



ENGINEERING FOOD  
PROCESSING SOLUTIONS

# Opal Food Processing Systems Ltd (t/a SF Engineering)

## Terms and Conditions

July 2020

These terms and conditions shall apply to all SF Engineering ("SF") quotations, proposals, and orders given to it and all contracts, including service level agreements, concluded with it unless both parties explicitly declare in writing that the conditions are not applicable to their contractual relationship. Any variation to these Terms and Conditions shall only be valid on the written confirmation of such variation by an authorised representative of SF. Any Terms and Conditions not so confirmed shall be invalid and the Terms and Conditions noted herein shall prevail. Should any Condition be held to be unenforceable or invalid, the remaining Conditions contained herein shall remain in full force.

### 1. Definitions:

In these General Terms and Conditions the following terms shall have the meanings herein assigned to them:

"Contract" shall mean the written agreement between the parties concerning the fulfilment of the Works and/or Services and all appendices, including agreed amendments and additions to the said documents.

"Contract Price" shall mean the payment to be made for the Works or for the Services as specified in the Contract.

"Date of Delivery" If Ex Works the date of delivery shall be the day when SF notifies the Customer that SF has made the Plant available for delivery and if CIP (Carriage & Insurance Paid to) the date on which SF delivers the Plant to the agreed location.

"Date of Performance" the date of performance shall be the date or dates on which SF agrees to perform the Services at the agreed location.

"In Writing" shall mean either by document signed by the parties or by letter, fax, electronic mail and by other such means as are agreed by the parties.

"Letter of Acceptance" shall mean a declaration of the Customer stipulating that a taking-over of the Works has taken place and the time and date of such taking-over.

"Plant" shall mean all machinery, spare parts, apparatus, materials and articles to be supplied by SF under the Contract, whether they are Hardware or Software Products.

"Site" shall mean the place where the Plant is to be installed, or the Services conducted, including as much of the surrounding area as is necessary for unloading, storage and internal transport of the Plant and installation equipment.

"Works" shall mean the Plant including the installation and other work to be carried out by SF under the Contract. If the Works according to the Contract shall be taken over by separate sections intended to be used independently from each other, these conditions shall apply to each section separately. The term "Works" shall then refer to the section in question.

"Services" shall mean all works completed by SF service personnel at customer sites either based on a service level agreement or based on the placement of an order by a customer requesting SF to conduct inspections, repairs, validations, periodical checks or training relating to specific equipment.

### 2. Offers:

- a) SF's quotations and proposals, including any appendices to the quotations and/or proposals, are an invitation to the customer to place an order and do not create a binding contract. SF shall not be obliged to fulfil any order which has not been accepted by it in writing. Such acceptance shall not oblige it to fulfil anything beyond the contents of its quotation and its conditions of sale unless agreed by it in writing. Acceptance of the order by SF creates the contract and the customer shall remain bound thereto from such acceptance.
- b) The customer shall ensure that the terms of its order and any applicable specifications are true, complete and accurate in all respects.
- c) Unless advised in writing as withdrawn, SF's quotations are open for the submission by the customer of an order for the period stated therein or, when no period is stated, for thirty days after the date of issue of said quotation.
- d) All information regarding SF's products or services in advertisements, brochures and price lists are approximate and are not to be regarded as an offer, or binding in any other sense. The information contained therein is subject to change without notice. The customer

acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of SF which is not set out in the Contract. In the event of there being a conflict between these Terms and Conditions and the Contract the terms of the Contract shall prevail. Nothing in this condition shall exclude or limit SF's liability for fraudulent misrepresentation.

- e) For the purpose of preparing an Offer, the customer may supply information to SF including data, calculations or drawings. SF will assume such data, calculations and drawings to be correct and may base their offer upon them.

