

## CHEPSTOW PLANT SERVICES LIMITED

### Terms and Conditions of Sale

1. In these conditions the "Seller" means the above-named Company. The "Buyer" means the customer named on any Order Confirmation or Invoice of the Seller or any person to whom the same is addressed.
2. Any contract incorporating these conditions or made pursuant hereto shall be governed by and construed in accordance with the laws of England.
3. The Seller shall not be bound by any order placed by the Buyer (whether or not such order purports to be an acceptance of any quotation or offer made by the Seller) until it is accepted by the Seller. Such acceptance shall be evidenced by the Seller's written Order Confirmation or Invoice. Any goods delivered by the Seller to the Buyer (hereinafter called "the Goods") will be supplied subject to these terms to the exclusion of any standard terms of the Buyer and (if a contract of sale has not previously come into existence) acceptance to the Buyer of any such Goods shall constitute acceptance of these terms.
4. Unless stated to be fixed price, the prices specified in any Contract made subject to these conditions may be increased by the Seller upon Notice to the Buyer at any time before delivery to take account of any increase in the cost to the Seller of the Goods comprised in such Contract or the cost of materials, labour and/or overheads relating to such goods which shall have occurred since the date on which such prices were first quoted to the Buyer and the Seller's certificate of the amount of such increase shall be binding upon the Buyer.
- 5 (a) All risk in the Goods shall pass to the Buyer and the Buyer shall be fully responsible therefore upon delivery.
- (b) For so long as the whole or any part of the purchase price of the Goods or any other amounts remain owing from the Buyer to the Seller (whether immediately due or not), title to and property in the Goods will remain in the Seller and will not pass to the Buyer until the Seller has received payment thereof in full. All Goods which remain the property of the Seller will be held by the Buyer on behalf of the Seller in a fiduciary capacity and the Buyer shall keep them fully insured and in good and substantial repair and condition. The Buyer may resell such Goods to a third party in the ordinary course of its business and in such event, if the Seller has not then received the whole of the purchase price and all other amounts owing to it in full, the Buyer will account to the Seller for the proceeds of such sale of such Goods and meanwhile will hold them upon trust for the Seller until the Seller has received payment of the price and all such other amounts in full; and further the Seller may by notice in writing to the Buyer require that any proceeds of such sale be credited to a separate account and/or paid over forthwith to the Seller. At any time after the due date for payment of the whole or any part of the purchase price for the Goods or any other amounts owing from the Buyer to the Seller and so long as payment thereof has not been received by the Seller in full the Seller at the Buyer's expense shall be entitled to require the Buyer to return to the Seller and shall have the right (acting through its officers, employees or agents) to enter the Buyer's premises and remove therefrom all Goods which remain the property of the Seller.
6. Without prejudice to the generality of the foregoing, if the Buyer shall be adjudicated bankrupt or have a receiving order made against him, or being a company, shall apply for or become subject to an administration order, pass a resolution for winding up or suffer a winding up order to be made against it or have a receiver or an administrative receiver appointed of the whole or any part of its assets, or is in arrear with any payments due to the Seller, or in the opinion of the Seller, is or will be unable to pay its debt, or being a company, becomes indebted to the Seller in an amount exceeding 10 per cent of its net tangible assets value as appearing from its last audited balance sheet then
  - i) The Seller may elect not to deliver the Goods except against payment in cash of all amounts owing to the Seller by the Buyer in full, and
  - ii) The Seller may suspend further deliveries under or cancel any unfulfilled contracts and
  - iii) All monies owing from the Buyer to the Seller shall become immediately due and payable.
7. Unless otherwise expressly agreed in writing the Goods will be delivered to such address (not being outside the United Kingdom) as the Buyer may require in writing and the cost of carriage to such address will be payable by the Buyer.
8. Delivery dates are given in good faith but are not guaranteed and no liability will be accepted for any losses, costs, damages or expense suffered by the Buyer as a result of failure to meet any dates for delivery quoted to or agreed with the Buyer. Time is not of the essence.
9. Payment for the Goods shall be due against the Seller's invoice and any amounts not paid when due shall bear interest of 4 per cent above the base rate for the time being adopted by the Seller's bankers. If the Seller has to instruct solicitors or other agents to recover money owed by the Buyer then the Buyer will indemnify the Seller against all fees and costs payable by the Seller to its solicitors or agents in connection with such recovery.
