



DAWSON CONSTRUCTION PLANT LTD

General Terms and Conditions of Sale

1. Application of Terms

1.1 These General Terms and Conditions of Sale of Dawson Construction Plant Limited (the Company) shall govern and be incorporated into every contract for the sale of goods or for reconditioning, repair or other services in respect of goods (such goods and services being collectively referred to as Products) made by the Company with any Customer to the exclusion of all other terms and warranties and representing the only terms upon which the Company trades notwithstanding any terms and conditions that may be contained in any order or other form of the Customer.

1.2 Acceptance by the Customer of delivery of Products shall be deemed to constitute unqualified acceptance of these terms and conditions and subsequent sales of Products shall be deemed to be subject to these conditions.

1.3 Any exclusion, waiver or variation of these terms and conditions may only be made in writing signed by a director of the Company.

2. Quotations

2.1 Any estimate, quotation or Company price lists shall constitute an invitation to treat. Any order placed by a Customer shall constitute an offer, which the Company may accept or decline.

2.2 The Company reserves the right to withdraw or amend a quotation at any time before receipt of an unqualified order from the Customer and each quotation shall be deemed withdrawn unless accepted within the period for acceptance stated on the quotation, or if not such period is stated, 30 days from the date of the quotation.

3. Prices

3.1 Save for valid quotations supplied under clause 2, all prices will be those ruling at the date of delivery and will be quoted ex the Company factory.

3.2 All prices are exclusive of Value Added Tax and any other similar taxes and duties which shall be paid by the Customer in addition.

4. Payment

4.1 The Company will request cash with order unless credit facilities are granted.

4.2 If credit facilities are granted, this is strictly on the basis that payment is received by the Company at its Accounts Department address quoted on the invoice within 30 days of the date of the invoice. Credit facilities may be withdrawn if this condition is not observed.

4.3 Time of payment is of the essence and the Company reserves the right to claim statutory interest at 8% above the Bank of England base rate from the date any invoice becomes overdue in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

4.4 Non-payment by the due date will entitle the Company to suspend further deliveries without notice.

5. Delivery and Risk

5.1 Times quoted for delivery are treated as estimates only. The Company will make all reasonable endeavours to deliver on time but will not be responsible for any loss or damage caused to the Customer by late delivery.

5.2 Products will be delivered to the Customer at the Company's address. The risk in the Products shall pass to the Customer upon such delivery taking place.

5.3 The Company will arrange for transport of Products to the Customer's address. The cost of carriage and insurance will be paid by the Customer and will be due on the date for payment of the price of Products. The carrier shall be deemed to be the Customer's agent.

5.4 No claim for damaged Products or for shortages or for non-delivery will be accepted by the Company unless written notice of such damage or shortage is received by the Company within 7 days of receipt of the Products by the Customer or within 7 days of the defect being discovered where the defect could not reasonably have been discovered earlier or (in the case of non-delivery) within 7 days from the date on which the Products could normally have been expected to be received by the Customer.

6. Returns

6.1 The Company will only accept returns in the event of timely notification under the provisions of clause 5 above and with the prior agreement of the Company, which will only normally be granted in the event that the Products are damaged or defective.

6.2 If the Company agrees to accept Products which are in accordance with the contract for return, the Customer shall be liable to pay a handling charge of 15% of the invoice price. Products must be returned by the Customer carriage paid to the Company.

6.3 Products returned without the prior written approval of the Company may at the Company's absolute discretion be returned to the Customer or stored at the Customer's cost without prejudice to any rights or remedies that the Company may have.

6.4 Any delivery to the Company by the Customer of Products for reconditioning, repair or service (subject to quotation by the Company) shall constitute the Customer's authority to the Company to strip and inspect such Products for the purpose of preparing the quotation. The Customer shall be liable to pay the Company all costs incurred by the Company in stripping and inspection whether or not the Customer subsequently instructs the Company to proceed with reconditioning, repair or service.

7. Title

7.1 Until full payment has been received by the Company for Products supplied to the Customer, the Products shall remain the property of the Company.

7.2 Where property in the Products remains that of the Company, the Customer may deal with the Products in the ordinary course of business provided that:

7.2.1 The Customer stores the Products carefully and ensures that they are clearly identified as belonging to the Company which shall be entitled to examine the Products in storage.

7.2.2 The Company may at any time revoke the Customer's power of sale by notice to the Customer if the Customer is in default for longer than 14 days in payment of any sum due to the Company.

7.2.3 The Company and its agents or representatives shall be entitled at any time and without notice to enter upon any premises of the Customer in which the Products are stored or kept or reasonably believed so to be.

7.2.4 The Customer will insure the Products for their replacement value naming the Company as the loss payee.

7.2.5 The Customer's power of sale shall automatically determine if a receiver, administrative receiver or liquidator is appointed or a winding up order is made against the Customer or the Customer commits any act of bankruptcy.

7.3 The Customer shall not be entitled to charge any Products which remain the property of the Company by way of security for any indebtedness of the Customer, but if the Customer does so all money owing by the Customer to the Company shall forthwith become due and payable.

7.4 All Products shall remain the sole and absolute property of the Company until all debts owed by the Customer to the Company (whether part paid or otherwise) are settled in full.

8. Warranty

8.1 The Company warrants that at the date of delivery the Products will comply with their published specification and will correspond with the description given by the Company. However, the Company reserves the right to discontinue any of the Products or to change specifications or designs of the Products at any time without notice and without incurring liability.

