



**DESTEC ENGINEERING LIMITED**

**STANDARD TERMS & CONDITIONS**

**FOR SALES AGREEMENTS APPLICABLE TO PRODUCT / SERVICES**

**SUPPLIED BY DESTEC ENGINEERING LIMITED TO PURCHASER**

1. Acceptance

1.1 Acceptance of any offer to sell by Destec Engineering Limited (DEL) is limited to Purchaser completely and exclusively accepting all terms and conditions hereof ("Terms"). The acknowledgement Sales Agreement constitutes the entire agreement between the parties and takes precedence over any and all previous verbal or written arrangements in connection with this Agreement. Any deletions, modifications, alternations of or additions to the Terms, to be binding, shall be in writing and signed by an authorised representative of DEL and the Purchaser. Without limiting the foregoing, it is expressly acknowledged that any Purchaser document received is for order identification convenience only. Any and all provisions on the face or reverse side of any purchase order which purchaser may send to DEL in connection herewith are expressly objected to by DEL and waived by Purchaser and made inapplicable to any such purchase, unless both parties expressly agree in writing to include any such terms and conditions in this Agreement.

1.2 Purchaser's acceptance is hereby expressly limited to the Terms, and acceptance of any part of the products covered hereunder shall be deemed to constitute such acceptance. (If this order constitutes an acceptance of an offer, such acceptance is expressly made conditional on Purchaser's assent to the Terms and any additional or different terms contained herein, and acceptance of any part of the products covered hereunder shall be deemed to constitute such assent).

2. Limited Warranties

DEL hereby warrants that all products manufactured by DEL are free of defects of material and workmanship for a period of fourteen (14) months from the date of shipment or twelve (12) months from the date of commissioning, whichever is the sooner, providing that the products are used in the service specified and are properly installed, used and maintained and not altered after initial delivery, corrosion, erosion, normal wear and tear as well as soft parts are excepted.

Purchaser shall give written notice to DEL of any defects within thirty (30) days of their discovery by Purchaser, within said warranty period, with a report detailing failure and defects. DEL reserves the right to require prepaid return of the allegedly defective product to establish a warranty claim. DEL will, at its option, repair any product found defective during the warranty period without charge, replace the product FCA DEL manufacturing facility, or refund the purchase price paid for the products upon return to DEL. DEL shall not be responsible for retrieving or removing defective items (whether by DEL or not), or any part thereof, or for reinstalling the same when repaired or replaced, or for any cost incurred in connection with such retrieval, removal, or reinstallation. In the case of items or parts not wholly of DEL's manufacture, but supplied by DEL, DEL's liability shall be limited to assisting Purchaser in enforcing the warranty of the manufacture of the items or parts. DEL will not be responsible for repairs made by other than DEL without prior written consent.

This warranty is EXCLUSIVE AND, EXCEPT AS STATED HEREIN, DEL MAKES NO EXPRESS OR IMPLIED WARRANTIES AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE, WHICH EXCEED THE FOREGOING WARRANTY. PURCHASER'S SOLE REMEDY AND DEL'S SOLE OBLIGATION ARISING OUT OF OR IN CONNECTION WITH DEFECTS IN MATERIAL, WORKMANSHIP OR SERVICES WHICH ARE BASED ON WARRANTY, CONTRACT NEGLIGENCE, STRICT LIABILITY OR OTHERWISE SHALL BE THOSE STATED IN THIS SECTION. The Purchaser acknowledges that any affirmation of fact or promise made by DEL shall not be deemed to create an express warranty, that Purchaser is not relying on DEL's skill or judgement in selecting or furnishing a system suitable for any particular purpose, and there are no warranties which extend beyond the description of the face hereof.

