

# TERMS AND CONDITIONS FOR SERVICES, REPAIR AND SUPPLY OF SPARE PARTS

These Terms and Conditions shall apply to all sales of service, repairs and spare parts, except that in no case shall warranties on service, repairs or spare parts be other than as set out in clause 3. You are advised to read these Terms and Conditions carefully, in particular clause 7.

Our provision of any Services or Goods does not signify acceptance of other terms of the Customer. Only these Terms shall apply. Your failure to return a signed copy of this Agreement but continuation to accept Goods/Service from Us shall signify your acceptance of these Terms and Conditions.

## 1. DEFINITIONS

- 1.1. "We, Us, Our" means Coilco Ltd (06892744) of 2 Mill Road, Haverhill, Suffolk, CB9 8BD.
- 1.2. "the Customer" means the person or firm who purchases the Goods and/or Services from Us.
- 1.3. "Contract" means the contract between Us and the Customer for the supply of Goods and/or Services in accordance with these Conditions.
- 1.4. "Goods" means the goods (or any part of them) set out in the Service Sheet.
- 1.5. "Service Sheet" means the Customer's order for the supply of goods and/or services, which is completed on-site and provides a written description of the Services provided.
- 1.6. "Services" means the services, supplied by Us to the Customer as set out in the Service Sheet.

## 2. GENERAL

- 2.1. It is at the point the Customer requests Our assistance this this Contract shall come into existence.
- 2.2. This Contract constitutes the entire Agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Us which is not set out in the Contract.
- 2.3. All of these Terms and Conditions shall apply to the supply of both Goods and Services except where applications to one or the other is specified.
- 2.4. We warrant to the Customer that the Services will be provided using reasonable care and skill.

## 3. SUPPLY OF GOODS AND SERVICES

- 3.1. We shall ensure that each delivery is accompanied by a Service Sheet which shows the date that Services were carried out and Goods were delivered; all relevant reference numbers (both Ours and the Customers); the type and quantity of Goods/Services; any special storage instructions and, if the delivery is being carried out in instalments, the outstanding balance of what remains to be delivered.
- 3.2. We shall provide the Services to the Customer in accordance with the Service Sheet in all material respects.
- 3.3. We shall use all reasonable endeavours to meet any performance dates, but any such dates shall be estimates only and time shall not be of the essence for the performance of Services. We are not liable in the event that we do not meet any performance dates.
- 3.4. You accept that Our service engineers cannot work in excess of 14 continuous hours and must be allowed to take the statutory breaks to which they are entitled.
- 3.5. We shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services. We shall notify the Customer in any such event.
- 3.6. Time of delivery is not of the essence. We shall not be liable for any delay in delivery that is caused by a Force Majeure Event as in clause 11, or the Customer's failure to provide Us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods or Services.
- 3.7. We warrant to the Customer that Services will be provided using reasonable care and skill.

## 4. QUALITY OF THE GOODS

- 4.1. We warrant that on delivery of Goods where We have confirmed that a warranty is offered and the Customer has paid all sums due to Us for a period of 12 months from the date of payment of the final invoice, the Goods shall:
  - 4.1.1. conform with the Service Sheet;
  - 4.1.2. be free from material defects in design, material and workmanship; and
  - 4.1.3. be fit for any purpose held out by Us
- 4.2. Subject to clause 4.3 if:
  - 4.2.1. the Customer gives notice in writing to Us within 7 days of discovering that some or all of the Goods do not comply with the appropriate warranty set out in clause 4.1;
  - 4.2.2. We are to be given a reasonable opportunity of examining such Goods; and
  - 4.2.3. the Customer (if asked to do so by Us) returns such Goods to Our place of business at the Customer's cost; and
  - 4.2.4. the Customer has attempted to locate and remedy the faulty part. If the Customer is unable to do so then:
    - 4.2.4.1. If a faulty part requires the on-site services of a service engineer, We will charge for these services to cover the time and cost of travel, attendance and accommodation expenses of the service engineer.

