

1 DEFINITIONS:

- 1.1 All references to 'the Company' in these terms and conditions shall mean Dalair Limited.
- 1.2 All references to 'the Customer' in these terms and conditions shall mean any individual, partnership or corporate body who places a written order to purchase Products/Services from the Company.
- 1.3 All references to the 'Products' and/or 'Equipment' in these terms and conditions shall mean any goods, items or parts manufactured and supplied by the Company.
- 1.4 All references to 'Services' means any work provided to the Customer by the Company including but not limited to installation, commissioning, servicing, repair and maintenance.
- 1.5 All references to 'Contract' means the contract into which these terms and conditions are incorporated and by which the Customer purchases the Products/Services from the Company.

2 VALIDITY:

- 2.1 Quotations and tenders do not constitute offers and may be withdrawn or amended at any time before they are accepted and must be in writing.
- 2.2 Orders accepted by the Company are subject to these terms and conditions only. These terms are regarded as a counter offer to the order and, unless specifically agreed in writing, no other terms or conditions will be binding on the Company or will form part of the Contract between the Company and the Customer.
- 2.3 Unless otherwise agreed in writing, orders accepted by the Company will not be subject to either 'Sub-Contract' terms and conditions or 'Back-to-Back' conditions/arrangements with any third party or Main Contractor or Principal Contractor.
- 2.4 No order accepted by the Company will be subject to Retentions, Discounts, Right of Set Off, Pay When Paid clauses, Liquidated & Ascertained Damages and/or Consequential Damages. For the avoidance of doubt, non-acceptance of consequential damages includes damages, loss of profit and any liability incurred by any third party.

3 TENDERS:

- 3.1 Quotations submitted by the Company for the supply of the required Product/Services shall remain open for acceptance for a maximum of 60 days from the date of tender but shall be subject to confirmation at the time of acceptance.
- 3.2 Where quotations provided are not stated as fixed price, then 0.6% per month following the 60-day acceptance period is to be added until required date of delivery/service.
- 3.3 Prices quoted by the Company will be net ex-works prices or, where applicable, net delivered on the British mainland.
- 3.4 All prices quoted are exclusive of Value Added Tax, Purchase Tax or any other taxes that may from time to time be in force. The appropriate amount of taxes ruling at the time of despatch shall be added to the total purchase price and invoiced to the Customer for payment.
- 3.5 The Company reserves the right to charge the Customer at prices ruling at the date of despatch, notwithstanding any price that may be given on any quotation or acknowledgement of order.
- 3.6 Where the Products are exported directly from the Company, the warranty of the Products covers only the cost of the replacement of a defective part. The cost of shipment, dismantling, re-assembly and testing to be covered by others.
- 3.7 Where the Products are exported with no prior knowledge of the Company, the warranty of the Products, as stated in clause 3.6 above, is invalidated.

4 DESIGN:

- 4.1 In accordance with the Company's policy of continuous improvement in the design of its products and improvement on services, the right is reserved to make any changes in construction or design as may be considered necessary without notifying the Customer.
- 4.2 All drawings, specifications, descriptive literature and particulars issued by the Company are intended to give a basic indication only of the Products/Services, and as such shall not form part of the Contract. Upon acceptance of a tender, technical submissions and/or descriptive drawings can be provided on request.
- 4.3 Where the design of the Products is based on data and information given to the Company by the Customer or his representatives, the Company shall assume that all such details are accurate and therefore the Products will be designed for performance in accordance with the given data.
- 4.4 The performance figures given are those which we would expect to obtain on test and any departure from these figures shall not involve any invalidation of the Contract, nor entitle the Customer to recover any consequential damages or compensation from the Company.

5 DATA PROTECTION:

- 5.1 The Company may disclose any data received from the Customer to any such person/professional body to whom we propose to transfer any rights and/or responsibilities under any Contract to which these Terms apply or to whom we transfer our business or any relevant part of our business. Any such person/professional body shall be entitled to process such data in the same manner that we process the data in accordance with the Data Protection Act 1998.

