

STANDARD TERMS & CONDITIONS OF SALE

1 DEFINITIONS

In these Terms and Conditions the following words and expressions unless the context otherwise requires, shall have the following meanings:

- (i) "the Company" shall mean Chalco Eleven Limited and its successors and assignees whosoever;
- (ii) "the Customer" shall mean the company, firm, person, corporation or public authority placing an order with the Company or accepting the Quotation;
- (iii) "the Equipment" shall mean all classes of machinery, Equipment, systems, units, plant, tools and apparatus supplied hereunder together with all constituent parts, replacements and renewals, thereof or of the component parts thereof and all extras additions, spare parts and accessories forming part thereof or used in connection therewith, all as more particularly described in the Quotation and/or Invoice;
- (iv) "the Services" shall mean all, if any, services supplied or provided by the Company to the Customer in connection with or ancillary to the sale of the Equipment hereunder;
- (v) "the Quotation" shall mean an invitation to treat, not an offer, by the Company to the Customer. The Quotation shall expire thirty days (30) after submission unless sooner withdrawn or given a different period of validity therein. Acceptance of the Quotation is limited to the terms therein contained and the Company rejects any terms and conditions additional to or different from these terms and conditions;
- (vi) "the Invoice" shall mean the written notification supplied by the Company identifying the Equipment sold and requiring payment of the price;
- (vii) "the Contract" shall mean the agreement between the Company and the Customer constituted in accordance with the provisions of condition 2 hereof and incorporating the terms and conditions of sale herein set out comprising conditions 1-23 (inclusive) hereof.

2 CONTRACT FORMATION

The placing of any order by the Customer orally or in writing and whether or not a Quotation has been submitted shall constitute an offer by the Customer and the Company shall accept such offer only on the terms and conditions herein contained. The Contract shall be effected as and when the Customer's order is accepted by the Company whether orally or in writing by the issue by the Company of its Delivery Note, Invoice or some other form of acceptance in writing and upon such acceptance as aforesaid these terms and conditions shall apply to the Contract as and with effect from the date of the Delivery Note, Invoice or other written acceptance (whichever is earlier) and shall be deemed to have been accepted by the Customer unless the Company is notified in writing to the contrary within seven days of the date of Delivery Note, Invoice or other written acceptance (whichever is the earlier) and shall have expressly agreed in writing to any variations or amendment thereof.

3 INSTALLATION & SUPERVISION

Upon request, the Company may, as its option, provide the Customer with a qualified Engineer to supervise the assembly and installation of the Equipment and final testing and adjusting thereof. Unless otherwise stated in the Quotation or Invoice, the cost of this service is not included in the price specified therein. The Customer shall pay the Company for such service at the applicable hourly charge for the service including, if the work is not performed in a town or port where at that time the Company maintains qualified personnel, charges for travel time to and from the place of work plus actual living and travel expenses of personnel performing the work.

4 PRICE

All prices referred to in Quotations and Invoices are exclusive of Value Added Tax and all relevant duties and taxes of any nature which will be charged to the Customer by the Company at the rate(s) applicable from time to time. The Company reserves the right to alter prices without notice. A minimum order charge of £25 excluding VAT will apply.

5 CARRIAGE & PACKING

Carriage and packing will be invoiced by the Company to the Customer as an additional charge on all orders.

6 TERMS OF PAYMENT

- (a) The purchase price shall be invoiced by the Company on delivery of each item of Equipment.
- (b) The cost of installation and other services (if any) provided by the Company and calculated in accordance with Condition 3, will be invoiced by the Company upon completion of the said installation or service. Payment in full must be made by the Customer within thirty days following the date of the Invoice. Interest at 4% over the
- (c) Base Rate for the time being of the Bank of Scotland will be charged on all monies outstanding after this time until the actual date of payment. The Customer will be entitled to discount expressly referred to in the Company's Invoice and no such discount will be allowed.

