

**JAMES TROOP & CO. LTD (The Supplier)****STANDARD TERMS & CONDITIONS of BUSINESS**  
**November 2006****Standard Terms & Conditions of Sale for**  
**Purchasers of Parts and Services****1. DEFINITIONS AND INTERPRETATION**

1.1 "Associated Company" means any body corporate which is a subsidiary or holding company of the Supplier, and any body corporate which is a subsidiary of such a holding company (and for the purposes of this Clause the terms "Subsidiary" and "holding company" shall have the respective meanings set out in Section 736 of the Companies Act 1985(as amended)).

1.2 "Conditions" means the terms and conditions set out in this document and any special terms and conditions expressly agreed in writing by the Supplier.

1.3 "Contract" means any contract between the Supplier and the Purchaser for the sale and purchase of Parts and/or the performance and/or provision of Services

1.4 "Insolvency event" in relation to a company means the company has been deemed unable to pay its debts under section123 of the Insolvency Act 1986 or a proposal for Voluntary Arrangement has been made or a petition presented for an Administration Order an Administration Order made or a receiver, manager or Administrative Receiver of any of its assets appointed or a provisional liquidator appointed or it has gone into liquidation (either compulsory or voluntary) other than a voluntary liquidation for the purposes of amalgamation or reconstruction of a solvent company or the company has been struck of the Companies Register or it has undergone any procedure analogous to any of the above under foreign law. In relation to an individual, an insolvency event means the individual has died or failed to comply with or apply to set aside a statutory demand within the time limits set out in the Insolvency Act 1986 or has an interim receiver appointed of any of his property or has entered into any arrangement with his creditors or has a bankruptcy order made against him or he has undergone any procedure analogous to any of the above under foreign law.

1.5 "Parts" means spare or replacement parts.

1.6 'Purchaser' means any person who purchases Parts from the Supplier or any Person for or to whom Services are performed or provided by the Supplier.

1.7 'Services" means all performance and provision by the Supplier of repair, overhaul, installation, testing, transportation or other services on or with respect to equipment or other property of any person.

1.8 'Supplier' means James Troop & Co Ltd, a company registered in England with Number 149916 whose registered office is at 4 Davy Road, Astmoor Industrial Estate, Runcorn, Cheshire WA7 1PZ.

1.9 "Supplier's Warranty" means the warranty in clause12.

1.10 Save as expressly provided in these Conditions no additional provisions, collateral agreements variations or amendments of any of the conditions herein shall be effective unless expressly agreed in writing by a Director of the Supplier and none of the Supplier's employees or agents has any authority whatsoever to vary or delete any of these Conditions.

1.11 In these Conditions references to any statute or statutory provision shall, unless the context of otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

1.12 The headings will not affect the construction of these Conditions.

**2. CONTRACT AND CONDITIONS APPLICABLE**

2.1 These Conditions apply to all existing and future Contracts.

2.2 Any terms or conditions indicated by the Purchaser which have not been expressly agreed in writing by the Supplier shall not apply, even if the Supplier has not expressly rejected such terms or conditions.

2.3 Any terms which the Purchaser may seek to impose (even though such terms may be included in a later document and/or purport to exclude or supersede any terms which are inconsistent with them) or which may otherwise be implied by custom or dealing do not form part of the Contract.

2.4 Any quotations, catalogues or price lists issued by the Supplier are not offers capable of acceptance

so as to effect a contract binding the Supplier and do not form part of the Contract.

2.5 All orders for Parts and Services shall be deemed to be an offer by the Purchaser to purchase the Parts and Services under these Conditions.

2.6 No order placed by the Purchaser shall be deemed to be accepted by the Supplier until a written order confirmation is issued by the Supplier or (if earlier) the Supplier delivers the Parts or performs or provides the Services to the Purchaser'.