6 TERMS OF PAYMENT/ACCOUNT:

- 6.1 The Company will be entitled to submit invoices immediately the Products/Services have been despatched/completed or are ready for despatch/service but hold pending delivery of the invoice instructions from the Customer.
- 6.2 All invoices, subject to a trading account being granted, are strictly net for payment within 30 days from the invoice date. Any payment not received by the due date will be subject to interest charges at a rate 8% above the current Bank of England minimum lending rate. At the Company's discretion an overdue account may result in cessation of work and may affect future deliveries and services to the Customer until such time as settlement has been made.
- 6.3 Where a dispute arises against an invoice and the disputed value can be identified, payment of the undisputed balance is required within the period outlined in clause 6.2 above. If necessary, a credit note would be issued for the disputed value.
- 6.4 The credit terms outlined in clause 6.2 above will be extended to approved accounts only, entirely at the Company's discretion. The Company reserves the right to refuse credit terms to any prospective or existing Customer at any time without stating the reason and, in such cases, an order will only be accepted/completed upon receipt/guarantee of payment in full for the total sums payable due.
- 6.5 In the event the Customer has been granted account facilities, payment performance on the Contract and/or any other Contract, will be monitored. Should payment not be in accordance with the Company's trading terms and conditions, the Company reserve the right to re-assess account status and services to the Customer, which includes holding of deliveries and/or warranty cover.
- 6.6 The Company will be entitled to adjust the total price payable to take account of price variations due to extra costs involved in alterations, amendments, temporarily suspended work, etc., and any such deviation from the originally agreed price for the Contract will be subject to written agreement between the Customer and the Company. Refer to Section 8.
- 6.7 No order placed with the Company for Products/Services to be supplied may be cancelled by the Customer, except on payment of the full costs incurred up to the date of cancellation, including any costs of cancellation for items being purchased by the Company from external suppliers for incorporation in the Products/Services, which is the subject of the order being cancelled by the Customer. Refer to Section 8, Termination/Cancellation, clause 8.2.
- 6.8 There will be no facility within the Contract for the Customer to apply any retention or discounts to payments whatsoever and, if such action is taken by the Customer, payment will be deemed to be overdue and will be subject to treatment as described in clause 6.2 above.
- 6.9 In the event that delays to delivery/service occur outside the Company's control, the Company reserve the right to invoice at the original delivery/completion date, for payment within the agreed period from invoice date, see clause 6.2 above. Storage would then be charged at the advised rates and a 'Vesting Certificate' issued transferring ownership to the Customer upon receipt of payment in full.

7 RETENTION OF TITLE:

- 7.1 Title to the Products (both legal and equitable) remains with the Company and will only pass to the Customer on receipt of payment in full (in cash or cleared/guaranteed funds) in respect of:
 - a. the Products and
 - b. all other sums which are or which become due to the Company from the Customer for sales of Products/Services.
- 7.2 Until title to Products has passed to the Customer under clause 7.1, the Customer shall:
 - a. hold the Products on a fiduciary basis as the Company's Bailee;
 - b. keep the Products free from any charges, liens or other encumbrances;
 - c. store such Products (at no cost to the Company) separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;
 - d. not remove, deface or obscure any identifying mark or packaging on or relating to such Products;
 - e. maintain such Products in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks with a reputable insurer. On request the Customer will allow the Company to inspect such Products and the insurance policy;
 - f. not attach the Products to any real property without the Company's prior written consent; and
 - g. notify the Company immediately if it becomes subject to any of the events listed in clause 8.1.b.

- 7.3 The Customer's right to possess and use the Products shall immediately cease if the Customer becomes subject to any of the events listed in clause 8.1.b.
- 7.4 The Company may while the owner of the Products, (and without prejudice to any other rights it may have) have the right to recover the immediate return of the Products at any time and the Customer will forthwith comply with such demand and bear the expenses for such return.
- 7.5 The Customer grants or, where applicable, shall procure that any relevant third party grants to the Company and its employees and agents an irrevocable licence to enter at any time any premises where the Products are or may be situated for the purpose of inspecting or removing any such Products the ownership in which has remained with the Company (or such successor in title).
- 7.6 The Company will be entitled to recover payment for the Products notwithstanding that ownership of any of the Products has not passed to the Company.

8 TERMINATION/CANCELLATION:

- 8.1 The Company reserves the right to terminate the Contract, having given written notice to do so on the Customer, on one or more of the following grounds: -
 - a. That the Customer has failed to properly discharge his undertaking under the Contract, particularly with regard to payment of invoices.
 - b. That the Customer has become involved in bankruptcy, liquidation, (whether voluntary or compulsory), has convened a meeting of creditors or has a Receiver appointed. Voluntary liquidation would be accepted for the purpose of re-organisation or amalgamation, which would not affect the Customer's financial stability.
 - c. That the Company is prevented from carrying out all or any substantial part of the Contract work, by reasons of any kind for a period of 90 days, arising from an act through default of any person or persons, including the Customer, his servants or agents, who are beyond direct control of the Company.
- 8.2 Orders may be cancelled only with the Company's written agreement and the Customer will indemnify the Company against all losses, damages, costs and expenses the Company incurs as a result of that cancellation. Any cancellation of the Products/Services ordered shall be subject to a minimum cancellation charge of 25% of the order value. Should costs exceed the minimum cancellation value, then all costs up to and including point of cancellation would be charged.

