



APPLICABLE TERMS AND ACCEPTANCE OF ORDER

These Terms and Conditions of Trade between CONCENTRIC ENGINEERED SOLUTIONS LIMITED (the "Company") and the Customer (the "Customer") shall apply to all orders for the supply of manufactured products, parts and materials and installation relating to the sale, repair and overhaul of engineering machinery, ("Goods") and mechanical designs and drawings and labour for installation and commissioning of Goods, technical workmanship for repair, maintenance and installation or other contracting or hireage of equipment supplied at an hourly rate or at a quoted fixed cost following written instructions or reasonable oral instructions from the Customer ("Services").

These terms and conditions shall prevail and take precedence over any document or oral message from the Customer. Where the Company fails to enforce any terms or conditions under this contract the Company will not be deemed to have waived these rights with respect to any term or condition or right.

The Customer and the Company shall acknowledge that these Terms and Conditions of Trade constitute a Security Agreement as defined by the Personal Property Securities Act 1999 ("PPSA"). For the purposes of the PPSA, Collateral shall include all and any Goods supplied by the Company and the proceeds from the sale of all Goods. The Customer shall also agree not to allow any person to file a finance statement over any of the Collateral secured by this Security Agreement without the prior written consent of the Company.

Quotation and Price

The Company shall confirm the price of Goods and Services in its price list or as a quotation and the Customer shall confirm acceptance of the price or quotation by signing the quotation or providing an order. Where no price is stated the price shall be the price that the Company charges at the time of delivery.

The quotation price may be increased if the Company suffers any cost increases which are beyond its control in the supply, production and delivery of Goods (including increases in import costs and changes in currency) between the date of contract (or, where the contract arises from a quotation the date of the quotation) and the date of delivery, where the Company can supply written evidence of such cost increases or if the Customer varies or alters its requirements for the Goods or Services. Variations and alterations may result from changes to instructions from the Customer requiring a changed basis for the cost of Goods or Services OR additional parts, materials or Services. Any variations regarding price or supply to that agreed in the quotation or order that may be agreed between the parties during the period of supply shall be in writing and take precedence over that part of the quotation or order so affected.

No quotation shall constitute an offer unless signed by the Company and the Company may withdraw any quotation before the Customer's signed acceptance. The quotation price will be exclusive of GST and shall be valid for a period of thirty (30) days. Freight, insurance, and other handling charges shall be the responsibility of the Customer.

The quotation and price of Goods and Services may also include subcontractors or agents used by the Company to undertake the work on behalf of the Company. The Customer agrees that employees and agents of the Company used in the supply of Services are the property of the Company for the term of this contract and the Customer further agrees to pay the full amount of the contract price if the Customer interferes with the Company use of its employees or agents or cancels the contract and rehires the Company's employees or agents to complete the contract.

No cancellation for Make to Order Goods

Upon acceptance of a Company quotation by the Customer or Customer order to the Company for Goods or Services that are designed or procured specifically for the Customer (meaning non standard or indented to order) cannot be cancelled without the Customer paying the full cost of the manufacture or procurement of the Goods or Services to the time of cancellation.

Payment

Payment shall be made according to the terms stated in the Company invoice or terms of the Customer order or confirmed in the quotation otherwise by the 20th of the month following date of invoice. The Customer shall make payment of all amounts due to the Company without any delay or deduction whether by way of set-off or counterclaim even under dispute of the invoice.

The Customer agrees that the Company has sole discretion to apply payments from the Customer to any transaction or Company invoice notwithstanding that the Customer may have applied the payment to a particular transaction or invoice.

Interest for Late Payment

The Company may charge the Customer interest on any monies outstanding under this contract on a daily basis at a rate equal to 5% above the Company's bank indicator lending rate. Interest is payable from the date payment was due until the date the Company receives payment. The Company's right to charge

interest is without prejudice to the Company's other rights or remedies for the Customer's default in failing to pay on the due date.

Suspension of Contract for Non Payment

If at any time the Company reasonably deems the credit of the Customer to be unsatisfactory, it will require the Customer to provide at the Customer's cost, security for payment and/or the Company may suspend performance of its obligations including suspension of the supply of Goods or Services under this contract.

The Company may secure any or all Goods previously supplied by the Company and in possession of the Customer under the Retention of Title clause to the value of the outstanding amount owed until payment is made in full OR until security is provided to the Company's satisfaction and the Company may require the Customer to pay all costs incurred as a result of suspension and re-commencement of supply including debt collection and legal costs.