7 DELIVERY & RISK

Where delivery is to be made by instalments, each instalment shall be deemed to be a separate and distinct contract and no default by the Company in respect of any instalment shall entitle the Customer to reject or withhold payment of any of the instalments. Any date or time named by the Company for delivery is given and intended as an estimate only and the Company shall not be liable to make good any damage or loss whether arising directly or indirectly out of delay in delivery. Delivery shall be deemed to take place when the Equipment is despatched from the Company's premises, whether it is collected by the Customer directly or delivered to the Customer at the Customer's place of business or to another location specified by the Customer. Responsibility for and risk in the Equipment shall pass to the Customer on delivery.

8 CUSTOMER TO ACCEPT DELIVERY

Delivery shall be taken by the Customer within the period (if any) stated in the Quotation, Delivery Note or Invoice. If for any reason the Customer is unable to accept delivery of the Equipment at the time when it is due and ready for delivery, the Company shall, if its storage facility permit, but at the risk of the Customer, store the Equipment and take all reasonable steps to prevent its deterioration until its actual delivery to the Customer shall be liable to the Company for reasonable cost (including insurances) of its so doing. Provided nevertheless that after a reasonable time the Company shall be entitled by virtue of Condition 12 hereof, to terminate the Contract, wholly or in part. This provision shall be in addition to, not in substitution of, any other payment or damages for which the Customer may be liable in respect of his failure to take delivery at the appropriate date.

9 DAMAGE OR LOSS OF GOODS IN TRANSIT

Both the Company and the Carrier must be advised in writing within five days of the Invoice date if the goods have not been delivered. Any damage or storage must be advised to the Company and the Carrier within three days of receipt or if conveyed by goods train, within seven days.

10 WARRANTY

The Company warrants each item of Equipment sold pursuant to this Contract for a period of 60 days and at the time of delivery will be free from defective materials and workmanship under normal use and service when installed under the Company's supervision. Such warranty is limited to the repair or replacement of defective Equipment or refund of the purchase price. No warranty shall be effective as to any item of Equipment to which is attached any apparatus other than apparatus supplied by the Company for attachment or specifically approved for attachment by the Company in writing. No Warranty shall be effective if equipment seals are broken, if equipment is entered in to, tampered with, modified, incorrectly connected, out of specification, signals to and from, incorrect supply connected, dropped, liquid in gross, exposed to adverse weather conditions, incorrect storage or incorrect transport. The Equipment is not sold subject to any other warranty, condition or representation nor is any warranty, condition, description or representation to be taken to have been given or implied from anything said or written in the negotiations between the parties or their representatives prior to the Contract. Any statutory or other warranty, condition or description express or implied as to the state, quality of fitness of the Equipment, subject to this Contract is, to the extent permitted by law, hereby expressly excluded.

11 HIRE GOODS

The Customer will be liable for the repair or refurbishing of Equipment hired, where in the judgement of the Company the Equipment has suffered from excessive wear or misuse. If the equipment is un-repairable the customer will be liable for the total hire cost to date and replacement cost and other related costs. If the equipment is contaminated and returned to Chalco the customer will be liable for decontamination charges, the customer is liable for all transportation cost to and from Chalco House, The Hire charge is charged for the day it is collected and on the Day it is returned.

12 INSURANCE OF SALE OR RETURN / HIRE OR LOAN GOODS

All risks insurance on all goods supplied on sale or return, demonstration, hire or loan is the responsibility of the consignee, until the goods are returned.

13 INDEMNITY

The Customer shall indemnify and hold harmless the Company, its officers, employees or agents from all claims, losses, damages, costs (including legal costs) expenses, penalties and liabilities of every kind and nature resulting from:

- (i) personal injury, including fatal injury and disease to and/or
- (ii) loss or damage to property of
- (a) third parties and/or (b) the Customer arising out of or in connection with or in consequence of any use of or alteration to the Equipment by the Customer or any third party, whether or not the negligence or breach of duty of the Company, its officers, employees or agents caused or contributed to such personal injury, loss or damage.

