

## **GENERAL CONDITIONS OF GLASTON AMERICA, INC. (hereinafter "Glaston")**

1. These are General Conditions relative to the supplying of maintenance services including but not limited to normal maintenance service and repair work, emergency service work, telephone support, training and consultation provided by Glaston or its affiliates, which are all hereinafter defined as "Maintenance Services." These General Conditions apply to any products, spare parts, options, or accessories supplied, sold, and/or installed by Glaston, with all of these hereinafter defined as "Products." These General Conditions also apply to the sale and installation of any Machine Upgrades.

### **2. TERMS OF PAYMENT**

**The prices for Maintenance Services or Products described in Paragraph 1 will be in accordance with any accepted Quotations of Glaston or Purchase Orders as issued by the Customer.** The Maintenance Services and Products are charged in accordance with the then valid price list or rate sheet of Glaston. The mentioned price list or rate sheet shall be valid until further notice. Glaston shall have the right to make changes in the price list or rate sheet. Any change in the price list or rate sheet shall be preceded by an advance notice which is to be given at least one (1) month before the new price list or rate sheet becomes valid. Except as otherwise stated in the offers or quotations Glaston's offers are open for acceptance within thirty (30) days and may be withdrawn or revoked by Glaston at any time prior to the receipt of the Customer's acceptance by Glaston. Any reschedule or cancellation of a purchase order shall be subject to Glaston's written consent. The regular working week of Glaston is five (5) days and working day is ten (10) hours between 7am and 7pm.

### **3. DELIVERY, TITLE, RISK AND ACCEPTANCE**

The Products shall be delivered EXWORKS (Incoterms 2010) unless otherwise agreed in writing by Glaston. Delivery dates communicated or acknowledged by Glaston are approximate only, and Glaston shall not be liable to Customer because of any delivery made within a reasonable time before or after the stated delivery date. If Customer fails to take delivery, then Glaston may store the parts at Customer's cost and expense. Title to the Products shall remain with Glaston and the Customer shall not be entitled to sell the Products and to pass the property thereof to any third party without a prior written consent of Glaston until such time that the payment for the Products has been received in full by Glaston together with any interest payable. Until the payment in full of all sums due and owed by the Customer to Glaston, Glaston or its employees or agents shall be entitled to retake possession of the Products. Risk of damage to or loss of the Products shall, unless otherwise specifically agreed, be transferred and passed from Glaston to the Customer in accordance with the applicable terms of delivery. In the event of any damages to the Product package or deviation of the quantities from the packaging list, Customer shall inform Glaston in writing, together with the forwarder's certificate and the photos of such damages or deviation within one (1) day upon the Products' arrival at the destination. Customer shall then complete the acceptance procedure and inform Glaston of any quality issue within seven (7) days upon receipt of the delivery. The Products will be deemed to be accepted by Customer if such Customer fails to initiate the above-mentioned process.

#### **1. CUSTOMER'S RESPONSIBILITIES**

The Customer shall keep a logbook of the operation of the Equipment and present it to the representative of Glaston when requested. The Customer shall allow Glaston freedom of access to the Equipment during any maintenance call and be prepared for the maintenance activities. The Customer shall be responsible for the supply of energy and glass necessary for testing purposes at Customer's own expense. The Customer shall allow the use of telephone or fax for the representatives of Glaston during the maintenance work at Customer's expense. The Customer shall provide tools, lubricants and necessary labor to complete the Maintenance Services without extra charge. The Customer shall provide the technical documentation (e.g. up to date drawings, descriptions, charts and instructions) in its possession, which is necessary for carrying out the agreed or needed Maintenance Services. The Customer shall use the Equipment in accordance with the instructions given by Glaston. The Customer shall immediately notify Glaston if the Customer cannot let Glaston carry out the Maintenance or other Services at the agreed time. In such cases the Customer shall always be liable for any additional costs arising from the delay. The Customer shall ensure that the Maintenance Services are not carried out under dangerous or unhealthy conditions, and shall take all necessary measures to protect Glaston's personnel from exposure to any safety or health hazard. The Customer shall ensure that Glaston's personnel are informed of any safety regulations in force at the place where the Maintenance Services are carried out.

#### **2. WARRANTY**

Glaston warrants that the Maintenance Services shall be performed in a professional, workmanlike manner as agreed between the Parties and that the Products delivered shall be free from any material defects in material and workmanship ("Warranty"). The Warranty period for the Maintenance Services is one (1) month from the performance of the mentioned work and the Warranty period for the sale and delivery of any Products is one (1) month from the delivery unless otherwise separately agreed between the parties. The warranty period for any Machine Upgrade is (12) twelve months. The Customer shall without undue delay notify Glaston in writing of any defect under the above Warranty, which appears in the work performed, or Products or service provided by Glaston. If the Customer fails to give notice of such defect within the Warranty period the Customer shall lose its rights in respect of the defect. Under the above Warranty, Glaston agrees to, at its option and as Customer's sole and exclusive remedy, to either replace or repair Products or, in the case of ineffective Maintenance Services or Machine Upgrade issues to repeat the agreed Services. The express Warranty granted above shall extend only to Customer and not to Customer's customers, agents or representatives. The above Warranty is in lieu of all other warranties, whether express or implied, including without limitation any implied warranties of fitness for a particular purpose, merchantability, or non-infringement of intellectual property rights. All other warranties are hereby specifically disclaimed by Glaston.