### 3. Prices:

- a) The prices quoted exclude VAT and other duties levied by governments according to the country into which the goods are imported or the Services are being performed, if applicable. SF's prices are based on Ex works, CIP, FOB (Free on Board), or CIF (Cost, Insurance and Freight) delivery as the case may be agreed. If after SF's acceptance of the order but before delivery, any of the constituent price factors increase (including but not limited to by reference to a change in the basis of delivery or cost of materials), SF reserves the right to adjust its prices accordingly. If as a result of any delay which is attributable to default of the customer or made at the request of the customer, SF incurs exchange losses on foreign currency transactions, the customer shall accept a supplementary charge to cover such losses. SF also reserves the right to vary the price where the customer requests modifications to the specification of goods quoted for. No other charges, particularly landing charges or customs duties, are included unless otherwise stated in writing.
- b) For CIF contracts, a document certifying, in proper form, that insurance has been effected and endorsed by SF, may be tendered instead of a policy of insurance whether or not other goods are included in or covered by such insurance. The customer shall accept such documents together with invoices and bills of lading, as complete tender of shipping documents by SF.
- c) Unless otherwise specified in the quotation, the cost of packing, where appropriate, in accordance with SF's standard practice, is included in the price.

### 4. Quality:

- a) Plant may be subjected to pre-delivery inspection and test at SF's premises. The Customer is strongly recommended to witness these tests. SF will inform the Customer in sufficient time to allow him to attend such tests.
- b) The Customer shall bear all costs of his travel and living expenses for attendance at pre-delivery inspections and tests.
- c) Pre-delivery inspections and tests can also be carried out at other locations as requested by the Customer if notice of at least one month has been given, in writing, to SF's Project Engineer. The cost of such inspections, including the transportation and set up of the Plant, and the cost of SF's representatives' travel and living expenses, will be borne by the Customer unless otherwise agreed in advance.
- d) The Customer shall supply, at no charge to SF, all product, packaging, materials and any other thing necessary to test the plant.
- e) If tests other than these, including trials, are required and are not specified in SF's quotation, they will be charged for at the rates specified by SF. In the event of any delay by the customer in attending tests, trials, or in carrying out any inspection stated as required, the customer will be liable for all costs incurred and the cost of new trials.

### 5. Documents Auxiliary Equipment and Specifications:

- a) SF shall require the Customer to approve drawings for the purchase or production of Plant under the terms of the Contract. Once such approval has been received, any subsequent changes shall be deemed to be variations and shall be dealt with in accordance with Clause 9.
- b) All documents including estimates of costs, catalogues, drawings, measurements or any other paper drawn up or made available by SF and in respect of a quotation or acknowledgement of order, as well as auxiliary equipment such as models, stencils, matrices and tools, shall at all times remain the property of SF, even where the manufacturing costs have

been charged to the customer, and should be returned to SF if requested. Nothing may be copied or imitated or given to third parties.

- c) All other specifications, calculations and statements given by SF with regard to capacities, dimensions, results and/or expected performance of the goods to be supplied or work to be performed by SF are only supplied by way of non-binding information.
- d) Slight deviations within the customary tolerances shall not, however, constitute any reason for claiming compensation or cancellation of the order on the part of the customer.

