

TANKS & PIPEWORKS LTD.

Total Service to the Industry

R/O Kingslodge, London Road, West Kingsdown, Sevenoaks TN15 6AR Tel: 01474 855587 Fax: 01474 855586

STANDARD TERMS AND CONDITIONS

1. Definitions and Interpretation

1.1 In these Conditions:-

"the Agreement"	means the contract between the Customer and the Supplier for the supply of the Goods and/or the carrying out of the Works in accordance with these Conditions;
"Business Day"	means any day other than a Saturday, Sunday or bank holiday;
"the Customer"	means the person named in the Memorandum of Agreement;
"Commencement Date"	means the commencement date for this agreement as set out in the Memorandum of Agreement;
"these Conditions"	means the Supplier's standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Customer and the Supplier;
"the Delivery Date"	means the date on which the Goods are to be delivered as stipulated in the Memorandum of Agreement;
"the Goods"	means the goods (including any instalment of the goods or any parts for them) which the Supplier is to supply in accordance with these Conditions;
"month"	means a calendar month;
"the Site"	means the land, buildings, plant and machinery found at the address stated in the Memorandum of Agreement;
"the Supplier"	means Tanks & Pipeworks Limited (company registration number 04040268) whose registered office is at Kingslodge, London Road, West Kingsdown, Sevenoaks, Kent TN15 6AR;
"writing"	includes any communications effected by telex, facsimile transmission, electronic mail or any comparable means;
"the Works"	means the works to be carried out by the Supplier as set out in the Memorandum of Agreement;

1.2 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

1.3 A "person" includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4 The headings in these Conditions are for convenience only and shall not affect their interpretation.



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1.5 Where the Customer consists of two or more persons such expression throughout shall mean and include such two or more persons and each or any of them. All obligations on the part of such a Customer shall be joint and several obligations of such persons.

2. Basis of sale of Goods and provision of the Works

2.1 The Supplier shall supply the Goods and carry out the Works, and the Customer shall pay for the Goods and the Works, in accordance with these Conditions.

2.2 This Agreement supersedes and replaces any and all other agreements and/or communications between the parties relating to its subject matter. No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and the Supplier.

2.3 The Customer acknowledges that it has not relied on any statement, promise or representation concerning the Goods and/or Works made or given by or on behalf of the Supplier which is not set out in this Agreement or confirmed by the Supplier in writing. For the avoidance of doubt, the Supplier's employees or agents are not authorised to make any such statements, promises or representations and, in entering into this Agreement, the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such statements, promises or representations which are not so confirmed.

2.4 Sales literature, price lists and other similar documents issued by the Supplier in relation to the Goods and/or Works are subject to alteration without notice and do not constitute offers to sell the Goods which are capable of acceptance. An order placed by the Customer may not be withdrawn cancelled or altered prior to acceptance by the Supplier and no contract for the sale of the Goods and Works shall be binding on the Supplier unless the Supplier has issued a quotation which is expressed to be an offer to sell the Goods and Works or has accepted an order placed by the Customer by whichever is the earlier of:-

2.4.1 the Supplier's written acceptance;

2.4.2 delivery of the Goods; or

2.4.3 the Supplier's invoice.

2.5 Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.

3. The Goods

3.1 No order submitted by the Customer shall be deemed to be accepted by the Supplier unless and until confirmed in writing by the Supplier's authorised representative.

3.2 The specification for the Goods shall be those set out in the Supplier's sales documentation unless varied expressly in the Customer's order (if accepted by the Supplier).

3.3 The Supplier reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or regulatory requirements or, where the Goods are to be supplied to the Supplier's specification, which do not materially affect their quality or performance.



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3.4 No order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in writing of the Supplier on the terms that the Customer shall indemnify the Supplier in full against all losses (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of cancellation.

3.5 Professional indemnity

The supplier is excluded from all liability for any design work

4. The Works

4.1 With effect from the Commencement Date the Supplier shall, in consideration of the Contract Sum being paid in accordance with these Conditions, provide the works expressly identified in the Memorandum of Agreement or otherwise varied in writing between the authorised representatives of the Customer and the Supplier.

4.2 The Supplier shall carry out and complete the Works in a good and workmanlike manner, shall exercise the reasonable skill, care and diligence in the Works to be expected of a professionally qualified / specialist supplier or qualified / specialist sub-contractor, as appropriate, experienced in carrying out work of a similar size, scope, nature, complexity and value to the Works.