Delivery

The Customer shall agree that risk in the Goods shall pass to the Customer once the Goods are delivered. Delivery by the Company to a carrier normally used by the Company shall constitute delivery and the Customer shall accept risk in the Goods once the Goods are in the care of the carrier and the Customer agrees that the Company shall not be liable for damage caused by the carrier. Completion of installation, repair or servicing of the Goods or Customer's property shall constitute delivery of Services.

Delivery by the Company to the premises of the Customer shall also constitute delivery and the Customer shall agree that risk in the Goods shall pass to the Customer once the Goods are delivered. The Customer agrees that the Company shall not be responsible for the validity of the person accepting the Goods on behalf of the Customer at the time of delivery.

Goods or Services that are finished items but only part of an order may be delivered by instalments at the Company's discretion and in such case each delivery will be regarded as a separate contract and any Goods or Services delivered shall be paid by the Customer in accordance with the terms of payment.

Where the Company has performed part or all of the supply of Goods or Services at a time agreed by the Customer but where delivery is delayed because of any act, omission or delay by the Customer or where the Customer has not rendered its site safe under the Health and Safety in Employment Regulations, the Company will require the Customer to pay that portion of the contract price which represents the costs incurred by the Company in carrying out supply and the Company may also charge stand by costs while the Customer renders the site ready.

The Company will make every effort to ensure delivery of Goods and Services on time but will not be liable for any loss or damage or consequential loss to the Customer arising from delays in delivery.

Personal Property Securities Act

The Customer shall inform its creditors of the terms upon which it buys Goods from the Company and that the Company may create and register a Purchase Money Security Interest under the PPSA for any and all Goods and that the Customer agrees to waive the right to receive a verification statement for purposes of s.148 of the Act. The Customer shall inform any Trustee in Bankruptcy or Liquidator of the Customer or any Receiver of the Customer's business or assets of the rights of the Company and title to the proceeds of sale.

The Security Agreement is a continuing security and will operate irrespective of any intervening payment or settlement of account until a release has been signed by the Company. The security interest granted in the Collateral has the same priority in relation to any and all of the Goods and Services supplied to the Customer at any time

Risk, Ownership and Title

Risk of any loss, damage or deterioration of or to the Goods shall be borne by the Customer from the time of delivery of the Goods into the Customer's care and control and the Customer shall properly insure the Goods from theft, fire or loss damage. Where the Customer fails to insure the Goods upon delivery and suffers loss or damage to the Goods, and where the Goods remain unpaid, the Customer shall agree to pay the Company for the full cost of the Goods.

The Customer agrees that the Company has legal and equitable right to title in all and any Goods supplied that remain unpaid and ownership shall only pass to the Customer when the contract price is paid. For as long as ownership in the Goods is retained by the Company the Customer may use the Goods in such a way that they are identifiable as the property of the Company.

If the Goods or value of Services, the subject of this contract, have become the constituent of mixed with or attached to any other goods or property of the Customer, then a proportion of the value of those goods or property to the value of the Company's Goods or value of Services shall belong to the Company.

Where the Goods or Services remain unpaid the Customer hereby irrevocably gives the Company, its agents or servants, the free and uninterrupted right to enter its premises during normal business hours in accordance with the PPSA, to search for, inspect and remove any of the Goods supplied in which the Company has retained ownership and the Customer will not hold the Company responsible for any economic or consequential loss that the Customer may suffer as a result of the Goods being removed or dismantled from the property of the Customer.

The Company may resell possessed Goods and credit the Customer with the proceeds of sale (less depreciation, wear and tear) and the Customer will still be liable for any outstanding monies.

Title upon Sale to a Third Party

Notwithstanding that property in the Goods is retained by the Company, the Customer is hereby authorised to use or sell the Goods in the ordinary course of business and to deal with such proceeds as fiduciary agent and bailee of the Company until the Customer pays the Company in full without deduction or setoff: provided that such authority may be revoked by written notice at any time if the Company deems the credit of the Customer to be unsatisfactory or if the Customer is in default of its obligations under the Contract or any other contract between the Company and the Customer.

Where any Goods in respect of which title has not passed to the Customer are sold by the Customer pursuant to the authority granted, any book debt created upon sale of such Goods and the proceeds of sale of such Goods when received by the Customer shall be held upon trust by the Customer for the Company. Proceeds of sale so received by the Customer shall be held as a separate fund in trust for the Company and shall first be applied towards the satisfaction of all indebtedness of the Customer to the Company.

Company Warranty & Liability

The Company's liability in respect of any claim shall relate only to specific defects in the Goods arising from faulty manufacture or from damage proven to occur before delivery by the Company or defective Services. If the Customer uses the Goods for other purposes than that specified by the Company in its publications or packaging the Customer agrees to be responsible for the fitness of the Goods for the purposes required by the Customer and the Company shall not be responsible and the warranty will not apply to Goods where the Customer fails to ascertain the correctness of the Goods for purposes intended by the Customer.