### 6. Delivery:

- a) SF shall exercise reasonable endeavours to ensure that delivery of the plant or services shall be made on the date or within the time period stated or estimated in SF's acceptance of the order. Should information or site preparation from or by the customer be necessary for carrying out or accepting delivery of the order or in the event that certain legal formalities are required to be satisfied by the customer, the time estimated or stated for delivery shall not commence until all the required information is in SF's possession or site preparation is notified by the customer to SF as having been completed or the legal formalities required have been fulfilled.
- b) If the Contract requires the payment of deposit then the lead time for delivery shall not commence until the date on which such payment is received.
- c) If the Contract requires the payment of a % of the Contract Price prior to delivery then the delivery will not be made until the date on which such payment is received. The estimated delivery time will be extended by the same time as the delay caused by non-receipt of payment.
- d) Unloading (unless otherwise agreed) and moving of the plant to a secure, safe and dry area shall be the responsibility of the Customer. Furthermore the Customer shall at his own expense, obtain and maintain adequate general liability insurance and property damage insurance for all Plant delivered by, or on behalf of, SF from the date and time of delivery including the unloading and storage of such Plant.
- e) Late delivery will not entitle the Customer to compensation either by way of liquidated or unliquidated damages, to refuse to accept delivery of the goods or to terminate the contract either wholly or partly.
- f) Any time described as an estimate shall not be construed as a fixed time quoted. If the customer does not take delivery or arrange for storage, SF shall be entitled to arrange storage either at its own premises or elsewhere and all charges for storage, for insurance or for demurrage shall be payable by the customer on demand.
- h) Any liability of SF for non-delivery of the plant (in contrast to a mere delay in effecting delivery) shall be limited to replacing the plant that have not been delivered within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such non delivered plant.
- i) Any timescale quoted by SF for performance of the Services are approximate only and whilst SF will use its reasonable endeavours to meet any timescale requested this shall not form part of the Contract and the Customer acknowledges that in the performance expected of SF, no regard has been paid to any quoted timescales.

### 7. Preparatory work:

- a) Prior to commencement, SF shall supply to the Customer details of all openings required. The Customer shall form/break out and make good all openings in accordance with this information prior to SF commencing installation.
- b) Any high level conveyors or equipment will be supported by steelwork supplied, fitted, shimmed and levelled by the Customer. SF shall inspect such steelwork prior to commencement of the installation only to ascertain positioning and number of supports is in accordance with their requirements for installation of the equipment. No inspection of this steelwork shall absolve the Customer or his agent(s) from their responsibility to supply and install the correct support steelwork, sized correctly.
- c) SF will also require the Customer to provide details in advance of any site dimensional limitations imposed by access routes or handling facilities, i.e. lift size, forklift reach/capacity, crane requirements, doorway dimensions or floor weights.

- d) Where the contract so provides, SF shall provide to the customer, to the extent that SF deems necessary, the information required for preparing suitable foundations, for providing access to the Plant and any necessary equipment to the point where the Plant is to be installed, and for making all necessary connections to the Works.
- e) The preparatory work shall be completed by the Customer in good time and in accordance with the information provided by SF. SF shall have the right to inspect the Site and the Works at any time during working hours at its own expense.
- f) SF is not responsible for the load bearing capacity of floors, walls or ceilings.
- g) Both the Customer and SF shall appoint a representative to act on their behalf during the work on the site. This representative must be appointed prior to the commencement of work on site and each shall be authorised to act on behalf of their parties in all matters concerning the installation work.
- h) The customer shall provide Site based safety induction to SF free of charge prior to commencement of works. SF have allowed 1 hour to receive a safety induction, where site specific inductions exceed this time SF will seek to recover costs based on SF's schedule of rates.