4.3 Unless agreed otherwise in writing by the authorised representatives of the Supplier and the Customer, the Customer shall be responsible for procuring all the necessary consents or licences for the Works (including, without limitation, for all of the Supplier's hazardous materials) and shall produce to the Supplier copies of such consents or licences upon demand.

4.4 The Supplier shall use reasonable endeavours to meet any performance dates agreed with the Customer, but any such dates shall be estimates only and time shall not be of the essence in the performance of these obligations.

4.5 In the event that the Supplier informs the Customer that any material or product is not suitable for the Works, but the Customer instructs the Supplier to proceed with such material or product in the Works, the Supplier shall not be liable for any claims, costs, expenses, losses, damages and liabilities incurred by the Customer or any third party arising as a result of the material or product not being suitable and the Customer shall indemnify the Supplier from and against all claims, costs, expenses, losses (including loss of profit), damages and liabilities whatsoever and howsoever arising incurred or suffered by the Supplier (including without limitation all legal expenses and other professional fees together with any value added tax thereon) in relation to any such instruction.

5. Site Conditions and Health and Safety

5.1 The Customer, having custody and control of the Site and superior knowledge of the conditions in and surrounding it, shall provide the Supplier with all necessary surveys, reports or other information relating to conditions at the Site in order to enable the Supplier to carry out the Works safely and efficiently. The Customer agrees that the Supplier shall not be liable for any adverse ground conditions or pre-existing defects at the Site and the Customer shall indemnify the Supplier from and against all claims, costs, expenses, losses (including loss of profit), damages and liabilities whatsoever and howsoever arising incurred or suffered by the Supplier (including without limitation all legal expenses and other professional fees together with any value added tax thereon) in



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relation to any such adverse ground conditions or pre-existing defects. Any additional work required to overcome any conditions found at the Site shall be treated as additional work and charged at a reasonable rate in addition to the Contract Sum.

- 5.2 The Supplier shall comply at its own cost with any duties it has relating to the Works pursuant to the Construction (Design and Management) Regulations 2007.
- 5.3 The Customer shall at its own cost ensure that adequate safe access, work area and clear safety instructions are provided to the Supplier at the Site so as to comply with all applicable laws and regulations.
- 5.4 The handling and disposal of any chemical, waste or by-product ("Chemicals") used or generated by the carrying out of the Works belong to the customer /producer of the Hazardous waste. The Supplier will in accordance to E.A. Regs 2005 dispose of hazardous waste for the works carried out if requested on quote/order and supply all documents in relation to disposal of the hazardous waste the customer waives releases, indemnifies and agrees not to assert any claims or bring any cost recovery action against the supplier in connection with the hazardous waste
- 5.5 If the Customer decides to instruct the Supplier to proceed with the carrying out of the Works which would deviate from the Supplier's normal operating procedures, guidelines and contingency plans in a way that the Supplier in its sole discretion believes will place undue risks on the carrying out of the Works or the provision of the Goods ("Risky Operations") then the Supplier shall have no liability arising out of or in connection with the Risky Operations and the Customer hereby assumes all risks, claims and liabilities associated with the Risky Operations. The Supplier shall not be liable for any claims, costs, expenses, losses, damages and liabilities incurred by the Customer or any third party arising from or in connection with the Risky Operations and the Customer shall indemnify the Supplier from and against all claims, costs, expenses, losses, damages and liabilities whatsoever and howsoever arising incurred or suffered by the Supplier (including without limitation all legal expenses and other professional fees together with any value added tax thereon) in relation to the Risky Operations.

6. Price

- 6.1 Subject to clauses 5.1 and 11, the Contract Sum shall be calculated, charged and paid as set out in the Memorandum of Agreement or in such other amount or instalments as may be agreed in writing between the authorised representatives of the Supplier and the Customer.
- 6.2 The Customer shall pay any expenses in accordance with the rates specified in the Memorandum of Agreement together with any additional expenses agreed in writing between the Supplier and the Customer.
- 6.3 Where the Supplier has quoted a price for the Goods other than in accordance with the Supplier's published price list the price quoted shall be valid for 3 months only or such lesser time as the Supplier may specify.
- 6.4 The Supplier reserves the right, by giving notice to the Customer at any time before delivery, to increase the price of the Goods and Works to reflect any increase in the cost to the Supplier which is due to any factor beyond the control of the Supplier (such as, without limitation, any foreign exchange fluctuation currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods and Works which are requested by the



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Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions.

