

SARCLAD LIMITED TERMS AND CONDITIONS OF SALE AND SERVICE

EXCEPT AS OTHERWISE AGREED IN WRITING, THESE TERMS AND CONDITIONS GOVERN ALL SALES AND SERVICE CONTRACTS TO THE EXCLUSION OF OTHER TERMS AND CONDITIONS. OUR QUOTATIONS AND ESTIMATES ARE NOT OFFERS CAPABLE OF ACCEPTANCE BY YOU, AND ANY ORDER PLACED BY YOU WILL ONLY BE ACCEPTED BY OUR WRITTEN CONFIRMATION OF SUCH ORDER.

GENERAL PROVISIONS

1. The definition of terms used (except as otherwise specified herein), interpretation of this agreement and rights of parties hereto shall be construed under and governed by the laws of the United Kingdom. "Seller" when used herein means Sarclad Limited. "Purchaser" when used herein means the person or entity purchasing or receiving goods and/or services from Seller. "Goods" means the equipment, products, articles, supplies, or other property sold by Seller to Purchaser under an order. "Services" means the services provided by Seller to Purchaser under an order. "Contract" means the purchase order or purchase agreement between Seller and Purchaser for Goods and/or Services.
2. Seller's quotations and estimates are not offers and are subject to change or withdrawal without notice before an order is acknowledged by Seller. If Seller's proposal is deemed to constitute an offer, it may be accepted only on terms set forth in such proposal, including, without limitation, these Terms and Conditions. If Seller's proposal constitutes an acceptance of an offer, such acceptance is expressly conditioned on Purchaser's assent to the terms of such proposal, including, without limitation, these Terms and Conditions. An acceptance of any part of the Goods or Services covered hereunder shall be deemed to constitute such assent. Any additional and/or different terms and conditions proposed by Purchaser and/or any attempt by Purchaser to vary any of these terms and conditions shall be deemed a material alteration and is hereby objected to and rejected unless expressly agreed by Seller in writing. Only variations or modifications to the Contract made in writing and signed by Seller and Purchaser shall be enforceable.
3. Unless otherwise agreed by Seller in writing, Seller's prices are subject to change without advance notice at any time prior to order acknowledgement. Seller reserves the right to adjust the invoice price, after the price is quoted and/or acknowledged, to take account of any material variation in Seller's costs beyond Seller's reasonable control since the date of the quotation or (if no quotation is issued) the order acknowledgement, and the invoice so adjusted shall be payable as if the price set out therein were the original contract price. All sales are subject to increase without notification by the amount of any sales, excise or other tax or duty levied or charged by any governmental agency and are subject to any price adjustment necessitated by Seller's compliance with any government action.
4. Unless otherwise agreed by Seller in writing, Seller reserves the right to change or modify the design and construction of any product or to substitute material equal to or superior to that originally specified, without notice to the Purchaser.
5. Any action for breach of contract hereunder must be commenced within one year after the cause of action has accrued or it shall be waived. Any failure by Seller to enforce its rights under the Contract will not be deemed a waiver of such rights.
6. All disputes arising under or in connection with the Contract shall be resolved by (a) good-faith negotiations by knowledgeable, responsible representatives of each party who are fully authorized to settle any such dispute, or (b) in the event such negotiations do not resolve such dispute within a thirty (30) day period (or such longer period as the parties may agree), binding arbitration under the London Court of International Arbitration Rules, which rules are deemed to be incorporated by reference into this clause. There shall be one arbitrator as mutually agreed by the parties and the proceedings shall be held in London, England. The language to be used in the arbitral proceedings shall be English. Each party shall bear its own costs of these procedures; the parties shall equally split the fees of the arbitration and the arbitrator. Notwithstanding the above, either party shall have the right to seek a temporary restraining order or an injunction related to the purposes of the Contract, to compel compliance with confidentiality obligations, or to file suit to compel compliance with this dispute resolution process.
7. Purchaser may not assign, novate, or otherwise transfer its rights or obligations under the Contract without Seller's prior written consent, and any attempt to do so shall be null and void and of no effect.

CANCELLATION

Purchaser cannot cancel the Contract under any circumstances without Purchaser first reaching an agreement in writing with Seller covering Seller's damages. Unless a cancellation schedule is agreed in the Contract, such agreement for cancellation charges must reimburse Seller for all expenses incurred, including, but not limited to, costs of purchased materials, labor costs, engineering costs, third-party service costs, and a reasonable mark-up to cover overhead and profit.

ENGINEERING CRITERIA

The Goods furnished by Seller are sophisticated engineering products; accordingly, Purchaser undertakes:

1. That it has provided, and will promptly provide, all information reasonably necessary to enable Seller to (i) evaluate the requirements for performing and (ii) perform the Contract, and that all such information is full and accurate;
2. That all premises, plant, engineering support, spare parts, connected work and machinery and inputs that Purchaser is required to provide for the design, engineering, installation, testing and use of the Goods are fit for their purpose and of good engineering quality;
3. Fully to co-operate with Seller in the design, engineering, installation, testing and use of the Goods;
4. To use the Goods for the intended purpose only and in accordance with the literature provided with the Goods by Seller; and
5. Not to use or undertake any unapproved spare part, connected machinery, service, repair, modification, or alternation, and agrees that any breach of these negative criteria will negate all specific and implied warranties, conditions, and obligations on the part of Seller relating to the quality of the Goods.

Purchaser further agrees that it will be liable to Seller for any costs, expenses, and losses it suffers by reason of any breach of these undertakings.

DRAWINGS, DESIGNS AND CONFIDENTIALITY

1. All of Seller's specifications, designs, drawings, and indications of physical, chemical, and electronic properties ("the Designs") are made in good faith and are approximate indications only and are not binding in detail unless Seller has agreed in writing to a particular Design upon which Purchaser has indicated it is relying; Seller shall be entitled to vary the same and/or to correct errors and omissions provided the Goods remain in substantial conformity with the contractual requirements.
2. The Designs and all other designs, drawings, know-how, technologies, proprietary information, and other intellectual property concerning Seller's products or services (including all patents, copyright, design right, know-how, trade secret and other intellectual property in them) are and shall remain, as between the parties, the sole property of Seller. Purchaser is not entitled, licensed, or authorized to make any use of the Designs or other intellectual property of Seller other than for the use of the Goods and/or Services as contemplated by the Contract.
3. Unless specifically agreed in writing otherwise, any inventions, modifications, improvements, techniques, know-how or intellectual property rights affecting Seller's products or services made or gained in the course of performing this Purchase Agreement shall belong to Seller absolutely.
4. Neither party shall disclose to third parties or use for its own purposes any confidential or proprietary information of the other party without the prior written consent of the other party.

SHIPMENT, PAYMENT, AND CREDIT

1. All Contracts shall be subject to credit approval by Seller in its sole discretion. Unless specifically agreed otherwise in the Contract, payment terms are net thirty (30) days from date of invoice. Unless specifically agreed otherwise in the Contract, payment shall be in UK Pounds Sterling by telegraphic transfer or irrevocable Letter of Credit, confirmed by a major UK Bank.
2. Seller may, in its sole discretion, accept payment for Goods and Services by cash in advance or by money-down with scheduled progress payments.
3. If Purchaser fails to fulfill the terms of payment, or if at any time before payment in full is made (whether or not payment is yet due) a petition is presented or resolution passed for the winding up or bankruptcy of Purchaser, or in the event of the appointment of a receiver or administrator of Purchaser's business, Seller may defer further shipment or, at its option, cancel the unshipped balance. Seller reserves the right prior to making any shipments to require from Purchaser satisfactory security for performance of Purchaser's obligation. In the event of cancellation in accordance with the provisions hereof, or in the event of non-payment (in full or in part) for the Goods by the due date, Purchaser hereby irrevocably licenses Seller (insofar as it is able) to enter upon any premises to repossess the Goods. No failure of Seller to exercise any right accruing from any default of Purchase shall impair Seller's right in case of any shipment default of Purchaser.

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(continued)

4. Unless specifically agreed otherwise in the Contract, all sales are FCA Seller's facility. Seller may, in its discretion, select the carrier unless specified in advance by Purchaser. Title to the Goods shall transfer to Purchaser upon full payment therefor. Risk in the Goods shall transfer to Purchaser upon delivery of the Goods per the agreed delivery terms.
5. While expected dates of delivery of goods are given in good faith, the same are not of the essence of or in any way terms of the Contract or representations of fact. All shipping dates given are approximate, and while effort is made to maintain schedules, Seller will not be liable for damages on account of delay. In case of delay by Purchaser in furnishing complete schedules, materials or information, delivery dates may be extended for a reasonable time. Seller shall not be responsible for reasonable or excusable delays nor shall the Purchaser refuse to accept delivery because of any such delays. Excusable delays include, without limitation, delays resulting from accidents, fires, pandemics, floods, severe weather or other acts of God, strike, lockout or other labor difficulties, embargoes, government controls or other forms of intervention, inability to obtain labor, materials or services and other causes beyond Seller's control. If there is a scarcity in any of its products or goods, Seller will allocate its available supply in its sole discretion.
6. Purchaser shall inspect Goods and Services within ten (10) business days after delivery of Goods and completion of Services and notify Seller in writing of any defects or any failure of the Goods or Services to conform to the requirements of the Contract. All claims by Purchaser for shortages in a shipment of Goods or Goods damaged in transit must be made against the carrier. All claims by Purchaser against Seller for nonconforming Goods or Services and claims for shortages in a shipment or damaged Goods (other than claims to be made against the carrier) must be made in writing to Seller within ten (10) business days after receipt of shipment or Purchaser shall be deemed to have accepted such Goods and Services and any claims for nonconforming Goods or Services shall be waived.

DISCLAIMER OF WARRANTY

SELLER DOES NOT WARRANT THE MERCHANTABILITY OF ITS PRODUCTS AND DOES NOT WARRANT THE FITNESS OF THE PRODUCTS FOR A PARTICULAR PURPOSE. SELLER DOES NOT MAKE, AND HEREBY DISCLAIMS AND EXCLUDES, ANY WARRANTY, EXPRESS OR IMPLIED, OTHER THAN THE WARRANTY CONTAINED HEREIN OR OTHERWISE EXPRESSLY AGREED BY SELLER IN WRITING.

1. Except as specifically agreed otherwise in the Contract, Seller warrants that Goods sold by Seller shall conform to specifications agreed in writing and shall be free from material defect in material and workmanship for a period of twelve (12) months from date of installation or eighteen (18) months from date of shipment, whichever occurs sooner (the "Warranty Period"). In the event of breach of such warranty, Seller's sole responsibility shall be to either repair or replace, at Seller's option, any nonconforming Goods. Such replacement parts shall be provided at no cost to Purchaser, at the business establishment of Seller during regular working hours. Seller's obligation under this warranty shall not include any cost of removal, installation, duty, taxes, or any other charges whatsoever. Further, unless agreed otherwise by Seller, goods alleged to be defective must be returned to Seller at Purchaser's expense; Seller will pay for freight expenses back to Purchaser upon confirmation that the defects are subject to warranty.
2. Except as specifically agreed otherwise in the Contract, Seller warrants that the Services shall (i) be performed with reasonable skill, care, and diligence, in a good and workmanlike manner and in accordance with customarily accepted professional practices, (ii) conform with specifications agreed in writing and (iii) be free from material defect for a Warranty Period of three (3) months from completion. Purchaser's sole remedy for breach of this warranty is to have Seller re-perform the Services at Seller's sole cost and expense.
3. Seller shall be under no liability for breach of the warranty set forth herein for wearing and consumable parts or to the extent any damage or nonconformity is caused by: (i) improper installation (if installed by other than Seller), use, maintenance and/or service; (ii) modification or alteration by other than Seller; (iii) delays in notifying Seller of the alleged defect; and/or (iv) equipment, component, materials or parts supplied by or on behalf of Purchaser.
4. If Purchaser informs Seller of a defect after the Warranty Period has expired, then Seller may, in its discretion, offer advice (free of charge) and repair or replacement of goods or additional services at Purchaser's expense.
5. There are no third-party beneficiaries of the warranty granted by Seller herein.

INDEMNITY

Seller shall indemnify and hold Purchaser harmless from loss, claim, cost, expense or damage (including payment of reasonable attorneys' fees) suffered or incurred by

Purchaser and arising from any injury, death or property damage but only to the extent caused by any defect in the design or manufacture of the Goods or any negligent act or omission in the performance of the Services, provided that Seller shall have no obligation to indemnify or hold Purchaser harmless to the extent any loss, claim, cost, expense or damage arises from or is caused by any specification, material, information or instruction provided by or on behalf of Purchaser.

Seller shall indemnify and hold Purchaser harmless from loss, claim, cost, expense or damage (including payment of reasonable attorneys' fees) suffered or incurred by Purchaser and arising from any claim of infringement of a third party's intellectual property rights but only to the extent caused by the Goods or Services (including the Designs) provided by Seller hereunder, provided that Seller shall have no obligation to indemnify or hold Purchaser harmless to the extent any loss, claim, cost, expense or damage arises from or is caused by any specification, material, information or instruction provided by or on behalf of Purchaser, by Purchaser's combination of the Goods and/or Services with materials not supplied by Seller or by Purchaser's use of the Goods and/or Services other than as instructed by Seller or contemplated by the Contract. In the event Seller reasonably deems any Goods or Services to infringe a third party's intellectual property rights, Seller may, in its sole discretion, either license Purchaser to use the infringing content or modify the Goods or Services so as not to infringe.

LIABILITY

SELLER'S TOTAL LIABILITY FOR ANY AND ALL CLAIMS, DAMAGES, LOSSES, AND INJURIES ARISING OUT OF OR RELATING TO SELLER'S PERFORMANCE OR BREACH OF ANY TERM HEREIN SHALL NOT EXCEED THE PRICE OF THE GOODS AND SERVICES PROVIDED HEREUNDER. IN NO EVENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL SELLER BE LIABLE FOR LIQUIDATED, INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, EXPENSES OR COSTS, INCLUDING BUT NOT LIMITED TO: (1) LOSS OF PROFITS, BUSINESS OR GOODWILL; (2) LOSS OF USE OF EQUIPMENT OR FACILITIES; OR (3) LOSS RESULTING FROM UNUSABLE MACHINERY OR FACILITY DOWNTIME, HOWSOEVER CAUSED AND EVEN IF THE POTENTIAL FOR SUCH DAMAGES WAS DISCLOSED AND/OR KNOWN.

CONFLICTING LAW

Some jurisdictions provide rights in addition to those listed above, or do not allow the exclusion or limitation of implied warranties, or liability for incidental or consequential damages. If any provision or part of a provision of these terms is found to be illegal, invalid, or unenforceable under any applicable law, such provision or part of a provision shall, insofar as it is severable from the remaining terms, be deemed omitted from these terms and shall in no way affect the legality, validity, or enforceability of the remaining terms.