## **6. LIMITATION OF LIABILITY**

Glaston's liability under the Warranty Clause does not cover defects or damage due to circumstances for which Glaston is not responsible, such as, without limitation, incorrect use of the equipment related to the Maintenance Services or Products, incorrect daily care, faulty service by the Customer or any third party or any defects caused by any third party. Nor shall Glaston be liable for normal wear and tear. If defects in Glaston's Maintenance Services or Products may cause damage, the Customer shall take all immediate measures, which are necessary to prevent or reduce such damage.

IN NO EVENT SHALL GLASTON BE LIABLE, WHATEVER THE CAUSE THEREOF, FOR LOSS OF BUSINESS, GOODWILL, REVENUE, PROFITS, PRODUCTION OR DATA OF CUSTOMER OR CLAIMS BY THE CUSTOMER'S CUSTOMERS, OR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGE INCURRED BY THE CUSTOMER. THE AGGREGATE LIABILITY OF GLASTON SHALL ALWAYS BE LIMITED TO TEN PERCENT (10%) OF THE PRICE OF THE LIABILITY CAUSING PRODUCTS OR MAINTENANCE SERVICES.

## **7. INDEMNIFICATION**

If Glaston incurs any liability towards any third party for any loss or damage howsoever arising in the connection with the performance of the Maintenance Services or Products supplied or installed, the Customer shall indemnify, defend and hold Glaston or Customer harmless.

## **8. FORCE MAJEURE**

Neither Glaston nor Customer shall be liable to the other for any delay or non-performance of its obligations hereunder in the event and to the extent that such delay or non-performance is due to an event of Force Majeure. Events of Force Majeure are events beyond the control of and which were not reasonably foreseeable and whose effects are not capable of being overcome without unreasonable expense and/or loss of time to Glaston or Customer. Events of Force Majeure shall include (without being limited to) strikes, war, acts of government, natural disasters, fire and explosions.

## **9. CONFIDENTIALITY**

Neither Glaston nor the Customer shall disclose or reveal any confidential information of Glaston or the Customer to any third party for any other purpose than for the proper fulfillment of the duties of Glaston and the Customer. Customer acknowledges that all technical, commercial and financial data disclosed to Customer by Glaston is confidential information of Glaston and/or its affiliates. Customer shall not disclose any such confidential information to any third party and shall not use any such confidential information for any purpose other than as agreed by the parties and in conformance with the product transaction contemplated herein.

## **10. PRODUCT CHANGE AND DISCONTINUATION**

Glaston shall have the right to make changes to the Products and/or the production thereof. Glaston reserves the right to discontinue manufacturing and sale of Products at any time.

## **11. INTELLECTUAL PROPERTY RIGHTS**

All intellectual property rights covering Products delivered by Glaston including, without limitation, any and all software and/or documentation or data included in, with or comprising Products, and all ownership rights in and to such intellectual property rights, software, documentation and data, shall remain solely and exclusively with Glaston or its third party suppliers, whether or not it was developed specifically for the Customer. No rights or licenses are granted, or implied by estoppel or otherwise, under any intellectual property rights of Glaston and/or its affiliates or any intellectual property residing in the Products, including without limitation, software and/or documentation or any data furnished by Glaston, except for the limited license under any of Glaston's and/or its affiliates' intellectual property rights to use Products sold by Glaston to Customer subject to the provisions set forth herein. The term "affiliate" shall mean any entity or other person which, directly or indirectly, controls, is controlled by or is under common control with Glaston. Customer shall indemnify Glaston and its affiliates against and hold Glaston and its affiliates harmless from any damage or costs arising from or in connection with any violation or breach of the provisions of this clause and Customer shall reimburse all costs and expenses incurred by Glaston and/or its affiliates in defending any claim, demand, suit or proceeding arising from or in connection with such violation or breach.

## **12. MISCELLANEOUS**

These General Conditions together with the agreement between the Parties, state the entire agreement between the Parties relating to the subject matter hereof and supersede all prior communications, whether written or oral, between the Parties. Glaston shall have right to use a subcontractor to fulfil its obligations. These General Conditions and the agreement between the Parties are governed by, and shall be construed in accordance with, the laws of Finland excluding its choice of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

## **13. DISPUTE RESOLUTION**

Any dispute, controversy or claim arising out of or relating to the Maintenance Services performed by Glaston or the sale of any Products by Glaston or any disputes as to the language of any agreements between the parties including but not limited to these General Conditions will be finally and exclusively settled by Arbitration in accordance with the Rules of the American Arbitration Association and will be decided by one arbitrator. The Arbitration shall be conducted in Philadelphia, Pennsylvania and the Arbitrator is granted authority to determine the scope of the Arbitrator's jurisdiction. Any award of the Arbitrator shall be final and binding on the parties. Glaston reserves the right to proceed to any court of competent jurisdiction at its sole election relative to any overdue payments of the Customer due Glaston.