9 DELIVERY:

- 9.1 Delivery/service periods stated by the Company will be given in good faith at the time of quoting, and should not be regarded as being the essence of any Contract. The delivery/service period will take effect from the date of receipt of all full and final instructions/information from the Customer including drawing approval, which must be given in writing. Although major items of plant will be ordered at the receipt of the order, manufacture will only commence upon receipt of written approval of drawings. Any delays in approval will ultimately affect the date of delivery/service for which we accept no responsibility.
- 9.2 The Company will always endeavour to accommodate the Customer's reasonable delivery requirements, but under no circumstances will the Company be liable for loss or damage of any kind caused by delays to delivery, however caused.
- 9.3 In the event of despatch being delayed by the Customer's instructions, absence of them or other factors beyond The Company's own control including, but not limited to, Act of God, War, Civil Commotion, Industrial Disturbance, Strike, Lock-Out, Fire, Tempest, Flood, Accidents, Defective Materials, Failure by any of our suppliers to deliver or any delay in delivery, from whatever cause arising, any delay arising from any such cause shall not entitle the Customer to cancel or rescind the Contract. In part or in whole, and the Company would expect the granting of a reasonable extension of time as mutually agreed.
- 9.4 In the event that deliveries are delayed by the Customer, for whatever reason, payment would still be required in accordance with Section 6, Terms of Payment/Account.
- 9.5 Unless specifically agreed in the Contract, the Company shall not be responsible for either loading on the Customer's transport, in the case of ex-works orders, or for off-loading at destinations in the case of orders including delivery.
- 9.6 The Company reserves the right to make delivery to the required destination on the date indicated on our acknowledgement of order, without further notice or arrangement, unless instructions to the contrary are received in writing at least seven days before despatch is due. In the event of any consignment not being accepted at the agreed destination at that time, the Company will be entitled to claim and recover all resupplying additional transport and storage costs together with payment in full for the goods based upon the original delivery date.
- 9.7 Where deliveries are made and offloading is delayed for reasons outside of the Company's control for a period of more than two hours, demurrage charges will be applied for the period of delay at the Company's rate current at the time the demurrage occurred.
- 9.8 The Company have no facility for long-term storage and, should the Customer require such service, charges will be at the Company's advised rates. The Products will be collected by the Customer at the agreed despatch date and arrangements for transport and storage will become the Customer's responsibility.
- 9.9 Any claims for damage or shortages must be advised in writing by the Customer within three days of despatch to be considered by the Company. Claims for non-delivery must be advised in writing within ten days of despatch.
- 9.10 The offloading, carriage, distribution and relevant safety considerations applicable to the Products supplied by the Company are the responsibility of the Customer. The Company will not accept responsibility for damage to the Products, however caused, once the goods have been removed from the delivery vehicle.
- 9.11 Where offloading is to be carried out by either the Company or the Customer, all traffic management including, traffic calming, road closures, permits, etc., are responsibility of the Customer.
- 9.12 Where offloading by the Company is via hi-ab vehicle, supervision and/or a banksman is to be provided by the Customer.
- 9.13 Protection, weathering, safekeeping and maintenance of the Products following receipt on site are the responsibility of the Customer. This will apply unless the Company is employed to carry out installation, in which case responsibility for protection will transfer to others on completion of installation of the equipment.