14 INTERNATIONAL SHIPMENTS

International shipments will generally be made upon receipt by the Company of an irrevocable Letter of Credit from an approved Bank immediately payable or, alternatively, on a cash in advance basis. Please advise all Letters of Credit and cabled money transfers through:

Bank of Scotland
201 Union Street, Aberdeen AB11 6UG, Scotland
Account No: 00166205
Sort Code: 80-12-08

15 PASSING OF PROPERTY

- (a) Ownership of and title to the Equipment shall not pass from the Company to the Customer until payment of the purchase price for the Equipment has been made in full by the Customer to the Company, notwithstanding delivery of the Equipment to the Customer or any other provision of these conditions.
- (b) If:
 - (i) the Customer defaults in punctual payment of any sum owing to the Company hereunder, or,
 - (ii)

- (iii) before ownership of and title to the Equipment shall have passed to the Customer under this condition 10, the Customer shall be unable to pay his or its debts as they fall due or shall compound with his or its creditors generally, or being a Company, shall have a Receiver appointed for the purpose of winding up or should the Customer enter into liquidation whether compulsory or voluntary then in any such case the Company shall be entitled to the immediate return of all Equipment sold by the Company to the Customer in which ownership and title has not passed to the Customer and the Customer hereby authorises the Company to recover the

Equipment and for that purpose to enter any premises of the Customer, Demand for or recovery of the Equipment by the Company shall not itself discharge either the Customer's liability to pay the whole of the price and take delivery of the Equipment or the Company's right to recover the whole of the price.

- (c) Where payment is made by means of a Bill of Exchange, cheque or other negotiable instrument, the Company shall be deemed not to have received payment for the purpose of this condition 10 until the Bill of Exchange, cheque or instrument has been honoured on presentation for payment notwithstanding that the Company may have negotiated it and received value therefor.
- (d) If the reservation of title in the form contained in this Condition 10 is not effective under the law of the country of destination of the Equipment or the territory in which the Equipment is from time to time used or located then the Customer shall co-operate in establishing similar rights of reservation complying with the provisions of such country in favour of the Company.

16 CANCELLATION

No order may be cancelled without the prior written consent of the Company which will only be given on terms that the Company is to be indemnified against all costs incurred up to the date of such cancellation. Authorised return of the saleable Equipment, other than Equipment supplied in error, will be subject to a 25% restocking charge.

17 TERMINATION & SUSPENSION

The Company shall be entitled without prejudice to its other rights and remedies either to terminate wholly or in part any or every Contract between the Company and the Customer or to suspend any further deliveries under any or every such Contract in any of the following events:

- (i) if any sum owing from the Customer to the Company for any reason whatsoever is unpaid after the due date for payment;
- (ii) if the Customer refuses to take delivery of any of the goods;
- (iv) if the Company has any reason to doubt the credit-worthiness of the customer;
- (v) if the Customer commits any act of insolvency;
- (vi) if the Customer commits any breach of any Contract between the Customer and the Company.

The Company shall be entitled to exercise its rights of termination or suspension at any time during which the event or default giving rise thereto has not ceased or been remedied in full and in the event of any such security as it may require for the payment of the price of any further delivery.

18 SPECIFICATIONS

The Company reserves the right to change product specifications without notice.

19 FORCE MAJEURE

The Company accepts no liability for delay or non-fulfilment of any term of the Contract caused by *force majeure*, war, strikes, lock-outs, fire, scarcity of materials or any other cause or causes not directly within the Company's control.

20 MARGINAL HEADINGS

The headings in these Terms and Conditions are for convenience only and shall not affect the construction hereof.

21 ENTIRE AGREEMENT

These Terms and Conditions shall constitute the entire Contract between the Company and the Customer and no undertakings, representations or warranties on the part of the Company or on the part of any person acting or purporting to act as the Company's agents, whether express or implied shall be deemed to affect the construction of the Contract to impose any further obligations on the Company.

22 SEVERABILITY

Each and every obligation contained in any clause or sub-clause of these Terms and Conditions shall be treated as a separate obligation and shall be severally enforceable as such and the non-enforceability of the clause or sub-clause of those Terms and Conditions shall not prejudice the enforceability of the remainder.

23 APPLICABLE LAW

The construction, validity and performance of the Contract shall be governed in all respects by the Law of Scotland and the parties hereby submit to the non-exclusive jurisdiction of the Scottish Courts.