2.7 The Supplier's written order confirmation will be deemed conclusive in determining the terms of the Contract.

2.8 Without prejudice to any other provision of these Conditions, acceptance of delivery of the Parts and Services shall be deemed conclusive evidence of the Purchaser's acceptance of these Conditions.

### **3 DESCRIPTION AND SPECIFICATION**

3.1 All representations or statements by the Supplier or his employees or agents as to the quality, fitness for purpose, performance or lifetime of the Parts and Services do not form part of the description of the Parts and Services (unless expressly so stated in the Suppliers written order confirmation or otherwise confirmed in writing by the Supplier) and the Supplier shall have no liability for such statements whatsoever save in the tort of deceit.

3.2 Data, such as illustrations, drawings or specifications of weights, dimensions, performance or consumption, provided in connection with any offer or sales confirmation, shall be approximations only and not constitute a contractual specification unless expressly so stated in the Suppliers written order confirmation.

### **4 PRICE AND PAYMENT**

4.1 All quoted prices for Parts are for delivery ex works of the Supplier, but excluding packing, carriage, insurance and any value added or other sales tax.

4.2 All prices shall be those in force on the date of delivery or (if earlier) the date of passing of risk in the Parts or the date of performance or provision of the Services. The Supplier shall be entitled to increase its prices in the event of any Increase in the cost of labour, materials or services or in the cost of components or Parts

bought in from third parties or by reason of any change in international Exchange rates. Any price increase shall be notified to the Purchaser by the Supplier as soon as practicable but the Purchaser shall not be entitled to cancel or Suspend any Contract by reason of any price increase or by reason of any failure by the Supplier to notify any such increase and these Conditions shall apply to such increased prices as if those prices had been contained in the Purchaser's order.

4.3 Any Services provided by the Supplier for installation and/or commissioning of the Parts do not form part of the quoted sales price for the Parts, unless otherwise agreed in writing.

4.4 Prices shown on any price list are subject to alteration by the Supplier without notice.

4.5 Payment of the full purchase price shall be made by the Purchaser in Sterling (or such currency as may replace it in the UK), in such manner as the Supplier may stipulate without any deductions whether by way of set-off, counterclaim, discount, abatement or otherwise. Unless otherwise agreed by the Supplier in writing, such payment shall be made in full on the date of receipt of the Supplier's invoice.

4.6 IT IS AN EXPRESS TERM OF THIS CONTRACT THAT FULL SETTLEMENT OF THE SUPPLIERS INVOICE NEGATES ANY SUBSEQUENT LEGAL CLAIM WHATSOEVER BY THE PURCHASER.

4.7 No payment shall be deemed to have been received until the Supplier has received cleared funds.

4.8 Any payment received from or for the account of the Purchaser may be applied by the Supplier against any indebtedness or obligation owed by the Purchaser to the Supplier irrespective of any condition the Purchaser may seek to attach appearing on, referring to or accompanying such payment.

4.9 Compound in interest shall accrue at the rate of 1.5% per month on all outstanding sums.

### **5. DEFAULT BY PURCHASER**

5.1 In the event that the Purchaser fails to make any payment in accordance with these Conditions (or in the event of any other default, breach or repudiation by the Purchaser of the Contract or any other contract with the Supplier), or if the Purchaser should suffer an insolvency event the Supplier may, at its option, in addition

to any other remedies provided by law, do any one or more or all of the following:

- 5.1.1. terminate the Contract or any part thereof, as well as any other contracts with the Purchaser without affecting the Supplier's other rights against the Purchaser for damages or otherwise;
- 5.1.2. declare all outstanding amounts owed by the Purchaser under the Contract, or any other contract with the Purchaser, immediately due and payable;
- 5.1.3. defer the commencement of delivery or performance under the Contract or such other contracts until all obligations of the Purchaser shall be fully complied with and for a reasonable time thereafter; or
- 5.1.4. sell all or any part of any undelivered Parts, without notice to the Purchaser, at public or private sale, holding the Purchaser responsible for the costs and expenses of such sale (including agent's and other professional fees) and for any difference between the agreed purchase price of such Parts and the amount realized from the sale thereof.

