

# *Induced Energy Limited*

## *Standard Terms and Conditions of Sale*

### 1. Definitions

IE	Induced Energy Limited
Customer	The person, firm or company purchasing equipment from IE
Equipment	The product to which these Terms and Conditions apply
Conditions	The terms and conditions of IE herein relating to the supply of equipment
Order	The order placed by the Customer for the supply of equipment

### 2. Orders

- 2.1 All orders are deemed to have been made by the Customer and accepted by IE upon and subject to the Terms and Conditions which are complete and exhaustive and override all and any other Terms and Conditions and provisions referring or purporting to refer to the Equipment and which shall not be capable of being varied, supplemented, qualified or interrupted by reference to any prior course of dealings between the parties. All other terms and conditions, warranties, guarantees and reservations (express or implied, statutory or otherwise) are hereby expressly excluded.
- 2.2 Every contract for the sale of Equipment shall be deemed to have been concluded only when IE issues written confirmation of an Order submitted by the Customer. The Equipment which forms the subject matter of each such contract shall be specified in the Order and the confirmation of the Order but in the event of any inconsistency between such documents the invoice of IE relating to the Order in question shall be conclusive as to what equipment and in what quantities such Equipment was ordered.
- 2.3 IE reserves the right to make delivery by instalment. Where delivery is by instalment, each instalment shall be deemed to be sold as part of an entire contract and not under a separate contract for each instalment.

#### 2.4 Cancellation

- 2.4.1 Standard Items. A cancellation charge of 25% of nett invoice value shall be made to cover administration costs.
- 2.4.2 Special items. Once manufacture has commenced, cancellation of items made to a Customer's specific requirements will involve, in addition to the cancellation charge, all manufacturing costs incurred up to the time of cancellation and other costs incurred by IE in relation to the items, prior to, or as a consequence of cancellation.

### 3. Prices

- 3.1 IE shall establish the prices charged to the Customer for the Equipment from time to time as it thinks fit. IE will give 30 (thirty) days prior written notice to the Customer of any increases in the price of the Equipment and such price increase shall apply to all orders accepted by IE subsequent to the expiry of the notice period. Where delivery of the Equipment is made by instalment the price applicable for each instalment shall be that ruling at the date of despatch of each instalment unless otherwise agreed in writing between IE and the Customer.

### 4. Payment

- 4.1 The Customer shall make payment in full without any deduction whatsoever on any account within 30 (thirty) days of the invoice date or some later date following invoicing which must be clearly evidenced in writing as having been agreed between IE and the Customer.
- 4.2 If payment is not received in full when due then the Customer shall pay interest on the unpaid amount at a rate per annum which is 4% (per cent) of the unpaid balance of the purchase price of the Equipment.
- 4.3 If IE at its sole discretion agrees to the return of the Equipment before any payment is made by the Customer, the Customer shall be liable to pay IE a handling charge of 15% (per cent) of the purchase of the Equipment. If IE has agreed to the return of the Equipment when only part payment has been made by the Customer IE shall return the part payment after deducting a handling charge of 15% (per cent) of the unpaid balance of the purchase price of the Equipment.
- 4.4 If payment is made by instalment the failure of the Customer to pay any instalment in due time shall entitle IE to treat such failure as repudiation of the whole contract by the Customer and to recover damages for breach of contract.
- 4.5 IE reserves the right to defer without penalty delivery of any Equipment, which has been ordered by the Customer so long as any amounts remain overdue for payment or any credit limit is exceeded.
- 4.6 No claim by the Customer in respect of the Equipment comprised in one delivery of Equipment shall entitle the Customer to withhold payment of the whole or part of the price payable in respect of any other delivery of Equipment.

### 5. Property and Risk

- 5.1 Upon delivery the Equipment shall be at the Customers risk.
- 5.2 Notwithstanding 5.1 above both the legal and equitable title in and to the Equipment will remain with IE until IE has received payment of the full purchase price together with any VAT and interest payable. Where payment is to be made by instalment the property in respect of all the Equipment under the contract shall not pass to the Customer until such time as all instalment payments together with any amounts due in respect of VAT and interest have been made. Until payment in full has been made the Customer shall hold the Equipment in a fiduciary capacity for IE separate from any other assets and clearly marked as IE's property and IE shall be entitled to require the Customer to deliver the Equipment or any of it on demand. If the Customer fails so to deliver the Equipment IE shall be entitled to enter the Customers premises for the purpose of collecting and to collect the Equipment or any of it and shall have the right to dismantle any machinery product item or equipment into which the Equipment or any of it has been incorporated and the Customer shall be responsible for all of IE's costs and expenses in connection with so doing.
- 5.3 The Customer may sell the Equipment by way of a bona fide sale in the ordinary course of business on its standard terms and conditions but may not otherwise deal with, sell, part with possession of, change the character of, convert or otherwise dispose of or handle any of the Equipment sold hereunder until title has passed to the Customer in accordance with 5.2 above.
- 5.4 The Customers license to deal with the Equipment under 5.3 shall forthwith terminate in the event that the Customer fails to observe any of the terms of the contract or compounds with its creditors or becomes bankrupt or has a receiver appointed of all or any part of its assets or business or suffers the presentation of a winding up petition or passes a resolution for its winding up (otherwise than for the purpose of amalgamation or reconstruction) or suffers any distress or execution to be levied or threatened on any of its assets or fails to satisfy any judgement against it within 14 (fourteen) days or in the opinion of IE is unable to pay its debts.
- 5.5 Where any of the Equipment is sold to a third party before title has passed to the Customer that sale shall constitute a sale by the Customer of IE's property and accordingly the Customer will hold the proceeds of that sale on trust for IE.