### 8. Working Conditions at the Customer's site:

- a) SF are to be provided by the Customer full unfettered and uninterrupted access to and possession of the Works Area. While SF will endeavour to co-operate with the Customer in allowing the Customer and his employees access to the work area, any non SF employee will be required to report to the SF Project Engineer on site prior to entering the work area. Any such visitor to the work area shall only be admitted access if he or she is wearing the appropriate personal protection equipment and has undergone the appropriate safety training.
- b) SF's personnel shall be able to commence work in accordance with the agreed time schedule and to work during normal working hours. Work may be performed outside of normal working hours to the extent deemed necessary by SF and also provided that the Customer has been given notice.
- c) The Customer is responsible for the Health and Safety of all workers on site and should notify SF, in writing and prior to the commencement of the installation, of all relevant safety regulations in force.
- d) SF reserve the right to suspend the works, should the presence of visitors, agents, contractors or sub-contractors to the work area present a danger to any personnel and to charge and recover from the Customer such costs associated with that delay.
- e) Delays outside the control of SF shall be charged to the Customer per man per hour or part thereof based on SF's schedule of rates. Any delays shall be notified to the Customer's authorised representative at the end of the day on which the delay took place.
- f) The Customer shall provide, at no cost to SF, such temporary air, water, power and lighting to allow installation of the equipment. Should such services be interrupted and such interruption result in a delay to the installation process, SF reserve the right to charge and recover such losses or costs from the Customer. If, subsequently, SF are required to provide their own temporary services, the cost of these services shall be recovered from the Customer as a separate charge.
- g) Permanent power, air, water and lighting, and all connections thereto shall be the responsibility of the Customer. SF shall provide all information for the installation requirements to allow the Customer to provide permanent connections. Any delay on the part of the Customer in providing permanent power will result in a delay charge as noted above.
- h) The Customer shall make all equipment available to SF on site free of charge including all necessary fork-lifts, cranes, scaffolding and lifting equipment. Should SF be required to source this equipment for any reason (e.g. unavailability of the equipment at the times required, unwillingness of the Customer to provide such equipment) then the cost of the provision or hire of such equipment will be rebilled to the Customer. The customer must ensure that appropriate equipment certification and insurance is in place for all equipment owned or leased by them and made available by them to SF employees or sub-contractors.