## **6 SUPPLIER'S RIGHT OF SET OFF**

The Purchaser agrees that the claims and obligations of the Purchaser may be set off by the Supplier against claims and obligations of the Supplier and any Associated Company.

## **7 NO SET OFF BY PURCHASER**

The Purchaser shall not have any right of set off in law or equity or otherwise be entitled to withhold any payments for the Parts or Services against any claims of the Purchaser except with the Supplier's prior written consent.

## **8 DELIVERY AND DELAY**

8.1 Unless expressly stated to be a "Guaranteed Delivery Date" in the Supplier's quotation or order confirmation for Parts or "Guaranteed Service Performance Date" in the Supplier's quotation or order confirmation for Services, any delivery date or delivery period for Parts or date or period for the performance or provision of Services whether stated in the Contract or otherwise notified to the Purchaser is an estimate only and time for delivery of Parts or date or period for the performance or provision of Services shall not be made of the essence by notice. The Supplier shall not be liable for any loss or damage

whatsoever caused by failure to make delivery of Parts or perform or provide Services on such date or within such period.

8.2 Any delivery date or delivery period for Parts or date or period for performance or provision of Services (whether or not guaranteed):

- 8.2.1 shall be deemed suspended for any period during which the Purchaser is in breach of any of its obligations or has failed to provide to the Supplier information reasonably requested by the Supplier; and
- 8.2.2. shall be deemed to have been complied with by the Supplier if delivery has commenced ex works or if the Supplier shall have notified the Purchaser that the Parts are ready for delivery ex works.

8.3 If the time for delivery of Parts or performance or provision of Services is postponed at the request of the Purchaser, the expenses accruing as a result of storage of Parts and any other reasonable expenses of the Supplier resulting from such postponement shall be paid by the Purchaser beginning 14 days after notification is sent by the Supplier that the Parts are ready for delivery and/or the Supplier is ready to perform or provide the Services.

8.4 In the event that the Purchaser sustains damages because of any delay in compliance with a "Guaranteed Delivery Date" or "Guaranteed Service Performance Date" as referred to in Clause 8.1 above which is attributable to circumstances for which the Supplier is responsible, the Purchaser shall be entitled to liquidated damages calculated at the rate of 1% of the contract price of the relevant Parts or Services for every completed week by which the actual date of delivery (or deemed delivery) of such Parts or Services exceeds the "Guaranteed Deliver Date" or Guaranteed Service Performance Date" (as extended pursuant to Clauses 8.2 and 13), provided however, that the aggregate amount of such liquidated damages shall not exceed 10% of the contract price of the relevant Parts or Services.

8.5 In the event of a delay in compliance with a "Guaranteed Delivery Date" or "Guaranteed Performance Date" as referred to in Clause 8.1 above which is attributable to circumstances for which the Supplier is responsible, the Purchaser shall be entitled to cancel the relevant Contract which is delayed (or such part of the Contract as shall have been delayed), if it has granted the Supplier a reasonable grace period for delivery or performance by a written notice containing the

express statement that it will refuse acceptance of the Parts or Services after expiration of that grace period, and such grace period has expired.

8.6 THE PURCHASER'S RIGHTS AND ENTITLEMENTS ARISING OUT OF ANY DELAY IN PERFORMANCE OR DELIVERY ARE EXHAUSTIVELY SET OUT IN CLAUSE 8.4 AND CLAUSE 8.5 ABOVE AND IN NO EVENT SHALL THE PURCHASER HAVE ANY OTHER RIGHTS OR REMEDIES INCLUDING, WITHOUT LIMITATION, CLAIMS FOR LOSS OR DAMAGES.