3. Liability

DEL is not an insurer and insurance, if any, shall be obtained by the Purchaser. The Purchaser acknowledges that it is impracticable and extremely difficult to affix the actual damages as integrity of DEL's products are dependent on site assembly outside the scope of this, if any, which may proximately result from a failure on the part of DEL to perform any of the obligations contained herein, or the failure of the product to operate properly, with resulting loss to the Purchaser, and that the price is established on use of these Terms. The Purchaser agrees that if DEL should be found liable for loss or damage due to a failure of service or equipment in any respect whatsoever, DEL's liability, whether based on breach of warranty, breach of contract, tort, strict liability or otherwise, shall be limited to its warranty obligation, but in no event shall exceed the purchase price paid. In the event that those products or parts which are defective in either material or workmanship and not wholly of DEL's manufacture, DEL's liability shall be limited exclusively to the extent of DEL's recovery from the manufacturer of such products or parts. The replacement cost or DEL's recovery from the manufacture, as the case may be, shall be the exclusive obligation and liability of DEL and the sole remedy of Purchaser. Further, the provisions of this section shall apply if loss or damage, irrespective of cause or origin, results directly or indirectly to persons or property, from performance or non-performance of the obligations imposed by this Agreement or from negligence, active or otherwise, of DEL, its agents, assigns or employees. In no event shall DEL be liable for damages arising from delays, loss of use or of profits or for other incidental or consequential damages of any kind, including, by way of example and not of limitation, pollution, hydrocarbon spillage or discharge, blow-out, seepage, damage to underground reservoirs or any uncontrolled flow of hydrocarbons or other substances.



#### 4. Subrogation

The Purchaser hereby releases, discharges, and agrees to hold DEL harmless from any and all claims, liabilities, damages, losses, or expenses arising from or caused by any hazard covered by insurance, whether said claim is made by Purchaser, its agents and insurance company, or by any other parties claiming under or through Purchaser. Purchaser agrees to indemnify DEL against defend and hold DEL harmless from any liability, loss, or damage, including costs or attorney's fees which DEL may incur as a result of any action or subrogation which may be brought against DEL by an insurer or insurance company, or its agents or assigns.

#### 5. Price and Payment

5.1 All products are priced in pounds sterling, unless otherwise stated, and will be invoiced upon shipment. Net payment is due within thirty (30) days at the end of the month from the date of the invoice. Interest charges at one percent (1%) above the Bank of England base rate pertaining at the time will be applicable to delinquent accounts unpaid after due date. Prices quoted are subject to change without notice if not accepted within thirty (30) days, unless specifically stated otherwise.

5.2 Unless otherwise quoted, Purchaser will pay, in addition to the purchase price of the products, all charges for export packing and processing, insurance and transportation, and the price of products does not include personnel or equipment required to install the products.

5.3 Title to the goods only passes to the purchaser on full payment being received by DEL.

#### 6. Transportation

Unless otherwise specified in DEL's sales quotation, transportation charges, including transportation documents and contracts with carriers, shall be based upon the point of manufacture, and shall be paid by Purchaser. All taxes, surcharges, customs duties, consular fees, assessments imposed by any governmental authority, insurance charges and other applicable charges, shall be borne by the Purchaser. Risk or loss of goods sold shall pass to the Purchaser ex-works, point of manufacture warehouse, unless otherwise specifically agreed by DEL in writing.

#### 7. Delivery

Purchaser acknowledges that delivery dates, while given as accurately as conditions permit, are tentative only and, while effort will be made to make deliveries as scheduled, DEL assumes no liability whatsoever for damages arising out of the failure to deliver the goods described herein on the dates stated. Delay in delivery shall not give Purchaser the right to cancel order. Delivery dates may be changed at DEL's discretion.

#### 8. Cancellation or Rescheduling of Orders

8.1 Purchaser's orders, once placed and accepted, may be cancelled only with DEL's written consent and upon terms which will save DEL from loss. No products may be returned for credit, warranty claim or adjustment without the written consent of authorised DEL employees.

8.2 DEL may, but is not obligated to, accept a written request by Purchaser to delay shipment of the products. If rescheduling is accepted by DEL, Purchaser shall pay any additional costs incurred by the delay and the price for the balance of the order shall be adjusted to reflect prices and costs in effect at time of actual shipment.

#### 9. Taxes, Licenses or Other Charges

9.1 All taxes or other charges imposed by law on the sale or production of goods or the performance of services under this Agreement, including, but not limited to, those from all governmental authorities, as well as all foreign taxes, surcharges, duties, assessments, or charges, if any, shall be borne by the Purchaser, unless the law specifically provides that such payment must be borne by DEL.

9.2 Purchaser shall, at its own expense, obtain all licenses, permissions, or authorisations to use, purchase, export or import the products, as may be required by any governmental authority.

#### 10. Services

Upon the request of the Purchaser, DEL will provide appropriate services and/or technical information, as available, regarding the products and their uses, and will use reasonable efforts to provide personnel to assist the Purchaser in effecting field installations. The Purchaser acknowledges that any such information, service or assistance so provided, whether with or without charge, shall be in an advisory capacity only. The Purchaser further agrees that DEL assumes no liability for any damage or loss at any location arising out of, resulting from, or caused, in whole or in part, by any information, service, advice or assistance provided by DEL, its assigns, employees or subcontractors.



