative maintenance services being carried out by Hako Machines Ltd or an authorised third party.
- All services must be carried out in line with the manufacturers recommended intervals and content.
- Hako Machines Ltd reserves the right to request all supporting documentation of specific equipment service records in order to support any claim.
- In cases where supporting service documentation (as detailed in the operators manual) is not made available, Hako Machines Ltd reserve the right to reject any and all subsequent claims against the specific machine.

### Exclusions:

- Batteries (subject to manufacturer standard warranty terms)
- Stand- alone charging units (subject to manufacturer warranty terms)
- Preventative Maintenance Services
- Replacement of standard service items
- Repairs required which are not subject to the premature failure of component parts such as; lubrication, adjustments etc.
- All failures due to damage or misuse
- All ground facing equipment
- Consumables such as; brushes, squeegees, skirts, pads, pad drives, bulbs, wiper blades etc.
- Equipment recovery costs.

### Warranty Periods:

#### ***Retail equipment:***

Full parts and labour warranty - 12 months or 500 hours (*whichever the sooner*)

All items will be covered with the exception of those listed in the exclusions above.

#### ***Industrial equipment (Scrubmaster / Sweepmaster range):***

Full parts and labour warranty - 12 months or 500 hours (*whichever the sooner*)

All items will be covered with the exception of those listed in the exclusions above.

#### ***Municipal equipment (Citymaster range):***

Full parts and labour warranty - 12 months or 1200 hours (*whichever the sooner*)

All items will be covered with the exception of those listed in the exclusions above.

#### ***Spare parts***

All parts supplied by Hako Machines Ltd are subject to replacement under warranty for a period of 6 months.