## 9 ACCEPTANCE

9.1 The Purchaser shall promptly accept the Parts and Services when the Parts are delivered or tendered for delivery or the Services are performed or provided and shall accept the Parts and Services with minor damage or defects, without prejudice to its rights pursuant to the Supplier's warranty.

9.2 Delivery of the Parts by installments shall be accepted by the Purchaser.

9.3 If the Purchaser fails to accept the Parts or Services more than two weeks after notification that the Parts are ready for delivery or the Supplier is ready to perform or provide the Services, and after the Supplier has granted the Purchaser an additional period of two weeks for such acceptance, the Supplier shall be entitled to treat such failure as a repudiatory breach of the Contract and to exercise all rights out of such breach, including the right to cancel the Contract and obtain damages for non-performance.

## 10 RISK, INSURANCE, PROPERTY & TITLE

10.1 Risk of loss with respect to Parts shall pass to the Purchaser, irrespective of whether only a part or parts of the Parts to be supplied are delivered or whether the Supplier is required to render additional Services under the Contract, such as transportation or installation. The Purchaser shall insure accordingly, for all potential losses including without limitation theft, breakage, transportation, fire and water damage.

10.2 In the event of a delay in delivery with respect to parts for which the Purchaser is responsible, risk shall pass to the Purchaser as of the date the Parts are notified to the Purchaser as ready for delivery and the Purchaser shall insure accordingly.

10.3 Although risk in the Parts passes in accordance with these Conditions full legal and

beneficial ownership in the Parts shall not pass to the Purchaser until the Supplier receives in full (in cash or cleared funds):

10.3.1 all sums due to it in respect of the Parts; and

10.3.2 all other sums which are or become due to the Supplier from the Purchaser on any account.

10.4 Until ownership of the Parts passes:

10.4.1. the Purchaser holds the Parts in trust for the Supplier;

10.4.2. the Parts shall be kept in good condition and separate from all the Purchaser's other property and of third parties in such a way as to be clearly identifiable as belonging to the Supplier;

10.4.3. the Purchaser shall not destroy, deface or obscure any identifying mark or packaging on or relating to the Parts.

10.5. The Purchaser may resell the Parts before ownership has passed to it solely on the conditions:

10.5.1. any sale shall be effected in the ordinary course of the Purchaser's business at full market value; and

10.5.2. any such sale shall be a sale of the Supplier's property on the Purchaser's own behalf and the Purchaser shall deal as principal when making such a sale.

10.6 The Purchaser's right to possession of the Parts and to resell the Parts shall terminate immediately if:

10.6.1. any insolvency event occurs in relation to the Purchaser; or

10.6.2. the Purchaser is in default of its obligations under the Contract or any other contract with the Supplier; or

10.6.3. the Purchaser encumbers or in any way charges any of the Parts.

10.7 The Supplier shall be entitled to recover payment for the Parts notwithstanding that ownership of any of the Parts has not passed from the Supplier.

10.8 Upon the ending of the Purchaser's right to possession of the Parts under this clause the

Purchaser shall place any of the Parts in its possession or under its control and unsold at the Supplier's disposal and for this purpose the Purchaser grants to the Supplier an irrevocable licence to enter upon any of the Purchaser's premises.

## 11 INSTALLATION

11.1 If the Service provided by the Supplier includes installation of Parts by the Supplier, the Purchaser shall at its own expense prepare the place of installation in accordance with such specifications as the Supplier may reasonably require. For the avoidance of doubt:-

11.1.1. the Supplier will not be required to commence such installation until after the foundations have been completely dried and set and all other necessary construction work has been entirely completed; and

11.1.2. the Supplier will not be required to commence installation in a vessel until the foundations have been completed and the vessel has been launched.

In the event these prerequisite operations are not completed when required, the time for installation shall be reasonably extended.

11.2 Unless otherwise agreed, transfer from the place of manufacture to the place of delivery or installation of the Parts to be supplied shall be carried out at the expense and risk of the Purchaser.