10 SERVICES/EQUIPMENT/INSTALLATION:

- 10.1 Where installation of the Products is included within the Contract, our quotation assumes that continuity of work and adequate access to the work area is available throughout the installation process. All installation activities are based upon normal working hours, Monday to Friday from 08.00 hours to 16.30 hours.
- 10.2 Where the Company has agreed to install and/or test/commission any Product or perform any other Services including, but not limited to, service work and maintenance, the following shall apply.
 1. The Customer must ensure that: -
 - a. Site is ready at agreed time.
 - b. Adequate access/working space relevant to the size of the Products/Services is provided.
 - c. Access/lifting equipment is available.
 - d. Programme of works and access allowed for completion of the Services within normal working hours.
 - e. The Services will not be delayed or interrupted and continuity of work will be maintained.
 - f. Lighting, heating, power, water, gas and drainage supplies are provided.
 - g. All specified building, plumbing and electrical works, defined by the Company as a Customer responsibility, are complete and in accordance with specification.
 - h. Supply of scaffold, mobile access platforms, hoist and lifting/lowering equipment required by the Company for the execution of the Services is to be provided.
 2. All workers' work required by the Company in order to execute the Services is the Customer's responsibility.
 3. All set-out, datum points are to be clearly made visible/detailed by the Customer prior to commencement of the Services by the Company. The Company accepts no responsibility for any wrongdoing in the absence of set-out/demarcation points/instruction.
 4. All supporting steels, plinths and/or hangers are the responsibility of the Customer and are required to be in place. The supporting steels, plinths and/or hangers are to be adequate and suitable to house the equipment or services ordered.
 5. A safe and appropriate working environment in accordance with the British Standard Code of Practice for safe working in occupied and unoccupied parts of the site is provided for the Company's employees and agents.
- 10.4 Should any of the above not be met, (in the Company's sole discretion), the Company shall be entitled, (without prejudice to any other right or remedy), to suspend the Company's obligation to perform the Services without liability on the Company's part and, if conditions are not met within five working days, cancel the obligation to perform the Services and recover from the Customer all losses, damages, costs and expenses incurred including any third party claim, and/or charge the Customer for additional costs incurred in completing the Services including, but not limited to, travel and overtime rates for labour.
- 10.5 Where the price quoted for the Service is based on particulars supplied by the Customer any materials or additional Services required, which were not apparent from those particulars, will be subject to an additional charge including, but not limited to, travel and overtime rates for labour.
- 10.6 In the event of termination of the Services by the Customer, such termination shall be in writing by registered or recorded post giving full reasons for such termination. In the event of termination, for whatever cause, the Company shall be entitled to be paid the full value of work begun and/or completed up to the date of termination; any design/survey, all costs of materials and goods obtained by the Company for the Services, the cost of removal from site of any of the Company's property and any direct loss and/or expense caused to the Company by the Customer, whether by termination or otherwise, and under the Contract. The Company may take possession of and shall have lien upon all goods and materials that may have become the property of the Customer until payment of all monies due to the Company by the Customer.

11 VARIATIONS:

- 11.1 Variation means any alteration or modification of the design, composition, quality or quantity of the Products and/or Services and includes any addition, omission or substitution and any alteration to the programme of works requested by the Customer.
- 11.2 To achieve delivery dates subject to conditions detailed in Section 9 Delivery, all bought-out components will be placed on order on immediate receipt of the Customer order. Should amendments be made causing changes to the Products/Services selection, then all additional costs/delays to programme will be passed onto the Customer.
- 11.3 All variations must be ordered in writing by the Customer and, if agreed by the Company, the Customer shall pay the cost of the variation and all additional costs and expenses incurred including, but not limited to, the provision of labour at the Company's day rates. (Available upon request.).
- 11.4 If it is not reasonably possible to value a variation before the Company complies with the order or if the order is complied with before the cost of the variation has been agreed, then the cost of the variation shall be charged on the Company's day rates together with the cost of additional materials and services at the Company's rates current at the time the variation was carried out.

12 EXPORT TERMS:

- 12.1 Where the equipment is supplied for export from the United Kingdom the Customer shall be responsible for arranging inspection of the equipment at the Company's premises before despatch from our works. The Company shall have no liability for any claim which respects any defect in the equipment which would have been apparent on inspection and which is made after shipment or in respect of any damage during transit.
- 12.2 Warranty: Refer to Section 3 Tenders, clauses 3.6 & 3.7, and also Section 14 Guarantee.

13 INSURANCE:

- 13.1 The Customer will indemnify the Company against all claims, proceedings demands or liability, and all costs of any nature incurred by or made against the Company, which arise from the death or injury of any of the Company's servants, agents or sub-contractors while they are performing the services for the Customer under the terms of the Contract at any place other than the Company's own premises, however caused, other than wholly by the Company's servants, agents or sub-contractors own negligence.
- 13.2 The Customer will indemnify the Company against any claim that may arise from any service carried out by the Company, its servants, agents or sub-contractors, which result partially or wholly from any act, error or omission of the Customer or any other person or persons.
- 13.3 The Customer will indemnify the Company, its servants, agents and sub-contractors against any claim for financial loss or damage whatsoever, made by a third party. This indemnity shall include, but not be limited to, death or injury to any person or persons.

