

CONDITIONS OF SALE

(1) **GENERAL.-** The acceptance of our tender includes the acceptance of the following terms and conditions.

(2) **VALIDITY.-** Unless previously withdrawn our tender is open for the acceptance for the period stated therein or when no period is stated, within 30 days only from the date of our tender.

(3) **ACCEPTANCE.-** The acceptance of our tender must be accompanied by sufficient information to enable us to proceed with the order forthwith, otherwise we are to be at liberty to amend the tender prices to cover any increase in cost which has taken place after acceptance. Our tender shall not constitute a contract between us unless and until we expressly confirm our acceptance in writing. Upon such written confirmation a contract in accordance with our conditions of sale shall thereupon subsist between us.

(4) **CANCELLATION.-** Once a contract subsists us the same cannot be cancelled y you except with our consent and on terms which will indemnify us against all loss.

(5) **LIMITS OF CONTRACT.-** This acknowledgment of order includes only such goods, accessories and work as specified herein.

(6) **DRAWINGS. Etc.-** All drawings, descriptive matter, weights dimensions, and shipping specifications, submitted with our tender, and the descriptions and illustrations contained in our catalogues, price lists and other advertising matter are approximate only, and are intended merely to represent a general idea of the goods described therein, and none of these shall form part of the contract.

(7) **TESTS.-** Our plants are carefully inspected and standard tests are made at our works before Despatch. A certificate of test is supplied if required, and this certificate shall be accepted as evidence that the engine is of the power specified.

(8) **PERFORMANCE.-** Any figures given for performance are based upon our experience, and are such as we expect to obtain on test. You assume responsibility for the capacity and performance of the goods being sufficient and suitable for your purpose. We accept no responsibility for verbal undertakings by travelers or sales representatives unless confirmed in writing by our head office.

(9) **DESPATCH.-** The time given for Despatch and/or completion is to date from receipt by us of a written or telegraphic order to proceed, and all the necessary information, and drawings to enable us to put the work in hand. We will use our best endeavors to keep the dates given, but will accept no liability for failure to do so. Should Despatch be delayed by your instructions, or lack of instructions, or by any cause whatsoever beyond our reasonable control, including strikes, lock-outs, war, fire, accidents or defective material, or failure by our suppliers to keep their promise of delivery, through no fault of ours, a reasonable extension of time shall be granted. In the event of suspension of the work by your instructions or lack of instructions, the contract price shall be increased to cover any extra expense thereby incurred by us.

(10) **TERMS OF PAYMENT.-** Nett cash against advise that goods are ready for Despatch or as specified in the tender or confirmed irrevocable letter or credit established on a first class UK bank. If delivery be not taken when the plant is ready at our works, or delays arise through causes beyond our control in completion of erection or setting to work or there be minor defects in the goods which do not materially affect their commercial use, then payment must not be withheld, and in the event of special terms having been arranged, the respective installments must be paid by the date on which such payments can reasonably be assumed to have fallen due. Any liability on our part is subject to the terms of payment and all your other obligations to us under the contract being strictly observed. Interest at the rate of 2% over bank rate (minimum 5% is charged on all overdue accounts).

(11) **ERECTION.-**Erection is not included unless detailed in our tender.

If erection is required on a day-to-day basis, the agreed charge is to be reckoned from the time the erector leaves our works to the time of his return, all traveling expenses being chargeable to you at cost.

You shall provide suitable access to and possession of the site, or vessel, proper foundation or settings ready to receive the plant as and when delivered, adequate crane lifting tackle and scaffolding, all other labour, suitable protection of the plant from time of delivery, and all necessary facilities and adequate assistance. All of these to be supplied at your expense, both for unloading and erection, to enable the work to be expeditiously and continuously carried out under our supervision, and any cost incurred by keeping any of our men at your works or on the vessel after completion of erection, except for necessary attendance at trials shall be charged for as an extra. All assistants supplied by you will remain in your employ, and you undertake all employer's liability in respect of claims that may arise under the Workmen's Compensation Acts, Employer's Liability Acts or otherwise. We accept such responsibility in respect of our employees provided they are engaged only on such work as is outlined in our contract and do not attend to any other work for you outside the contract. Should we incur extra cost for erection owing to interruptions, delays, overtime, unusual hours, mistakes or work for which we are not responsible, or water and exhaust piping, etc., additional to the quantities included in our estimate, such extra cost, as well as the cost incurred by keeping any of our men on site or vessel, after completion or erection, shall be added to the contract price and paid for accordingly. All necessary fuel, lubricating oil and stores required when starting up the plant or subsequently, are to be supplied at your expense.

(12) **"TAKE OVER" AND OWNERSHIP.-**

(a) Equipment shall be deemed to have been "taken over" by a purchaser from the date of delivery whenever the Company does not install or commission. From such date the purchaser shall be responsible for the technical performance and the Company's guarantee period becomes effective.

If the Company can install and/or commission the equipment the "Take over" date shall be deemed to be that on which installation or site test (if any) are satisfactorily concluded. If there shall be any delay in "take over" for any cause for which the Company is not responsible, the equipment shall be deemed to have been "taken over" at the expiration of seven days after the Company has notified the purchaser in writing that the equipment is ready for delivery, installation, or site tests as applicable. The "take over" date shall not be delayed on account of additions or alterations to the purchaser's contract or order or on account of minor omissions or defects which do not affect the operation of the equipment.