11.3 If the Contract requires the Supplier to install and commission the Parts, the Supplier shall, at the expense of the Purchaser, make the required personnel and equipment available in accordance with the Supplier's standard rates of charge and terms and conditions for the furnishing of such Services from time to time in force. Unless otherwise agreed in writing, the Purchaser, at its sole risk and expense, shall provide all necessary tools, lifting tackle, scaffolding, equipment, building materials, welding apparatus, bottled gas for pipe work, electrical and other connections and facilities, etc., as well as a suitable, lockable storage room for the Supplier's equipment. The Purchaser shall also be solely responsible for all workers furnished by the Purchaser and shall indemnify and hold the Supplier harmless from and against any claims with respect to such workers.

11.4 The Purchaser shall ensure that the activities of the Purchaser's staff and other contractors and suppliers do not cause material

delays to the installation and commissioning of the Parts.

11.5 The Parts shall be deemed to be commissioned and accepted immediately upon the commencement of the operation of the Parts or any part of them by the Purchaser for commercial purposes.

11.6 Time for installation and commissioning shall not be of the essence of the Contract and shall not be made of the essence by notice.

11.7 In the event that transportation, installation, commissioning or operation of the Parts is delayed or interrupted, or the work of the Supplier's personnel is impeded, for reasons beyond the control of the Supplier, the Purchaser shall pay all extra costs and damages caused by such delay or interruption. No such delay or interruption shall affect the obligation of the Purchaser to meet the agreed terms of payment.

11.8 In the event that, at the request of the Purchaser, the personnel supplied by the Supplier perform work other than as required under the Contract, the Purchaser will pay for such additional work against separate invoices at the Supplier's standard rate of charge in force from time to time.

11.9 Any trial operation or trial run which the Supplier has agreed to conduct shall be performed during normal working hours. If any personnel supplied by the Supplier has to perform Services at other times because of special circumstances, the Purchaser shall pay for such Services as overtime work, against separate invoices at the Supplier's standard rates from time to time in force.

11.10 The Supplier's personnel will not work overtime, except upon the Purchaser's express request and on the submission by the Purchaser to the Supplier or the personnel of a written confirmation of such request. Overtime will be charged to the Purchaser at the Supplier's standard overtime rates from time to time in force.

11.11 Where Service work is undertaken by the Supplier on behalf of the Purchaser, and parts are supplied by the Purchaser, it is an express term of this contract that the responsibility for those parts is with the Purchaser. The Supplier in these circumstances has no liability whatsoever for storage of such parts nor for any losses, shortages or damages.

## 12 WARRANTIES, LIABILITY & LIMITATION of LIABILITY

12.1 The Supplier warrants that:-

12.1.1. the Parts shall, at the time of delivery, be free from material defects in materials or manufacture; and

12.1.2. the Parts shall, at the time of delivery, conform in all material respects to any specifications or other characteristics expressly stated in the Supplier's order confirmation to form part of the Contract (provided that the Supplier shall be entitled to vary such specification or provide substituted goods or components where such variation or substitution does not materially adversely affect the characteristics of the goods and where such substituted goods or components are of a quality equivalent to those originally specified).

12.1.3. the Supplier shall exercise reasonable skill, care and diligence in the performance or provision of the Services and that Services performed or provided by the Supplier shall be free from defects.

12.2 Acceptance of the Parts or Services shall be deemed to have taken place immediately upon the occurrence of any of the following events (whichever is the earlier).

12.2.1. If the Purchaser or its agent signs a certificate of acceptance of the parts or Services as being in accordance with the Contract; or

12.2.2. if the Purchaser does not, within the Warranty period specified in Clause 12.4, notify the Supplier in writing that Parts or Services are not in accordance with the Contract, specifying in reasonable detail the matters complained of.

12.3 Upon acceptance of the Parts or Services pursuant to Clause 12.2 the Purchaser shall conclusively be deemed to have accepted the Parts or Services as being in accordance with the Contract and shall not thereafter be entitled to reject the Parts or Services for any reason whatsoever or make any claim whatsoever on the basis that the Parts or Services are not in accordance with the Contract.