#### 11. Packaging/Insurance

- 11.1 When obligated to do so in the specifications, DEL shall attempt to pack and prepare all shipments in such a manner as to prevent breakage, corrosion, or deterioration in transit. DEL does not, guarantee against such damage and the risk of any damage to the products in transit shall be borne by the Purchaser at all times.
- 11.2 Unless requested by the Purchaser and agreed to in writing by DEL, no shipments are insured by DEL against damage or loss in transit and DEL assumes no liability whatsoever in regard to the obtaining of such insurance.

#### 12. Changes and Modifications in Design

DEL hereby reserves the right to change or modify the specification and construction of any of its products without incurring any obligation to furnish or install such changes or modifications on products previously or subsequently sold.

#### 13. Patent Warranties

The Purchaser acknowledges that DEL does not warrant that any of the materials, equipment or apparatus sold by it, if used or sold in combination with any other equipment, or used in Purchaser's methods or processes, will not, by virtue of such combination or use, infringe patents of others, and DEL shall not be liable for any patent infringement arising from or by reason of any such use or sale. On any item sold by DEL but specified or designed and/or manufactured by others, DEL shall endeavour, for protection of Purchaser, to obtain the most advantageous patent guarantee, which shall run directly to Purchaser, with DEL's liability limited to rendering to Purchaser reasonable assistance in enforcing such guarantees. Further, DEL shall not be liable for the use or sale of any material, equipment or apparatus specially made, in whole or in part, to the Purchaser's design specifications and, in such instances, all patent liabilities shall be borne by the Purchaser. If an injunction is issued enjoining use of products designed by DEL, DEL, at its own expense, shall either procure for Purchaser the right to continue to use such products, design and specify non-infringing products, or design and specify modifications so that the product becomes non-infringing, as DEL's sole and limited obligation for patent infringement.

#### 14. Shortages

Subject to Paragraphs 6, 11.1 and 11.2, all claims regarding shortages in any shipment must be made within thirty (30) days from the receipt of such shipment and must be accompanied by the packing list or lists covering the shipment.

#### 15. Consular Documents and Declarations

The procurement of consular fees for legalising invoices, stamping Bills of Lading or other such documents and declarations required by the law of any country or destination, are not included in quotations or selling prices. Although it is not DEL's policy to make such arrangements, if instructed by the Purchaser and agreed to in writing by DEL, DEL will make arrangements for any consular documents and declarations needed, as agents of the Purchaser. DEL assumes no liability whatsoever as a result of making such arrangements and all costs and liability shall be borne by the Purchaser.

#### 16. Force Majeure

If the Purchaser or DEL is prevented, directly or indirectly, from carrying out the provisions of this Agreement by reason of any act of God, war, revolution, blockade, strike, riot, earthquake, cyclone or flood, or delay by carrier, fuel shortage, embargo, walkout or other labour disturbance, actual or potential, the operation of laws, interface or civil or military authority, or other cause, existing or future, beyond the reasonable control of the party affected, interfering with production or receipt of goods as herein contemplated, the party so prevented or interfered with shall be excused from making or taking deliveries to the extent of such prevention or interference, excluding the obligation to pay monies owed, provided prompt written notice is given to the other party.

#### 17. Governing Law

- 17.1 The validity, interpretation, and performance of this Agreement with respect to goods delivered or to be delivered under this Agreement shall be construed in accordance with the Laws of England.
- 17.2 The invalidity, in whole or in part, of the Terms, or any provision or any part thereof, shall not affect the validity or enforceability of any other terms or provisions. Terms and conditions on the face of DEL's quotations take precedence over these standard terms and conditions.
- 17.3 The right of DEL to require strict performance of the Terms shall not be affected by any prior waiver or course of dealing.
- 17.4 Should any governmental law, regulation, ruling and/or policy (including, but not limited to, import/export restrictions, license requests, exchange controls or requirements, or any document for certifications or information which may tend to discriminate or favour DEL's customers, effectively prohibit or restrict DEL or its affiliates from delivering products or services, or restrict DEL or its affiliates from receiving or remitting currency payments or the equivalent thereof, in full payment for products/services, then DEL or its affiliates shall not be liable for any damages. DEL shall endeavour to promptly notify Purchaser of any known restrictions or prohibitions.