- i) The Customer shall supply, at no charge to SF, all product, packaging, materials and any other thing necessary to test and commission the equipment.
- j) The Customer shall provide a safe and secure area for SF's installation personnel to store their Plant, tools and equipment when not in use.
- k) The Customer may not request the employees of SF to complete any works without SF's consent which consent shall be in writing.
- 9. Contract variations and/or default:**
- a) The Customer shall be entitled to request and require variations of the Works until the Works have been taken over by the Customer. SF may also suggest variations to the Works up to the point of takeover by the Customer. Takeover is deemed to have taken place when a Letter of Acceptance has been signed by the Customer.
- b) No variation shall vitiate this contract. The scope of all variations shall be agreed in writing prior to commencement of the variation by the Customer's authorised representative and the SF nominated Project Engineer. Any increase or decrease to the contract sum shall also be agreed by the Customer's authorised representative and the SF nominated Project Engineer. Should agreement not be reached on the variation, it shall be referred to the Managing Director (or equivalent thereof) of the Customer and the Managing Director of SF for decision and agreement. Should agreement still not be reached, the dispute shall be referred to Arbitration as hereinafter set out.
- c) Should the Customer be unable to complete his obligations necessary for the completion of the Works he shall notify SF in writing. Should this be the case then the following shall apply:
- i) SF may choose to complete the Customer's works or engage a 3rd party to complete the Customer's works. The Customer will reimburse SF for any reasonable costs incurred by SF
- ii) SF may suspend in whole or in part its performance of the Contract and notify the Customer in writing of this suspension
- iii) If the Plant has not been delivered to the Customer's site then SF is entitled to arrange storage either at its own premises or elsewhere and all charges for storage, for insurance and for demurrage shall be payable by the customer on demand
- iv) The Customer shall nevertheless pay any amounts due on the Contract Price that would have been due should the delay not have incurred
- d) All downpayments made under the terms of the Contract are as security for fulfilment of the Contract and not simply as a prepayment. Should the Customer purport to cancel the Contract or determine the employment of SF under the Contract or otherwise fail to perform the Customer's obligations under the Contract, the down payment shall be forfeit and SF shall have no obligation to repay the down payment or any part thereof. Should the down payment not have been paid by the customer prior to their cancellation of the contract, a cancellation fee will be applied by SF based on an estimate of their costs incurred. This fee will become payable by the Customer 30 days post invoice date.
- e) For the purpose of the Contract, the customer may supply information to SF including data, calculations or drawings. SF will assume such data, calculations and drawings to be correct. If it transpires that the provided data, calculations or drawings are not correct then any resulting changes required shall be deemed to be variations and shall be dealt with in accordance with Clause 9.
- 10. The Passing of Risk and Ownership**
- f) Notwithstanding that the customer takes possession of the Plant after delivery, the property and title to the Plant shall not pass to the customer until all payments have been received in full by SF. On delivery however, the risk for all direct and consequential damage to the Plant shall pass to the customer.
- g) For the avoidance of doubt all and any underlying intellectual property in the goods such as copyright in any software incorporated within the goods is not transferred but is merely made available under licence.
- h) The Customer shall, at his own expense, obtain and maintain adequate general liability insurance and property damage insurance for all Plant delivered by, or on behalf of, SF from the date and time of delivery up to and including official hand over of the Plant and final payment and receipt of monies due under contract. Hand-over is deemed to have taken place when a Letter of Acceptance has been signed by the Customer.
- i) Hygienic cleaning will be the responsibility of the Customer. SF, its agents and its sub-contractors take no responsibility for, and the Customer shall indemnify SF, its agents, its sub-contractors and Employees from, any contamination of product howsoever caused.
- j) If SF or its agents or sub-contractors are on site for the purpose of the contract then SF will indemnify the customer against direct damage or injury to the customer's property or person or that of others occurring while its representatives are working on site to the extent that it is caused by SF's negligence or that of its agents or sub-contractors, by making good such damage to property or compensating personal injury. However, SF's total liability for damage to customer's property (including damage caused by its breach of contract, tort or breach of statutory duty) shall not exceed £5,000,000.
- k) SF shall not be liable for any loss of profits, loss of contracts, damage to goodwill, increased production costs or other indirect or consequential loss arising out of any breach of these conditions by it whether or not the likelihood of such loss is known or has been notified to SF.
- l) The Customer indemnifies SF, its personnel and sub-contractors in respect of damage to SF property or injury caused by the negligence of the customer or its contractors.
- m) SF shall also be entitled to recover payment for the goods notwithstanding that ownership of any of the goods has not passed from SF.
- n) The customer grants SF, its agents and employees, an irrevocable licence at any time to enter any premises where the goods are or may be stored in order to inspect them, or, where the customer's right to possession has terminated, to recover them.
- o) SF prepares manuals on a project specific basis. Receipt of said manuals will be post take-over.
- p) If a purchase involves a trade-in and the customer continues to use the goods to be traded in pending delivery of the new goods, the risk in relation to the goods to be traded in shall continue to be borne by the customer until the moment at which he transfers them to the possession of the seller.
- 11. Intellectual Property Rights and Know How**
- a) If the Plant is to be manufactured or any process is to be applied to the Plant by SF in accordance with a specification submitted by the Customer, the Customer shall indemnify SF against all loss, damages, costs and expenses awarded against or incurred by SF or in connection with or paid or agreed to be paid by SF in settlement of any claim for infringement of any patent, copyright, design, trademark, or other industrial or intellectual property rights of any other person which results from SF's use of the Customer's specification.
- b) The Drawings and Technical Specifications issued by SF shall remain the property of SF. Save for the proper operation and maintenance of the equipment, Drawings and Technical Specifications shall not be copied or reproduced without written approval by SF.
- c) Unless otherwise agreed in writing, special know-how developed during the implementation of the agreement shall remain the sole property of SF. All intellectual property rights remain with SF and the Customer is not entitled to issue any licences to any third party without the express permission in writing of SF.
- d) Both SF and the Customer may have access to information that is confidential to the other party. Such information includes, but is not limited to, pricing, these conditions, this proposal, technical specifications and all information noted as confidential or restricted. SF and the Customer shall hold such information in confidence for a period of five years from the date of receipt of such information and, subject to requirement by law to disclose, shall not make such information available to any third party without the written consent of the other party.