12.4 For the purposes of this Clause 12, "**Warranty Period**" means a period expiring:-

12.4.1 **6 Months** after Handover for **Major Engine Overhaul** Contracts

12.4.2 **3 Months** after Handover for **Component Repair** Contracts

For the avoidance of doubt, the applicable Warranty period will not be extended due to repair or replacement of the Parts or Services hereunder.

12.5 If any of the Parts or Services do not conform to the Supplier's warranty pursuant to Clause 12.1 and the Purchaser has notified the Supplier of such non-conformity within the Warranty Period and in accordance with Clause 12.2.2, the Supplier will at its option do any one of the following: -

12.5.1. Replace such Parts found not to conform to the Warranty;

12.5.2. Take such steps as the Supplier deems necessary to the Warranty;

12.5.3. Take back the Parts found not to conform to the Warranty and refund the appropriate part of the purchase price; or

12.5.4. Make a price adjustment that is fair to both parties in relation to the failure of the Parts or Services to conform to the Warranty, PROVIDED THAT THE LIABILITY OF THE SUPPLIER SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE DEFECTIVE PARTS OR CONTRACT PRICE OF THE DEFECTIVE PART OF THE SERVICES AND PERFORMANCE OF ANY ONE OF THE ABOVE OPTIONS (AS LIMITED BY THE PROVISOS) SHALL CONSTITUTE AN ENTIRE DISCHARGE OF THE SUPPLIER'S LIABILITY UNDER THIS WARRANTY.

12.6 Supplier's Warranty is further conditional upon:

12.6.1. The Purchaser notifying the Supplier immediately in writing of any apparent defects or deficiencies within 30 days of delivery; and

12.6.2. Without prejudice to Clause 12.6.1. the Purchaser notifying the Supplier by written notice of any alleged defect or deficiency, specifying details therein, within ten (10) working days after

detection thereof and in any event within the Warranty period; and

- 12.6.3. The Purchaser affording the Supplier a reasonable opportunity to inspect the Parts and Services; and
- 12.6.4. The Parts having been serviced and repaired by the Supplier or by authorized dealers or distributors appointed by the Supplier or its agents. (Subject to sub-clause 12.9) **ALL WARRANTIES SHALL BECOME VOID IF ANY OTHER PERSON EFFECTS OR PURPORTS TO EFFECT REPAIRS OR IF ANY PARTS ARE REPLACED OTHER THAN BY GENUINE PARTS.**
- 12.7 In the event that the Purchaser notifies the Supplier of any non-conformity of the Parts or Services within the Warranty period and in accordance with Clause 12.2.2. and the Supplier decided to rectify the Parts or Services pursuant to Clause 12.5.2, the cost of such rectification will be borne by the Supplier with the exception of the following costs which shall be borne by the Purchaser.
- 12.7.1 Any cost or expenditure for disassembly or removal of the Parts from the vehicle, vessel, plant or other installation where the Parts are installed as well as cost of reinstallation of the Parts;
- 12.7.2 The cost of travel including accommodation of the Supplier's personnel in order to perform rectification over a road distance in excess of 100 km from the Supplier's authorized service partner to location of the Parts;
- 12.7.3 The cost of air travel of the Supplier's personnel including accommodation and living cost for the duration of absence of the Supplier's personnel from the works;
- 12.7.4 Waiting or idle times of Supplier's personnel for which Supplier or Supplier's personnel is not responsible;
- 12.7.5 The extra cost for Supplier's personnel in case of requested work outside the normal working time and working hours;
- 12.8 The liability of the Supplier for any cost or expenditure not directly related to rectification of the Parts or Services is expressly excluded. Replaced or exchanged Parts or components thereof become the property of the Supplier only upon request of the Supplier.