14 GUARANTEE AND LIABILITY:

- 14.1 On the Products and items manufactured and supplied by the Company, a guarantee against faulty materials or workmanship is given for a period of twelve months commencing from the date of despatch.
- 14.2 So far as it is reasonably possible we shall extend to the Customer the benefits of any guarantees or free service commitment, which may be offered by the manufacturer or supplier in respect of any goods purchased by the Company for incorporation in the Products.
- 14.3 Remedial work agreed by the Company as being within the guarantee will be accepted and carried out, (only by the Company's own personnel), in the following circumstances only: -
 - a. Providing the Customer has fully discharged his obligations in relation to the terms of the Contract, including terms of payment.
 - b. Providing that in the Company's opinion, the Products have been properly transported, handled, stored, protected against the weather and damage, and has been correctly installed, used and maintained, following the procedures given in the Company's operating and maintenance manual.
 - c. The Products being on site requires consideration/responsibility of others for protection, safekeeping and maintenance. Lack of maintenance cannot be regarded as a product/component defect. Inoperable equipment standing on site will deteriorate unless maintained.
 - d. That all parts or items removed for replacement will become the property of the Company.
 - e. That all costs and expenses which may be incurred by the Company, or may be charged to the Company by a third party, in attempting to dismantle or re-assemble the replacement part must be defrayed by the Customer.
- 14.4 If the Company will not be obliged to repair or replace any part which has been defaced in any way which has been tampered with or has not been adequately maintained in accordance with the recommended procedures.
- 14.5 That the Company will not be responsible for any damage to the external or internal surfaces of the Products that may occur whilst being handled by others during off-loading, installation, usage or maintenance.
- 14.6 The terms of this guarantee shall not reduce the Customer's statutory rights as a consumer in accordance with any statute for the time being in force.
- 14.7 The Company shall be under no liability in respect of any defect in the Products/Services arising from:
 - a. the drawing, design or specification supplied by the Customer,
 - b. wear and tear, damage, negligence, abnormal working conditions, failure to adhere to our instructions (verbal or written), misuse or modification or repair of the Products without our approval.
- 14.8 The Company will be under no liability under the guarantee if the total price for the Products/Services has not been paid by the due date for payment.
- 14.9 Any guarantee/warranty shall not be assigned/re-assigned without the Company's prior written consent.
- 14.10 Providing the Customer has not permitted any other persons not approved or authorised by the Company to effect any replacement of parts/remedial work or adjustment/repair of the Products.
- 14.11 The Customer shall provide the Company with all information requested for the purpose of the investigation/guarantee procedure. The Company reserves the right to reject any complaint/claim if the Customer fails to supply adequate evidence in support of such claim.
- 14.12 Any claim in regard to that of a defect, failure to comply with specification, non-delivery of any Products/Services or any part of the Contract shall not entitle the Customer to cancel the Contract or refuse delivery of or payment for the Products/Services or any other order.
- 14.13 Where a valid claim in respect of the Products/Services is based on a defect in quality or condition and/or their failure to meet specification is notified to the Company in accordance with these Terms, the Company may, at our sole discretion, repair or replace free of charge, where the Company shall have no further liability to the Customer.
- 14.14 Where any repair or replacement is to be carried out by the Company, the Customer shall be liable for expenses of travelling to and from the site/location and, where necessary, the accommodation and subsistence expense.
- 14.15 At all times the Customer is to ensure the Company is provided with suitable, direct access to the Products/Services to enable the repair/replacement.
- 14.16 Any cost for assembly or disassembly shall be borne in full by the Customer.
- 14.17 All products replaced by the Company shall become the Company's property.
- 14.18 Except in respect of death or personal injury caused by our negligence, or liability for defective products under the Consumer Protection Act 2015, we shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for loss of profit or for any indirect, special or consequential loss or damages, costs, expenses or other claims for compensation whatever (whether caused by the Company's negligence or that of the Company's employees or agents or otherwise) which arise out of or in connection with the supply of the Products/Services (including any delay in supplying or failure to supply the Products/Services in accordance with the Contract or at all) or their use or resale by the Customer.
- 14.19 The Company's entire liability under or in connection with the Contract shall not exceed the price paid for the particular Products/Services the subject of a claim, except as expressly provided in these Terms.
- 14.20 The Company shall not be liable to the Customer or be deemed in breach of the Contract by reason of any delay in performing, or failure to perform, any of our obligations in relation to the Products/Services, if the delay or failure was due to any cause beyond the Company's reasonable control.
- 14.21 Without limiting the foregoing, the following shall be regarded as causes beyond our reasonable control: -
 - a. Act of God, including flood, tempest, fire or accident;
 - b. war or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - c. acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - d. import or export regulations or embargoes;
 - e. strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party);
 - f. difficulties in obtaining raw materials, labour, fuel, parts or machinery; and
 - g. power failure or breakdown in machinery.

15 LAW:

- 15.1 These terms and conditions allow for the Contract to be operated in accordance with English Law and, in the event of any dispute arising, it will be subject to jurisdiction under the Laws of England.