- 6.5 Except as otherwise stated in the Quotation, Memorandum of Agreement or in any price list of the Supplier, and unless otherwise agreed in writing between the Customer and the Supplier, all prices are inclusive of the Supplier's charges for packaging and transport as specified in the Memorandum of Agreement.
- 6.6 The price is exclusive of any applicable value added tax excise, sales or taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Goods and Works, which the Customer shall be additionally liable to pay to the Supplier.

7. Payment

- 7.1 The due date for the payment of an invoice from the Supplier shall be the date stated on the invoice.
- 7.2 In respect of each invoice, the Customer shall give notice to the Supplier specifying the amount (if any) of the payment to be made under that invoice and the way the payment has been calculated, no later than five days after the due date.
- 7.3 The final date for payment shall be 15 days after the due date.
- 7.4 The Customer may not withhold payment after the final date for payment of a sum due unless it has given a note to withhold payment no later than five days before the final date for payment. Subject to this five-day requirement, the notice referred to in clause 7.2 may also be the notice to withhold payment if it specifies the amount or amounts proposed to be withheld and any ground or grounds attributable to each amount.
- 7.5 If any payment under an invoice is overdue, then the Supplier may charge interest on the outstanding amount, calculated on a daily basis from the final date for payment up to the date of actual payment, at the rate of 4% per annum above the base rate for the time being of Barclays Bank plc.
- 7.6 On any suspension or termination of the whole or any part of this Agreement or any of the Works under it, the Supplier shall be entitled to, and shall be paid, the amount reasonably incurred at the time of suspension or termination for the Works and for any expenses reasonably incurred at that time (and shall not be obliged to return any sums previously paid by the Customer).

8. Delivery

- 8.1 Delivery of the Goods shall be made by the Supplier delivering the Goods to the Delivery Place specified in the Memorandum of Agreement.
- 8.2 The Delivery Date is approximate only and time for delivery shall not be of the essence unless previously agreed by the Supplier in writing. The Goods may be delivered by the Supplier in advance of the Delivery Date upon giving reasonable notice to the Customer.
- 8.3 If the Customer fails to take delivery of the Goods or any part of them on the Delivery Date and/or fails to provide any instructions, documents, licences, consents or authorisations required to enable the Goods to be delivered on that date, the Supplier shall be entitled upon giving written notice to the Customer to charge of an abortive trip, and or charge for storage



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8.4 Storage the Goods and then notwithstanding the provision of clause 10.1 of these Conditions risk in the Goods shall pass to the Customer, delivery shall be deemed to have taken place and the Customer shall pay to the Supplier all costs and expenses including storage and insurance charges arising from such failure.

9. Non-Delivery of Goods

9.1 If the Supplier fails to deliver the Goods on the Delivery Date other than for reasons outside the Supplier's reasonable control or the Customer's or its carrier's fault:-

9.1.1 if the Supplier delivers the Goods at any time thereafter the Supplier shall have no liability in respect of such late delivery;

9.1.2 if the Customer gives written notice to the Supplier within 7 days business days after the Delivery Date and the Supplier fails to deliver the Goods within 14 days business Days after receiving such notice the Customer may cancel the order and the Supplier's liability shall be limited to the excess (if any) of the cost of the Customer (in the cheapest available market) of similar goods to those not delivered over the price of the Goods not delivered.

10. Risk and Retention of Title

10.1 Risk of damage to or loss of the Goods shall pass to the Customer at:

10.1.1 in the case of Goods to be delivered otherwise than at the Supplier's premises, the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods; or

10.1.2 in the case of goods being installed by the Supplier, the time that the Supplier notifies the Customer that the installation is complete.

10.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, legal and beneficial title of the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods.

10.3 Until payment has been made to the Supplier in accordance with these Conditions and title in the Goods has passed to the Customer, the Customer shall be in possession of the Goods as bailee for the Supplier and the Customer shall store the Goods separately and in an appropriate environment, shall ensure that they are identifiable as being supplied by the Supplier and shall insure the Goods against all reasonable risks.