### 6. Delivery and Installation

- 6.1 All delivery and installation dates are estimates only and IE shall not be liable for any loss, cost, damages or expenses suffered by the Customer or any other person or company howsoever arising whether directly or indirectly out of any failure to meet any estimated delivery or installation dates.
- 6.2 IE reserves the right to suspend delivery in respect of any order.
- 6.3 Delivery against Order(s) placed for the Equipment shall be clearly evidenced by the return to IE or its authorised carrier(s) official Packing/Delivery Note which must be signed and dated by an employee of the Customer whose signature should be legibly identified in capital letters on the Packing/Delivery Note. Receipt by IE of the signed Packing/Delivery Note howsoever signed as acknowledgement of receipt of the Equipment shall be absolute and irrevocable proof of delivery of the specified items entered on the Packing/Delivery Note and no claims for shortages will be accepted or considered.

## **7. Shortages and Damages**

- 7.1 The Customer shall inspect the Equipment immediately upon delivery and shall within 14 (fourteen) days of such delivery give notice in writing to IE if it is alleged that the Equipment is not in accordance with the contract. Any claim outside the 14 (fourteen) days will not be accepted.
- 7.2 The Customer shall in respect of alleged visible damage to the Equipment at time of delivery make a note of the alleged damage on the Packing/Delivery Note referred to in 7.1 above and shall additionally within 14 (fourteen) days give notice to IE of such alleged damage.
- 7.3 If the customer shall fail to give notice as required in 7.1 and 7.2 above (as applicable) then the Equipment shall be deemed in all aspects to be in accordance with the contract and the Customer shall be deemed to have irrevocably and unconditionally accepted the Equipment as being completely satisfactory.
- 7.4 Any of the Equipment in respect of which the Customer makes a claim hereunder shall be preserved by the Customer intact as delivered and at its risk for a period of 21 (twenty one) days from notification of the claim within which time IE or its authorised agent shall have the right to investigate the complaint and inspect the Equipment. All original packing should be retained until inspected by IE or its authorised agent.
- 7.5 IE will repair or replace free of charge any of the Equipment damaged or lost in transit provided the Customer shall give notification of such damage or loss within 14 (fourteen) days as provided under 7.1 and 7.2. Any claim outside the 14 (fourteen) days will not be accepted.

## **8. Consequential Loss**

IE hereby excludes to the extent permitted by law any liability (arising in contract or tort howsoever arising) for

- (i) Consequential loss or damage caused by or arising out of the use of the Equipment or occurring in respect of the Equipment; and
- (ii) Loss or damage due to fair wear and tear and negligence or improper use, operation, storage or handling of (without prejudice to the generality of the foregoing) the use or operation of the Equipment other than strictly in accordance with IEs written instructions as supplied with the Equipment; and
- (iii) Loss, injury or damage (including consequential loss) arising from fire, accident, industrial dispute, civil disturbance or any other act or accidental default interfering with the manufacture, despatch or delivery of the Equipment beyond the control of IE.

## **9. Trademarks**

The Customer is hereby authorised for the duration of the contract to which these conditions apply only, to use all trademarks or trade names which are now or may hereafter be used by IE in connection with the Equipment ("The Trademarks") subject to the following

- (i) The Customer shall use the Trademarks only on or in relation to the Equipment supplied by IE and shall not use the Trademarks on or in relation to any Equipment that may have been altered in any way after being supplied by IE to the Customer.
- (ii) The Customer agrees to permit IE to inspect prior to publication all promotional or other material upon which the Customer proposes to use any Trademarks and not to proceed with its use unless and until IE's written approval shall have been obtained, such approval to be granted or withheld at the sole discretion of IE.
- (iii) The Customer agrees that he shall not (either before or after the termination of the contract to which these terms apply) use any word, name, title, expression or device identical to in the sole judgement of IE confusingly similar to the Trademarks in connection with any Equipment not purchased or to be purchased from IE or as part of its corporate or business name or in relation to any business in which the Customer is or shall be engaged.
- (iv) The Equipment is sold on condition that when resold it is sold under the IE trademarks and with the same specification as it was supplied by IE to the Customer.

## **10. Specification**

Every effort will be made to supply the Equipment as advertised but IE reserves the right to modify it from time to time at its sole discretion.

## **11. No waiver**

IE's failure to exercise any of its rights under these Conditions shall not be deemed to be a waiver of its rights and remedies or a waiver of it by any subsequent default of the Customer in the performance or compliance with any of the terms of these Conditions.

## **12. Assignment**

Unless otherwise agreed in writing the Customer may not assign either the benefit or the burden of any contract with IE.

## **13. Severability**

The invalidity of any individual provision of these Conditions shall not affect the validity of the remaining provisions.

## **14. Relationship of the Parties**

Both IE and the Customer are independent contactors under these conditions and the parties acknowledge that neither of them is an agent or partner of the other for any purpose and that each of them is entirely without authority to act on behalf of the other in any manner. IE shall not be responsible for any claim arising in connection herewith and indemnify and hold harmless IE for any amount that IE may be required to pay as a result of such claim.

## **15. Governing Law**

These Terms and Conditions of Sale shall in all respects be governed and construed in accordance with English Law.

## **16. Risk assessments.**

*Service calls to equipment under warranty will be carried out in accordance with the conditions of sale. Unless otherwise specified, a maximum of 15 minutes of administrative time, not spent directly carrying out servicing work, is provided for within the warranty. Any requirement for staff attending the call to spend greater time than 15 minutes due to administrative requirements, such as on health and safety risk assessments, will be chargeable at the prevailing rate.*