12.9 The Purchaser shall be entitled to reimbursement of the reasonable and satisfactorily documented costs which would have been borne by the Supplier under Clause 12.7 resulting from the correction of any defect or deficiency of the Parts or Services performed by the Purchaser itself or by a third party designated by the Purchaser ONLY if the Purchaser shall establish to the satisfaction of the Supplier that such correction was properly carried out by competent staff using parts of appropriate quality and specification and was immediately required for operational safety or to prevent excessive damage, or if the Supplier unreasonably delays correction of the defect or deficiency.

12.10 For the avoidance of doubt, the Supplier assumes no responsibility or liability arising out of or in connection with any of the following: improper or faulty installation or assembly and/or improper or unsuitable or negligent use handling and/or operation and/or lack of proper maintenance of the Parts by the Purchaser or third parties; use of unsuitable utilities; use of replacements parts other than genuine spare parts; poor building construction; unsuitable building soil; excessive vibration or flexibility of a vessel, vehicle, installation or plant where goods are installed; chemical, electro-chemical or electric influences; normal wear and tear and/or out of alterations or repairs performed by the Purchaser or third parties without the prior written consent of the Supplier.

12.11 The Supplier's warranty is personal to the Purchaser and shall not be capable of enforcement by or on behalf of any third party who may acquire the Parts from the Purchaser unless the benefits of the Warranties have been transferred by the Purchaser with the written consent of the Supplier.

12.12 Save as provided in the clause 12 and in Section 12 of the Sale of Goods Act 1979 all conditions or Warranties, express or implied, as to the quality and fitness for any purpose of the Parts or Services are hereby expressly excluding and it is hereby expressly declared that any statements as to quality made by the Supplier do not form part of the description of the Parts or Services unless made in the tort of deceit.

12.13 **SAVE AS PROVIDED IN THIS CLAUSE 12 AND CLAUSE 8.4. THE SUPPLIER SHALL BE UNDER NO LIABILITY FOR ANY LOSS OR DAMAGE HOWSOEVER ARISING (AND IN PARTICULAR, BUT WITHOUT LIMITATION, FOR ANY LOSS OF BUSINESS OR PROFITS OF THE PURCHASER), WHICH MAY BE**

SUFFERED BY THE PURCHASER, AND THE PURCHASER SHALL INSURE ACCORDINGLY.

12.14 ANY CLAIM THE PURCHASER MAY BRING AGAINST THE SUPPLIER FOR BREACH OF CONTRACT MUST BE COMMENCED WITHIN TWO YEARS OF THE CAUSE OF ACTION ARISING AND THE PARTIES AGREE THAT THE STATUTORY LIMITATION PERIOD IS SO SHORTENED.

12.15 Subject to Clauses 12.12 and 12.14,

12.15.1 THE SUPPLIER'S TOTAL LIABILITY IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION OR OTHERWISE (INCLUDING UNDER CLAUSE 8 ABOVE), ARISING IN CONNECTION WITH THE PERFORMANCE OR COMTEMPLATED PERFORMANCE OF THIS CONTRACT SHALL BE LIMITED TO THE AMOUNT OF THE CONTRACT PRICE; and

12.15.2 THE SUPPLIER WILL NOT BE LIABLE TO THE PURCHASER FOR ANY INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE (WHETHER FOR LOSS OF PROFIT, LOSS OF BUSINESS, DEPLETION OF GOODWILL OR OTHERWISE), COSTS, EXPENSES OR OTHER CLAIMS FOR CONSEQUENTIAL COMPENSATION WHATSOEVER (HOWSOEVER CAUSED) WHICH ARISE OUT OF OR IN CONNECTION WITH THE CONTRACT.

12.16 Nothing in these Conditions shall affect the liability of the Supplier for death or personal injury caused by its negligence or for fraud.