The warranty of manufactured products and parts shall be the warranty of the original manufacturer or where this is not available the warranty on Goods shall be six (6) months and the warranty on Services shall be three (3) months from the date of delivery to the Customer. Where the Company undertakes Services of any Goods that do not comply with the warranty conditions of the Company or where the Customer requires the Company to repair Goods outside of the warranty period the Customer shall accept the full cost of the services charged by the Company.

Where the Company accepts liability for damage or defect under its warranty and elects to repair or replace Goods or Services it shall repair or replace the Goods to their original condition and replace Services but where this cannot be done the Company will refund the purchase price in full.

The Company shall not be liable for any loss of profits or any consequential, indirect or special loss, damage or injury of any kind whatsoever suffered by the Customer or any other person arising directly or indirectly from any breach of any of the Company's obligations arising under or in connection with the contract including delays in the delivery of Goods or Services or from any cancellation of the contract or from any negligence, misrepresentation or other act or omission on the part of the Company, its servants, agents or contractors.

The Company shall not be liable for any breach or failure to perform any of its obligations under this contract where such breach or failure is caused by war, civil commotion, hostilities, strike or lockout, act of God, fire, governmental regulations or directions, or any other cause force majeure beyond the Company's reasonable control. The occurrence of such an event shall not give the Customer a right of cancellation of the contract.

Claims for Defective Goods or Services, Discrepancies and Shortages

The Company may, at its discretion, repair or replace any damaged or defective Goods or Services provided that the Customer advises the Company of the claim within thirty (30) days of the defect occurring together with a claim specifically identifying the damage or defect(s); and provided that the Customer does not continue to use the Goods once the defect is known. Discrepancies and shortages of parts must be notified to the Company with seven (7) days of delivery.

When Claims will not be considered

The Company's liability in respect of any claim shall relate only to specific manufacturing defects in the Goods. The Customer agrees that the Company will not consider claims from the Customer in respect of Goods which:

- (i) are not intact and in original condition subject to normal wear and tear.
- (ii) have been improperly stored and suffered damage
- (iii) have been used for other than purposes specified in Company publications or packaging
- (v) have been altered from the condition in which they were supplied or repaired by persons other than the Company
- (vi) have not been maintained according to information in Company publications or packaging

If the Customer does not comply with the above requirements for warranty and claims the Customer will be deemed to have accepted the Goods and the Company will not incur any liability whatsoever in relation to the Goods.

Loaned Goods and Goods on hire

The Customer agrees that Goods supplied on loan or hired by the Company under the care and responsibility of the Customer shall always remain the

property of the Company and will be used only for purposes agreed by the Company and will not be loaned or sold to any third party. Loaned or hired Goods must be used in their whole only and not re-assembled or parts changed or added or mixed with property of the Customer. The Customer further agrees to pay the Company for any loss damage to Loaned or hired Goods while under the care of the Customer.

Intellectual Property

The Customer agrees that where the Company provides intellectual property to assist the Customer in the form of patents, trademarks and copyrights or written instructions, drawings, publications and training manuals and other information the ownership of such intellectual property shall always remain with the Company and the Customer further agrees that it shall not use the intellectual property in any manner by way of adapting or altering without the written permission of the Company.

Where the Company has followed plans, drawings, specifications and instructions being oral or written provided by the Customer, the Customer shall indemnify the Company against damages, costs and expenses in respect of which the Company may become liable by following such plans, drawings, specifications and instructions and including those arising from the infringement of patents, copyrights or trademarks by the Customer.

Consumer Guarantees Act 1993

These terms are intended to have the affect of contracting out of the provisions of the Consumer Guarantees Act 1993 to the extent permitted by that Act where the Customer acquires the Goods in a business situation for the business purposes of a business and all provisions of these terms shall be read as modified to the extent necessary to give effect to that intention.

Dispute and Arbitration

In the event of any dispute between the Company and the Customer arising out of this Contract, the Customer agrees to pay the undisputed part of the outstanding monies owed and such dispute shall be referred to a Mediator to be agreed between the parties and the costs shall be equally shared and upon failure to agree to the outcomes of mediation the dispute shall be referred to an Arbitrator and arbitration conducted in accordance with the Arbitration Act 1996 and any amendments thereof.

Upon signing the Company Credit Application OR signing acceptance of a Company quotation OR providing an order to the Company, the Customer agrees that these Terms and Conditions of Trade shall apply.