- e) Any marking of goods (including trademarks, name, address and other marks) showing the identity of SF cannot be changed, covered or removed from the Plant.
- f) All drawings will be transmitted in a pdf format and only to the level of detail that is required for Customer approval. Furthermore, drawings packs will not be transmitted or given in a hard copy unless a fee for the provision of such has been agreed between the Customer and SF.
- 12. Performance**
- a) Any performance figures given by SF are based upon its experience and are such as it expects to obtain from SF's own trials. SF shall be under no liability for damages from failure to attain such figures unless it has specifically guaranteed in writing performance figures subject to the recognised tolerances applicable to such figures. If the performance figures obtained at the specified trials are outside the acceptance limits specified in the contract, SF is to be given reasonable time and opportunity to rectify its performance.
- 13. Defects, Guarantees and Warranties**
- a) On receipt of the Plant it is the responsibility of the customer to check whether the plant are correct in every way and meet the descriptions of the items ordered. Defects or shortages shall be notified in writing to SF within seven working days.
- b) SF will, subject to the pre-conditions and exceptions set out below, make good by repair or replacement, at its option, defects which appear in the plant as a result of faulty design or workmanship during the guarantee period.
- c) The warranty period for plant, unless otherwise stated in SF's quotation, is twelve months for new plant and six months for reconditioned plant. The warranty period will commence from installation of the plant or thirty days after delivery, whichever is earlier. If delivery is delayed at the customer's request, the guarantee period will commence from notification by SF that the plant is available for delivery.
- d) The warranty period for spare parts, unless otherwise stated in SF's quotation, is twelve months for new parts and six months for reconditioned parts. The warranty period will commence from the date of shipping from SF.
- e) Normal wear parts are not covered under this warranty. Normal wear parts include, but are not limited to, belt, sprockets, seals, wear plates, wear pads, cutting boards, load cells, filters.
- f) SF's guarantee is made subject to the plant being properly used for the purpose for which supplied, being cleaned and maintained in accordance with SF's recommendations, being used only by trained operators of the customer and not being repaired or modified or recalibrated other than by SF or by a third party with its express authority in writing.
- g) SF reserves the right to have defective parts returned to it if required. SF shall refund the cost of carriage or returned or repaired parts and shall deliver replacement parts free of charge.
- h) SF reserves the right to charge a handling fee for plant which has been supplied correctly to order but which it has agreed may be returned for credit. Non-standard or special equipment or parts, supplied correctly to order cannot be returned for credit.
- i) If the plant is defective or alleged to be so, SF shall meet its own costs in relation to conducting an examination at the premises of the customer but if it is discovered on examination that the goods do conform with the guarantee or if it is discovered that the reason for their non-conformity is due to any of the exclusions set out in this clause, the customer shall be responsible for the reasonable costs and expenses incurred by SF in attending at the customer's premises to carry out such examination, including but not limited to costs of travel, travel time, any reasonably necessary accommodation and other out of pocket expenses plus the disbursement costs incurred by SF in commissioning any third party reports on the state and condition of the goods.
- j) Any plant or component parts that are replaced shall be guaranteed on these terms for the unexpired portion of the guarantee period referred to above.
- k) Where the plant are not new or not of first quality and the customer has been notified in advance of that, SF sells the plant and the customer purchases the plant on a "sold as seen" basis and all terms conditions and warranties save as to SF's title to sell the plant to the customer are excluded.
- 14. Payment**
- a) All payments shall be made in accordance with the order confirmation or contract and shall be made without deduction or setting off.
- b) If payments are not made punctually on the date agreed or if the customer (being a body corporate) has a winding up petition presented against it or passing a winding up resolution (other than in connection with the members voluntary winding up for the purposes for an amalgamation or reconstruction which has prior written approval of SF) or resolves to present its own winding up petition or is wound up (whether in England or Wales or elsewhere) or a Receiver and Manager is appointed in respect of the plant or any part thereof or the customer is placed in administration or receivership or if the customer (being an individual, or if more than one individual, then any one of them) has a Bankruptcy petition presented against him or is adjudged bankrupt (whether in the England or Wales or elsewhere), or enters into composition with his creditors or shall have a receiving order made against him then a claim for complete payment of all sums due and owing by the customer to SF shall become payable immediately without prejudice to any further rights accruing to SF.
- c) Any claims, whatsoever with regard to the delivery or execution of the order, shall not release the customer from the obligation to pay in the manner agreed upon.
- d) Pre-Delivery payment is not subject to terms (e.g. 30 days) and equipment will not be released until full payment is received.
- 15. Force Majeure**
- a) Each Party shall be excused from liability for the failure or delay in performance of any obligation by reason of any event beyond such Party's reasonable control including but not limited to Acts of God, fire, flood, explosion, earthquake, or other natural forces, war, civil unrest, accident, any strike or labor disturbance, acts of terrorism, sabotage, epidemics, pandemics, riots, power failures, computer failure and any such circumstances similar to those enumerated above beyond its reasonable control. Such excuse from liability shall be effective only to the extent and duration of the event(s) causing the failure or delay in performance and provided that the Party has not caused such event(s) to occur and continues to use diligent, good faith efforts to avoid the effects of such event(s) and to perform the obligation. All delivery dates under this Agreement that have been affected by force majeure shall be tolled for the duration of such force majeure. Neither party shall be liable for any delays or failures in performance resulting from acts beyond its reasonable control.
- 16. Cancellation of Services**
- a) The service level agreement period is shown on the first page of the agreement. Service Level Agreements are non-cancellable without full payment.
- b) Orders placed on a call out basis for SF service personnel to conduct inspections, repairs, calibrations, periodical checks or training relating to specific equipment, must be cancelled within 10 days of the scheduled Date of Performance, otherwise 50% of the estimated labour charges and 100% of the parts cost will be charged to the customer.
- 17. Notices**
- a) All notices which are required to be given in this Agreement shall be in writing (unless expressly stated otherwise) and shall be sent by post to the party being served at its address specified below or at such other address of which such party shall have given notice as aforesaid, and marked for the attention of that party's signatory to this Agreement.
- 18. Interpretation**
- a) In this Agreement, unless the context otherwise requires:



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- i) A reference to the singular includes the plural and vice versa;
  - ii) A reference to any party to this Agreement includes the party's executors, administrators, successors, assigns or permitted assigns, and where applicable, its servants and agents;
  - iii) A reference to an individual shall include corporations and vice versa; and
  - iv) If a word or expression is defined, its other grammatical forms have a corresponding meaning.
- b) In this Agreement, headings are for convenience only and do not affect interpretation.
  - c) If any portion of this contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
- 19. Entire Agreement and Applicable Law**
- a) This Agreement constitutes the entire agreement between SF and the Customer in respect of the Plant and supersedes all other agreements, statements, representations or warranties made by or between the parties or either of them concerning the same. The terms and conditions of this Agreement shall supersede any terms and conditions appearing on or referred to in any purchase order, acknowledgement or other document issued by the company in respect of the subject matter of this Agreement.
  - b) No waiver, alteration, variation or addition to the Agreement shall be effective unless made in writing on or after the date of signature of this Agreement by both parties and accepted by an authorised signatory of both parties.
  - c) This Agreement shall for all purposes be governed by and interpreted in accordance with the laws of England and Wales. Both Parties agree to submit to the exclusive jurisdiction of the Courts of England and Wales. The place and performance of this agreement shall be England.
- 20. Arbitration**
- a) In the event of any dispute arising by and between SF and the Customer in relation to any matter hereunder same shall be referred to an Arbitrator who in the first instance shall be appointed by agreement between SF and the Customer or in default of agreement by the Body then in existence which regulates Arbitration and Arbitrators in the Republic of Ireland.
  - b) In the event of such an Arbitrator being so appointed the said Arbitrator's decision shall be final and binding on both SF and the Customer.