8.2 The Company will repair or replace (at its sole option) Products found by the Company to be faulty or defective within a period 6 months from the date of delivery, but strictly subject to such faulty Products being returned to the Company. Where Products are replaced the warranty period runs from date of delivery of the original Products. Excluded from the terms of this warranty are:

- Products damaged by accident or through negligence of the Customer.
- Wearing parts and consumables.
- Labour and handling costs of the Customer associated with replacement.

8.3 Reconditioned, refurbished or used Products are not subject to the warranty set out in 8.2 above and will be sold with no warranty or with a limited warranty as specified in the sale documents relating to such Products.

8.4 To the extent permitted by law the Company disclaims all other warranties with regard to the Products either expressed or implied including but not limited to any implied warranties of satisfactory quality or fitness for any particular purpose.

9. Liability

9.1 THE COMPANY WILL REPAIR OR AT ITS OPTION REPLACE OR CREDIT THE CUSTOMER WITH THE INVOICE VALUE OF ANY PRODUCTS FOUND TO BE DEFECTIVE OR FAULTY, SUBJECT TO RETURN OF SUCH PRODUCTS IN ACCORDANCE WITH CLAUSE 8.2 ABOVE. THE LIABILITY OF THE COMPANY WILL BE LIMITED TO SUCH REPAIR, REPLACEMENT OR CREDIT.

9.2.1 WITHOUT PREJUDICE TO CLAUSE 9.1 ABOVE, ANY LIABILITY OF THE COMPANY TO THE CUSTOMER ARISING OUT OF THIS AGREEMENT SHALL BE LIMITED TO DIRECT LOSSES OR DAMAGE ONLY AND SHALL NOT EXTEND TO LOSS OF USE, LOSS OF PROFIT, INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE OR ANTICIPATED SAVINGS; AND

9.2.2 SHALL NOT EXCEED AN AMOUNT EQUAL TO 150% OF THE PRICE OF THE PRODUCTS.

9.3 THE COMPANY DOES NOT LIMIT ITS LIABILITY IN RESPECT OF PERSONAL INJURY OR DEATH CAUSED BY THE NEGLIGENCE OF THE COMPANY OR ITS EMPLOYEES.

10. Cancellation

10.1 The Customer accepts that Products made by the Company to the order of the Customer are made specifically for the Customer and in accordance with his specifications. The Customer shall not cancel any such order which has been accepted by the Company without the written agreement of the Company.

10.2 If the Company agrees to cancellation of any order, the Customer shall pay to the Company such sum as the Company shall consider reasonable in respect of work done and materials supplied or ordered in respect of manufacture of the Products.

11. Lien and Right of Sale

11.1 The Company shall have lien on all Products delivered by the Customer to it for reconditioning or any other purpose for all monies (whether presently payable or not) payable by the Customer to the Company under any contract and such lien shall cover such Products whether or not the Company shall at the time of exercise of the lien

have begun reconditioning or other service in respect of such Products. The Company shall be entitled to refuse to deliver up any Products at any time unless all charges accrued due under this contract and all other sums owed by the Customer to the Company under any contract shall previously have been paid.

11.2 If any sum due from the Customer has not been paid within 3 weeks after becoming due, the Company may upon giving 7 days written notice of its intention to do so, sell whether by auction or in any other manner, any Products in the Company's possession on which the Company has a lien. The net proceeds of such sale shall be applied towards payment of debts or liabilities and any residue shall be paid to the Customer.

12. Termination and Insolvency

12.1 If the Customer fails to make a payment due to the Company on the due date or commits any other breach of this Agreement and fails to remedy such breach within a period of 30 days from receipt of notice in writing from the Company requesting remedy or if the Customer enters into an arrangement with its creditors or goes into liquidation or passes any resolution for winding up or becomes subject to the appointment of any receiver, administrative receiver or administrator or becomes bankrupt then:

12.1.1 The Company may by notice in writing to the Customer forthwith cancel the order and any other orders outstanding between the parties.

12.1.2 In the event of such cancellation the Company shall be entitled to reclaim any Products unpaid for in accordance with the provisions of clause 7 above.

12.1.3 The Customer shall remain liable to pay the Company the full purchase price for Products less:

12.1.3.1 the disposal price received by the Company for Products in its possession or reclaimed from the Customer; and

12.1.3.2 Any part of the purchase price for Products paid by the Customer to the Company.

13. Intellectual Property Rights

13.1 The Company owns and retains all intellectual property rights know-how and confidential information in the Products, and in any additions to or enhancements of the Products which may be developed as a result of any requirement of the Customer.

13.2 Where any designs or specifications have been supplied by the Customer for manufacture by the Company then the Customer warrants the use of those designs or specifications for the manufacture, assembly or supply of the Products does not infringe the rights of any third party.

14. Force Majeure

14.1 The Company shall have no liability for delays in performing any obligations to the Customer due to any cause of whatever nature outside the reasonable control of the Company.

14.2 In such event the Company may without liability cancel or vary the terms of the contract including extending the time for performing it. The Customer shall take or pay for such part of the Products as the Company shall be able to deliver.

15. Law

This Agreement shall be governed by and construed in accordance with the laws of England. The Customer agrees to the non-exclusive jurisdiction of the Courts in England and Wales.