- 4.2.4.2. If We exercise Our option to replace the faulty part, the Customer must return the part, freight prepaid to Us within 30 days of being notified of the Our decision to replace the faulty part. The replacement will be free excluding labour.
  - 4.2.4.3. This warranty applies solely to non-consumable parts within the induction power supply. The warranty does not apply to perishable items which include (but are not limited to) thyristors, hoses, gaskets, power leads, diodes, fuses, bulbs, water flow pressure and conductivity sensors, sacrificial anodes, filters, de-ionising crystals, and internal pumps.
  - 4.2.4.4. This warranty is given in place of all other conditions and warranties, express or implied, arising by common law or statute.
  - 4.2.4.5. This warranty will not apply if the Goods are repaired or serviced by anyone other than Us or Our appointed service contractors.
  - 4.2.4.6. In the event of a fault in manufacture becoming apparent in goods or parts thereof which have not been manufactured by Us, liability shall be limited to the amount or other remedy recoverable by Us from the manufacturers, whether or not the manufacturers' liability shall be made known to the Customer. Before We seek to enforce or recover any remedy from the manufacturer the Customer must deliver the faulty part, freight prepaid to Us.
  - 4.2.4.7. Where items or parts thereof are replaced by Us, the replacement item will be an item of the equivalent (and not necessarily the same make) as that originally supplied. The guarantee in respect of such items or parts replaced shall not extend beyond the period of the original guarantee.
  - 4.2.4.8. No responsibility is accepted by Us for the failure to comply with any statutory or other regulations or local by-laws affecting siting, operation or construction of any goods or materials supplied by Us, or for obtaining any consents necessary in respect thereof unless clearly specified by the Customer in writing and agreed to in writing by Us.
  - 4.2.4.9. We shall, at Our option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 4.3. We shall not be liable for failure to comply with the warranty set out in clause 4.1 in any of the following events:
- 4.3.1. the Customer makes any further use of such Goods after giving notice in accordance with clause 4.2;
  - 4.3.2. the defect arises due to mishandling, inadequate electrical/water supply, incorrect installation by others, metal ingress, lining failure, incorrect storage, fair wear and tear, or abuse;
  - 4.3.3. the defect arises because the Customer failed to follow Our oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
  - 4.3.4. the defect arises as a result of Us following any drawing or design supplied by the Customer;
  - 4.3.5. the Customer alters or repairs such Goods without the written consent of Us;
  - 4.3.6. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
  - 4.3.7. the Goods differ from the Service Sheet as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 4.4. Except as provided in this clause 4, We shall have no liability to the Customer in respect of any failure to comply with the warranty set out in clause 4.1.
- 4.5. These Conditions shall apply to any repaired or replacement Goods supplied by Us.

## 5. TITLE AND RISK

- 5.1. The risk in the Goods shall pass to the Customer when the Goods leave Our premises (or other storage location) for delivery to the Customer.
- 5.2. The Customer must accept delivery. Failure to do so may result in additional storage charges, payable by the Customer on demand.
- 5.3. Title to the Goods shall not pass to the Customer until We have received payment in full.
- 5.4. Until title to the Goods has passed to the Customer, the Customer shall:
  - 5.4.1. hold the Goods on a fiduciary basis as the Our bailee;
  - 5.4.2. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - 5.4.3. maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - 5.4.4. notify Us immediately if it becomes subject to any of the events listed in clause 8.1; and
  - 5.4.5. give Us such information relating to the Goods as We may require from time to time.
- 5.4.6. Clauses 5.3.1- 5.3.5 apply regardless of whether the Customer resells or uses the Goods in the ordinary course of its business.
- 5.5. If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 8.1, or We reasonably believe that any such event is about to happen and notify the Customer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy We may have, We may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## 6. PRICE AND PAYMENT

- 6.1. We may, by giving notice to the Customer at any time up to the date of final invoicing, increase the price of the Goods and/or Services by a reasonable amount reflecting any increase in the cost of the Goods and/or Services that is due to:
  - 6.1.1. any increases in material or labour costs;
  - 6.1.2. any factor beyond Our control (including foreign exchange fluctuations, increases in taxes and duties, increases in labour, materials and other manufacturing costs);
  - 6.1.3. any delay caused by any instructions of the Customer or failure of the Customer to give Us adequate or accurate information or instructions.
- 6.2. We may invoice the Customer for Goods at the end of the month when delivery was completed.
- 6.3. We may undertake internal credit checks on any Customer. As a result of this, we may request advance payment.
- 6.4. Where we become aware of a deterioration in a Customer's economic situation, we may request advance payment.
- 6.5. The charges for Services shall be on a time and materials basis:
  - 6.5.1. The charges shall be calculated in accordance with Our standard service rates.
  - 6.5.2. Our daily fee rates for each individual person include:
    - 6.5.2.1. Our standard labour rate for work undertaken during weekdays;
    - 6.5.2.2. Time and a half for work undertaken during Saturdays;
    - 6.5.2.3. Double time for work undertaken during Sundays;
    - 6.5.2.4. Please note, the above rates also include any travel time.
- 6.6. We shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom We engage in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of Services provided by 3<sup>rd</sup> parties and required by Us for the performance of the Services and for the costs of any materials.
- 6.7. Invoices must be paid by the Customer in full and in cleared funds within 30 business days of the date of the invoice. Time of payment is of the essence.
- 6.8. If the Customer fails to make any payment due to Us under the Contract by the due date for payment, then the Customer shall:
  - 6.8.1. pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate due from the first date that the invoice becomes overdue;
  - 6.8.2. be subject to administration charges under the Late Payment of Commercial Debts legislation.
- 6.9. The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Us in order to justify withholding payment of any such amount in whole or in part. We may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by Us to the Customer.
- 6.10. There will be no charges for the work set out in the Service Sheet if specifically stipulated that that work was included in the equipment sale contract previously entered into with Us.