10. If provision is made for delivery of the Goods by instalments such agreement shall be construed to be severable as to each and every instalment deliverable hereunder and each instalment shall be deemed to be sold under a separate and independent contract. Delay or default in the delivery of any such instalment shall not affect the contract as it applied to any other instalments and in particular but without prejudice to the generality of the foregoing shall not relieve the Buyer of its obligations to accept delivery of future instalments.
- 11.(a) In the event that Seller provides a specific warranty the terms will be listed in full on the Order Confirmation or Invoice relating to the Goods.
- (b) The undertaking given by the Seller in paragraph (a) of this condition is given in lieu of all other conditions guarantees or warranties whatsoever, whether implied by statute or otherwise as to the description or quality of the Goods or their fitness for any purpose or as to their correspondence with specification. All liability of the Seller (other than liability arising from a failure to perform the express terms of this Agreement or for personal injury or death resulting from the Seller's negligence) in connection with the supply of any of the Goods pursuant to this Agreement howsoever arising including (save as aforesaid) liability for negligence is hereby excluded.
- (c) Subject to (12) the Seller warrants that the services supplied under this agreement shall be performed using reasonable skill and care, and of a quality conforming to generally accepted industry standards and practices.
12. Chepstow Plant Services Ltd shall not be liable for any consequential losses, expenses, liabilities, claims or proceedings whatsoever caused by, or arising out of, the sale, late delivery, non-delivery, unsuitability of the Equipment or Plant, or any breakdown or defect in the Equipment or Plant.
13. The Buyer at all times is to have satisfied himself of the suitability and fitness for purpose of the Plant and Equipment to which this Agreement relates. The Buyer may at his expense undertake inspection of the Equipment to satisfy himself of the suitability of the Equipment which may include inspection by a recognised suitable third party.
- 14.(a) If any of the Goods comprised in any invoice issued by The Seller are not received by the Buyer within 28 days after it has received such invoice then the Buyer shall within such period of 28 days give written notice to the Seller of such non-delivery. If no such notice is given within such period all of the Goods comprised in such invoice shall be deemed for all the purposes hereof to have been delivered to the Buyer
- (b) If there is any discrepancy between any Goods delivered by the Seller and any Order Confirmation, Invoice or Despatch Note relating thereto then the Buyer shall give written notice to the Seller of such discrepancies within 7 days after receipt of such Goods. If no such notice is given within such period the Goods delivered shall be deemed for all the purposes hereof to comply in all respects with the particulars set out in such Despatch Note.
15. Except with prior written consent of a duly authorised representative of the Seller, neither these conditions nor any claim or right arising out of breach of these can be waived, varied, suspended, added to or renounced. Failure by the Seller at any time to enforce any of the provisions of the contract shall not be construed as a waiver by the Seller of such provisions or in any way affect the validity of the contract or any part thereof.
16. In the event that as a result of any Act of God, Storm, Fire, Flood, Explosion, Strike (whether at the Seller's premises or elsewhere), shortage of materials or any other matter which is beyond the Seller's reasonable control or not within its reasonable contemplation at the date of acceptance of the Buyer's order the performance of the contract is made materially more onerous or expensive for the Seller, the Seller may at any time by written notice cancel the contract without liability to the Buyer.
17. All drawings, designs, patents, tools etc. and the copyright therein supplied by the Seller to the Buyer shall be and remain the Seller's property and in no circumstances whatsoever shall such documents or their copyrights be used to any purpose other than that for which they were supplied.
18. Any notice to be given by either party under any of these terms and conditions shall be deemed to be properly given if posted in a properly stamped envelope addressed to or sent by telex or fax or telegram or e-mail or by hand to the other party at its last known address. Any such notice shall be deemed to have been given when received provided that in the case of a notice sent by post the party sending the notice may notify the other party by telex, fax, telegram or e-mail of the posting of such notice and in such case the notice will be deemed to have been given 24 hours after posting. For the purposes hereof the "last known address" of the intended recipient of such a notice means the address of such recipient as shown on the last written communication from such recipient to the giver of such notice.
19. Any contract made pursuant hereto shall be governed by and construed in accordance with English Law.