### **13 FORCE MAJEURE**

The Supplier shall not be liable or responsible for any loss or damage caused by delay in performance or non-performance of any of its obligations hereunder where the same is occasioned by any cause whatsoever that is beyond the Supplier's reasonable control including but not limited to an Act of God; war; shipwreck; civil disturbances; requisitioning; Government or Parliamentary restrictions; prohibitions or enactments of any kind; import or export regulations or prohibitions; strike, lock out or trade dispute (whether involving its own employees or those of any other person);

difficulties in obtaining workmen or materials including but not limited to oil, gas, coal, electricity or other fuel or raw materials; breakdown of machinery; fire or accident; non-availability or delay of vessels or other transport. Should any such events occur, the Supplier at its own option may defer any date for delivery, installation or commissioning, cancel or initially suspend then cancel the Contract without incurring any liability whatsoever for any loss or damage thereby occasioned.

### **14 INTELLECTUAL PROPERTY**

14.1 Nothing in these Conditions shall constitute any representation that the use of the Parts or the provision of performance of any Services will not infringe and intellectual property rights (including patents) of any third parties.

14.2 The Purchaser warrants that any design, instructions or specification given by it to the Supplier in respect of the Parts or Services shall not infringe any person's intellectual property rights and shall indemnify the Supplier in respect of any claims relating thereto.

### **15 INDEMNITY**

The Purchaser will indemnify the Supplier and hold the Supplier harmless against all and any costs, claims, expenses, liabilities, demands, losses and actions (including costs on an indemnity basis) suffered or incurred by the Supplier and arising from any claims made by any customer of the Purchaser (or any other third party) in connection with or related to the Parts or the Services, except to the extent that any such liability of the Supplier constitutes a discharge of the rights of the Purchaser against the Supplier hereunder.

### **16 GENERAL**

16.1 The Purchaser acknowledges that in agreeing to enter into the Contract it has not relied on any representation relating to the Parts or Services or the Contract.

16.2 Where any provision of these Conditions requires a written notice to be given that written notice may (at the option of the party giving it) be delivered or sent by telex or sent by fax or sent by pre-paid first class post addressed to the party to be served at the address of that party as specified in the Supplier's order confirmation or such other address as may be notified by that party for that purpose.



16.3 Any notice given under provision of these Conditions shall be deemed to have been served when handed to the addressee in the case of a notice which was delivered or on receipt of the correct answer back in the case of a notice sent by telex or on completion of a transmission to the addressee's fax number in the case of a notice sent by fax or forty-eight hours after posting in the case of a notice sent by pre-paid first class post.

16.4 If the Supplier fails at any time to require performance of any term of these Conditions this shall not affect its right to enforce that provision at a later time.

16.5 If the Supplier waives any breach of any term of these Conditions, this shall not be deemed to be a waiver of any further or continuing breach of the same term.

16.6 The Supplier may assign or sub-contract any of its rights and obligations under these Conditions.

16.7 The Purchaser may not assign any of its rights obligations under these Conditions but these Conditions are binding on and inure to the benefit of its successors personal representatives and estates.

16.8 The Contract may be amended or cancelled and any of its conditions or the breach of any of its terms may be waived only by written agreement signed by all the parties or in the case of a waiver by the party waiving compliance.

16.9 These Conditions are governed by and construed in accordance with English Law and the parties submit to the exclusive jurisdiction of the English Courts but this Agreement may be enforced in any Court of competent jurisdiction.

16.10 Each of the provisions of the Contract are separate and are enforceable independently of any right to enforce any other provision and if any of the provisions shall be found to be void but would be valid if any part was deleted or the period or area of application reduced such provision shall apply with such modification as may be necessary to make it valid.

16.11 Save as expressly herein mentioned no provision of these Conditions or any Contract is intended to confer a benefit on any third party, whether or not in existence at the date of entering into any Contract. The provisions of the Contracts (Rights of Third Parties) Act 1999 (and any subsequent supplemental or modifying

legislation) are hereby excluded to the fullest extent permitted by law.

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