## 7. LIMITATION OF LIABILITY

**WARNING the Customer is strongly advised to carefully read this clause in full.**

- 7.1. Nothing in these Conditions shall limit or exclude Our liability for:
  - 7.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - 7.1.2. fraud or fraudulent misrepresentation;
  - 7.1.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979;
  - 7.1.4. defective products under the Consumer Protection Act 1987; or
- 7.2. Subject to clause 7.1:
  - 7.2.1. We shall under no circumstances be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
  - 7.2.2. Our total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods and/or Services.
- 7.3. the Customer agrees that apart from the Conditions contained herein, or in the Service Sheet, or in any document expressly stipulated therein to form part of the Contract and to be outside the provisions of this clause, no statement or representation has been made by Us relating to the items supplied, or if any such statements or representations have been made, the Customer warrants that he understood them to be statements of opinion only, and did not rely upon them.
- 7.4. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

## 8. TERMINATION

- 8.1. If the Customer fails to make payment for the Goods and/or Services in accordance with Condition 5 or otherwise commits a breach of the contract, or if the Customer offers to make any arrangement with its creditors or commits an act of bankruptcy or if any petition in bankruptcy be presented against the Customer or the Customer is unable to pay its debts as they fall due or if being a limited company any resolution or petition to wind up the Customer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver, administrator, administrative receiver or manager shall be appointed over the whole or any part of the Customer's business all sums outstanding in respect of Goods and/or Services shall become payable immediately. We may in Our absolute discretion and without prejudice to any other rights which it may have:
  - 8.1.1. suspend all deliveries of Goods or Services to the Customer and/or terminate the contract without liability on its part; and/or
  - 8.1.2. exercise any of its rights pursuant to Condition 5.
- 8.2. On termination of the Contract for any reason:
  - 8.2.1. The Customer shall immediately pay Us of Our outstanding unpaid invoices
  - 8.2.2. In respect of Services supplied but for which no invoice has yet been submitted, We shall submit an invoice which is payable by the Customer immediately on receipt
  - 8.2.3. The Customer shall return all of Our materials which have not been paid for and may be on site. If the Customer fails to do so, We may enter the Customer's premises and take possession of them.
  - 8.2.4. Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

## 9. DATA

- 9.1. Illustrations, weights, measures, temperatures, capacities, performance schedules and output figures are statements of opinion only and are provided for information only and form part of the Contract. We accept no responsibility for the accuracy of information or drawings supplied by the Customer.

## 10. SUBCONTRACTORS

- 10.1. We shall be entitled to appoint one or more sub-contractors to carry out all or any of Our obligations under these Conditions. The Customers obligations under these Terms and Conditions are not otherwise affected by the existence of Our appointment of any sub-contractor.

## 11. WORK ON SITE

- 11.1. Customers entering into transactions of any kind with Us expressly warrant that they are either the owners or the authorised agents of the owners of the Goods or property being the subject matter of the transaction and are authorised to accept and do accept these Conditions for themselves and all other interested parties. The Customer shall indemnify and keep Us indemnified against all claims or demands whatsoever by whomsoever made in excess of the liability of Us under these Conditions.
- 11.2. The Customer shall provide:
  - 11.2.1. A clear and level site with suitable ease of access and sufficient space adjacent for the placing of material, and shall supply necessary foundations and temporary cover over the site to protect the plant and construction work effectively from the elements.
  - 11.2.2. Water, light, compressed air, power and lifting tackle necessary in connection with the installation, and shall undertake all filling-in or making good of floors, roofs, provision of cover plates over inspection pits, and any other civil engineering work including removal of rubbish. All service connections, permanent and temporary for fuel, air, water and drains, both to the main plant and auxiliary equipment, shall be the responsibility of the Customer.
  - 11.2.3. Where installation is delayed through no fault of Ours, We have the right to increase its charges by a reasonable amount to be stipulated by Us.

## 12. FORCE MAJEURE

- 12.1. We shall not be liable for any delay, loss, damage or expense whatsoever, whether direct or consequential caused by Act of God, act of terrorism, Military or usurped power, civil commotion riot, force majeure, or by anything done or not done pursuant to a trade dispute, whether such dispute involves Our servants or not.
- 12.2. Our performance under this contract is deemed to be suspended for the duration of the force majeure event.

## 13. ASSIGNMENT AND SUBCONTRACTING

- 13.1. We may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 13.2. The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of Us.

## 14. NOTICES

- 14.1. Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other

case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier, fax or e-mail.

- 14.2. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.1; if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second business day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, at 9:00am on the following business day after transmission..
- 14.3. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

15. GENERAL - SEVERANCE / WAIVER / THIRD PARTY RIGHTS / VARIATION / GOVERNING LAW AND JURISDICTION

- 15.1. If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 15.2. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 15.3. A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 15.4. A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 15.5. Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by Us.
- 15.6. We have the right to revise and/or amend these Terms and Conditions from time to time. You will be subject to the Terms as in force at the time the contract is formed. If any change is required by law or governmental authority and will therefore apply to any ongoing contract, we will notify you of such changes.
- 15.7. The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

I have read and accept these Conditions and am duly authorised to legally accept them as indicated by the signature below:

Signed (Print Name):

Signature:

Date: