

GENERAL CONDITIONS OF CONTRACT

1 GENERAL

- 1.1 Our quotation is made and given on the express understanding that unless written agreement is given by us to the contrary the following conditions of contract together with any special conditions referred to or included in the quotations apply to the exclusion of all others, including any attached to your order, and shall be incorporated in any contract of which this quotation may form part or for any goods or services supplied by us. In the event of conflict between these conditions and the quotation, the quotation shall prevail.
- 1.2 No contract shall be formed until your order has been accepted by us in writing. Notwithstanding acceptance the contract shall not be deemed to have come into force until fulfilment of all actions enabling us to proceed with the contract without delay, including the establishment of Letters of Credit where appropriate. In the event that the contract does not come into force within 60 days of acceptance we reserve the right to re-negotiate the price or withdraw from the contract.
- 1.3 Whilst all drawings, illustrations, particulars etc included as part of our quotation or shown in the catalogues, price lists or advertisements are given in good faith, they should not be taken as binding in respect of detail unless so stated in our quotation. Similarly, all weights, dimensions, power or chemical consumptions and other particulars of goods offered by us are stated in good faith and deviations there from shall not affect the validity of the contract or be made the basis of any claim against us.
- 1.4 Full details of operating conditions, including temperatures, pressures and, where applicable, nature of corrosive liquids to be handled should be notified to us.

2 PRICE VARIATION AND PAYMENT

- 2.1 Unless otherwise specified and subject to 2.3 below, the price quoted is Nett and, in case of destinations outside Poland, on an Ex-Works basis. In the case of destinations within Poland, the price quoted does not include delivery unless otherwise stated. Prices quoted are valid for 30 days from the date of quotation.
- 2.2 We reserve the right to cancel or withdraw the quotation without notice at any time before acceptance. Quotations not accepted within thirty days shall be deemed to be withdrawn unless confirmed by us in writing.
- 2.3 If any law, order, regulation, duty or tax etc is made or changed after the date of our quotation which affects our performance of the contract, the price shall be varied accordingly.
- 2.4 Terms of Payment are strictly Nett, cash due on or before the last day of the month following the date of invoice, or as otherwise stated by us in writing.
- 2.5 Payment is due in Pounds Sterling at the address quoted on the invoice unless otherwise specified by us.
- 2.6 You shall, in addition to the price of the goods, pay any Value Added Tax payable in respect thereof.
- 2.7 We reserve the right to apply a surcharge of 5% over HSBC Continental Europe (Spolka Akcyjna) Poland Branch Base Rate for overdue payments.
- 2.8 Any advance payments made by you are payments on account and do not constitute a deposit, the abandonment of which would entitle either party to terminate the contract.
- 2.9 If you delay in making any payment, we may postpone the fulfilment of our own obligations until such payment is made, unless your failure is due to our act or omission.
- 2.10 Once an invoice has exceeded agreed payment terms and our request to pay immediately have been ignored by you, we reserve the right to apply new terms including Cash in Advance for future orders.
- 2.11 The property in the goods shall not pass to you until you have paid the full price therefore. If nevertheless you sell the goods before they have been paid for in full you shall hold the proceeds of the sale in trust for us.
- 2.12 The risk in the goods shall pass to you upon delivery and you shall insure them against all usual risks until the price is paid.
- 2.13 The quotation includes a Volatility Surcharge based on current market conditions, including fluctuations in raw material costs, tariffs, energy, freight charges, and other factors. The surcharge is subject to periodic review and adjustment based on external (global) cost factors. Final surcharge will be confirmed at the time of order acceptance.
- 2.14 The prices stated in the invoice include a Volatility Surcharge to compensate for extraordinary cost fluctuations in raw material costs, tariffs, energy, transportation, and other factors. Any disputes regarding the surcharges must be raised within 10 working days from the invoice date. Failure to dispute within this period constitutes acceptance of the surcharges.

3 DELIVERY

- 3.1 Although estimated delivery dates are given in good faith and on the best available information, time shall not be of the essence of any contract for the sale of goods unless otherwise agreed in writing between us and we shall not be liable for any loss, direct or consequential, arising out of any failure for whatever reason to deliver by the estimated date. Any times quoted for delivery or completion are to date from the coming into force of the contract. Late delivery shall not affect your obligation to pay the price.

3.2 If we are prevented by your instructions, or lack of instructions, or by an act or omission on your part from despatching goods that are ready for despatch at the date specified in your order, then the cost involved in storage, protection, insurance, re-inspection and delivery from store shall be added to the price and any payment due on delivery shall be made on delivery into store as though goods had been delivered in accordance with the order.

4 **SITWORK**

4.1 Where our price includes for installation or supervision of installation and/or commissioning of the plant offered or any other work on site, our quotations are based upon the following assumptions:

- (a) Should working in excess of our normal hours of work be requested by you or additional work or expenditure be incurred due to the site conditions or should we be delayed by you or any other contractor employed by you or by any other cause beyond our reasonable control, then (i) we shall not be liable for the delay and any contract completion time quoted shall be extended by a reasonable period, and (ii) without prejudice to our other legal rights we reserve the right to increase the price accordingly.
- (b) Water or other liquids for testing purposes will be provided by you and facilities given for discharge as and when necessary, free of all cost to us.
- (c) Where power and other services, including oil-free air, clean water, chemicals and electricity, are required for operation of the plant our quotations are based on the assumption that, free of cost to us, suitable such services and supplies will be available on site for testing purposes during installation and for putting the plant to work after installation is completed. We do not include for any treatment chemicals or services which should be made available by you during the start-up and for subsequent use in the quantities specified by us.
- (d) We require you to provide us with assistance with regard to permits and visas and the like and to indemnify us in respect of local taxes and duties and the like.

4.2 For contracts where we have included for full erection, unless otherwise specified in our offer, you shall provide suitable access to and possession of the site, proper prepared foundations ready to receive the equipment as and when delivered, adequate off-loading facilities, temporary hand-railing and scaffolding, all civil engineering and builders work and materials of any kind, suitable storage, guarding and protection for the equipment from time of delivery, all necessary fences and barriers, any water, electric power, lighting and heating necessary on the site during and after installation and all necessary toilet, welfare and other facilities and adequate assistance. All these shall be supplied at your expense to enable the work to be expeditiously and continuously carried out. The price (unless otherwise specified in our offer) does not include any frost protection, site wiring, cabling and painting and treatment chemicals (which you shall provide in adequate quantities of commercially pure quality during start-up, testing, commissioning and subsequently).

5 **FORCE MAJEURE AND CANCELLATION**

5.1 Should the execution of the order be hindered or delayed by your instructions or lack of instructions or by any act or omission on your part or by any cause whatsoever beyond our control (including, without prejudice to the generality of the foregoing, Acts of God, fire, flood, embargoes, labour troubles, war, inability to obtain materials, equipment, transport or services of supply, vandalism and sabotage), we shall be at liberty to cancel or suspend the contract forthwith without any liability whatsoever and you shall pay such charges for work undertaken as may be reasonable in the circumstances.

5.2 We shall be entitled to cancel the contract forthwith if you make any default in payment or become bankrupt or, in the case of a Limited Company, commence to be wound up or have an administration order made against you or carry on business under an administrator, receiver or manager, but any such cancellation shall be without prejudice to any other rights or remedies we may have against you.

6 **LIABILITY**

6.1 We warrant all materials and workmanship to be free from defects, and undertake to replace or repair at our works or elsewhere, the choice being our option, free-of-charge, any parts shown to be defective within the period stated below, fair wear and tear excepted. Our liability is limited to making good such defective parts in a manner decided by us. This Warranty shall not apply to any product or parts of a product which (a) have been repaired by third-parties other than Seller or without Seller's written approval; (b) have been subject to misuse, misapplication, neglect, alteration, accident, or physical damage; (c) have been used in a manner contrary to Seller's instructions for installation, operation and maintenance; (d) damage from ordinary wear and tear, corrosion, or chemical attack; or (e) damage resulting from the use of accessory equipment not sold by Seller or not approved by Seller in connection

with products supplied by Seller hereunder. In any case of products not manufactured by Seller, there is no warranty from Seller; however, Seller will extend to the Buyer any warranty received from Seller's supplier of such products. Repaired or replacement parts will be delivered carriage paid FOB or to Polish site. Parts replaced under warranty will carry the remainder of the original warranty. Expendable items including "membranes" are excluded from the warranty and covered under a separate warranty. This warranty is subject to payment being made at the time or times and in the manner agreed.

The period covering the guarantee shall be as follows:

- Supply only Contracts - 12 months from delivery or readiness for despatch if delivery is delayed by you.
- Contracts involving sitework - 12 months from completion of installation but in any event not more than 18 months after delivery or readiness for despatch.

Details of any process guarantee are shown separately where applicable.

6.2 Our liability under this Clause shall be in lieu of any warranty or condition implied by law as to the quality or fitness for any particular purpose of the goods or any implied warranty of merchantability, and save as provided in this Clause we shall not be under any liability, whether in contract, tort or otherwise, in respect of defects in goods delivered or for any injury (other than personal injury caused by our negligence as defined in Section 1 of the Unfair Contract Terms Act, 1977, where that Act applies to the contract) damage or loss resulting from such defects or from any work done in connection therewith. Buyer's exclusive remedy and seller's aggregate liability for breach of any of the foregoing warranties is limited to repairing or replacing the product and shall in all cases be limited to the amount paid by the buyer hereunder. In no event is seller liable for any other form of damages, whether direct, indirect, liquidated, incidental, consequential, punitive, exemplary or special damages, including but not limited to loss of profit, loss of anticipated savings or revenue, loss of income, loss of business, loss of production, loss of opportunity or loss of reputation.

6.3 Where any recommendation or advice is given by us or our agents as to the mode of storing, applying, or using the goods, such advice is given in good faith but it shall not form part of the contract nor shall we be liable for any loss or damage suffered by reliance thereon.

7 **INCOTERMS**

The latest edition of these terms shall form part of the contract where not in conflict with our quotation. However to avoid possible delays in the case of delivery FOB we reserve the right to nominate the ship ourselves and also to use a non-EU port where appropriate.

8 **ARBITRATION AND LAW**

The order shall in all respects be construed and operate as a Polish contract in conformity with Polish Law.

9 **COPYRIGHT**

All specifications, drawings and technical descriptions submitted with or in connection with our offer are our copyright. All such copyright material and all information and "know-how" whenever supplied shall at all times be treated by you as confidential and shall not without our consent be used by you except for purposes of (i) adjudicating the offer (ii) the contract (if any) placed with us; and (iii) the operation of the equipment supplied there under nor shall they without our consent be communicated to third parties save insofar as may be necessary for the permitted purposes.

10. **LIMITATION OF LIABILITY.**

In no event shall seller's liability under this agreement exceed the amount paid by the buyer under this agreement. Seller shall have no liability for loss of profit, loss of anticipated savings or revenue, loss of income, loss of business, loss of production, loss of opportunity, loss of reputation, indirect, consequential, incidental, punitive or exemplary damages.