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(b) "Take over" as described in the preceding sub-clause, shall not transfer the ownership in the equipment in the purchaser. Such ownership shall remain vested in the Company until such time as payment has been received by the Company of the full contract price, including where applicable, the agreed cost of installation or other works to be effected by the Company. On receipt of such payment by the Company, ownership in the equipment shall forthwith pass to the purchaser.

(13) **LIABILITY FOR ACCIDENTS AND DAMAGES.**-Until the goods shall have been taken over, or the deemed to be taken over under Clause 12, and subject to Clause 15, our sole liability for accidents and damages is as follows:
We will indemnify you against damage or injury to your property or person or that of others caused by the negligence of ourselves or our servants, but not otherwise, to the extent of repairing the damage to property or compensating the personal injury provided that such damage or injury is not caused or does not arise wholly or partially from the acts or omissions of yourselves or others or is not due to circumstances over which we have no reasonable control, and provided always that our total liability shall not exceed the total value of the contract.

After such taking over, all liability on our part under this clause ceases.

(14) **STORAGE.**- If we do not receive forwarding instructions sufficient to enable us to despatch within fourteen days after notification that the goods have been tested under Clause 7, or that they are ready for Despatch, you shall take delivery or arrange for storage. We are prepared, however, if our storage facilities permit, to store the goods at a charge of not less than £20.00 per tonne per week (with a minimum of £20.00 per week) until the goods are despatched, and the goods shall be paid for as if they had been despatched.

(15) **DAMAGE IN TRANSIT.**- We will not be responsible for loss or damage to goods beyond the delivery stated in our tender. We will repair or replace free of charge goods damaged in transit up to the point or port of delivery, but not beyond. When bills of lading are taken out by us will, if required, take out on your behalf, and at your instructions and expense, insurance against loss or other risk and we will on your behalf and at your expense, take all reasonable steps to recover from the Insurance Company any loss or damage for which they may be liable, provided that, in the case of order for delivery within the United Kingdom, we receive written notification of any damage within three days of delivery.

(16) **GUARANTEE.**-Within a period of 12 calendar months (or where machinery has run continuously day and night, within 6 calendar months) after the goods have been taken over or deemed to have been taken over under Clause 12 and subject to Clause 15 we expressly guarantee in lieu of any warranty implied by law to make good any defective parts in machinery of our own manufacture which defect develops under proper use, and arises solely from faulty material or workmanship, provided always that such defective parts are promptly returned carriage paid to our works, and provided that fuel and lubricant approved by us have been used continuously. The repaired or new parts will be delivered free to nearest railway station or f.o.b. maker's choice of English port. At the termination of such a period of 12 calendar months (or 6 calendar months as the case may be), all liability on our part ceases. In the case of goods not of our manufacturer. In no case shall we be reliable for the fitting of replacement parts and the defective parts replaced shall become our property. All goods are supplied on the condition that we shall not be liable for any loss incurred through stoppages nor for any consequential damages. This guarantee shall not apply to fair wear and tear or to damage due to negligence or improper handling by the purchaser without our knowledge or approval, or due to damage by any cause beyond our control.

(17) **PATENTS.**-In the event of any claim being made or action being brought against you in respect of infringement of patents by the manufacturing or sale by us of goods supplied to you hereunder you are to notify us immediately, and we shall be at liberty with your assistance, if required, but at our expense, to contact all negotiations for the settlement of the same or any litigation that may arise there from; subject to such notification, and provided that no such goods or any part thereof, shall be used for any purpose other than that for which we supply them, we will indemnify you in respect of any such claims.

(18) **ARBITRATION.**- If during the period of the guarantee referred to in Clause 16, any question, dispute or difference whatsoever shall arise between you and ourselves upon, in relation to, or in connection with the contract, either of us may give to the other notice in writing of the existence of such question, dispute or difference and the same shall be referred to the arbitration in England of a person to be mutually agreed upon, or failing agreement, of some person appointed by the President the time being of the Institution of Mechanical Engineers, neither side to appear before the Arbitrator by solicitor or counsel. This submission shall be deemed to be a submission to arbitration thin the meaning of the Arbitration Act, 1889, or any statutory modification thereof.

(19) **LEGAL CONSTRUCTION.**-The contract shall in all respects be construed and operates as an English contract and in conformity with English law, and unless otherwise arranged is subject to the jurisdiction of the English Courts.

(20) Where goods are sold F.O.B. English port, our responsibility subject to Clause 16, shall end immediately we have delivered the goods on board ship, and we shall be under no obligations to give notice as required by section 32 (3) of the Sales of Goods Act, 1983.

(21) **TITLES.**-The titles of the clauses shall not affect their legal construction.

(22) **SUPPLEMENTARY CONDITIONS OF CONTRACT.**-Our offer is made subject to our usual Conditions of sale and is subject to confirmation or revision by us in any event, at time of ordering. During the continuance of abnormal conditions likely to prevail for some time the contractor shall be relieved of liabilities incurred under this contract wherever and to the extent to which the fulfillment of such obligations is prevented, frustrated or impeded by any statute, rules regulations, orders or requisitions issued by any Government Department, Council, or other duly constituted authority. In view of the uncertainty of the future cost of manufacture we are compelled to stipulate that, notwithstanding any price quoted by us or stated in your order, the goods will be invoiced at our prices current at the date of despatch.

(23) **VALUE ADDED TAX.**-We shall be entitled to recover from you by way of addition to the Contract Prices(s), such amounts(s) which we may become liable to pay in respect of Value Added Tax in relation to goods or services supplied under this contract