10.4 The Supplier reserves the right to repossess any Goods in which the Supplier retains title without notice. The Customer irrevocably authorises the Supplier to enter the Customer's premises during normal business hours for the purpose of repossessing the Goods in which the Supplier retains title and inspecting the Goods to ensure compliance with the storage and identification requirements of sub-clause 10.3.

10.5 The Customer's right to possession of the Goods in which the Supplier maintains legal and beneficial title shall terminate if;

10.5.1 the Customer commits or permits any material breach of his obligations under these Conditions;



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- 10.5.2 the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any Partner to whom any of the foregoing apply;
- 10.6.3 the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 10.6.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of that other party;
- 10.6.5 the Customer (being an individual) is the subject of a bankruptcy petition or order;
- 10.6.6 a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 7 days;
- 10.6.7 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer (being a company);
- 10.6.8 a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
- 10.6.9 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.6.1 to clause 9.6.12 (inclusive);
- 10.6.10 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
- 10.6.11 the Customer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation; or
- 10.6.12 any other proceedings are commenced relating to the insolvency or possible insolvency of the Customer.



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11. Variations

- 11.1 The Customer shall inform the Supplier promptly upon the Customer becoming aware that there is any incompatibility between any of the Customer's requirements and the requirements listed in the Memorandum of Agreement, or any need to vary any part of them, in which case the provisions of this clause 11 shall then apply.
- 11.2 Subject to first agreeing a suitable increase in the Contract Sum, the Supplier shall carry out any reasonable variation to the Works that is instructed in writing from time to time by the Customer.
- 11.3 Any variations instructed under clause 11.2 shall be valued in accordance with the agreed increase in the Contract Sum under clause 11.2 and the Supplier shall in addition be paid any direct loss and/or expense incurred by the Supplier due to the progress of the Works being affected by any compliance with a variation (provided that the Supplier notifies the Customer of the loss and/or expense promptly).

12. Assignment

- 12.1 The Supplier may assign or sub-let the Agreement or any part of it to any person, firm or company.
- 12.2 The Customer shall not be entitled to assign the Agreement or any part of it without the prior written consent of the Supplier.

13. Defective Goods

- 13.1 If on delivery any of the Goods are defective in any material respect and either the Customer lawfully refuses delivery of the defective Goods or, if they are signed for on delivery "condition and contents unknown" the Customer gives written notice of such defect to the Supplier within three business days of such delivery, the Supplier shall at its option:-
 - 13.1.1 replace the defective Goods ; or
 - 13.1.2 refund to the Customer the price for the goods which are defective;
- 13.2 The Supplier shall be under no liability in respect of any defect arising from fair wear and tear, or any wilful damage, negligence, subjection to normal conditions, failure to follow the Supplier's instructions (whether oral or in writing), misuse or alteration of the Goods without the Supplier's approval, or any other act or omission on the part of the Customer, its employees or agents or any third party.
- 13.3 Subject as expressly provided in these Conditions, and except where the Goods are sold under a consumer sale, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 13.4 The Customer shall be responsible to ensure that, except to the extent that instructions as to the use or sale of the Goods are contained in the packaging or labelling of the Goods, any use or sale of the Goods by the Customer is in compliance with all applicable statutory handling and sale of the Goods by the Customer is carried out in accordance with directions given by the Supplier or any competent governmental or regulatory authority and the Customer will indemnify the Supplier against any liability loss or damage which the Supplier might suffer as a result of the Customer's failure to comply with this condition.#



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14. Warranty for Goods and Services

14.1 The Supplier warrants that the Goods and Services shall be free from defects in materials and workmanship for a period of [twelve (12) months] from the date of installation and that the control units, gauges and fuel pumps shall be free from defects in materials and workmanship for a period of nine (9) months from the date of installation.

14.1 a . TANK LINING PRODUCT

Tanks & Pipeworks Ltd hereby guarantees the internal tank linings integrity for installation for a period of 5 years or more which ever is agreed this will be confirmed on your Lining cert which is issued after completion.

- under our product guarantee and replace the defect product in order to restore the integrity of the internal tank lining the liability under this Guarantee will not exceed the contract price for the original installation of the tank lining.
- The Guarantee will be voided if the following conditions are not adhered to by the customer

14.1. b. Non Payment of Works/Goods

14.2 The lining Tank System is for oil and petroleum products according to 6.4 of EN 13160 and Tanks and Pipeworks certification TUV NORD

14.3 An obligation on the customer to undertake an annual inspection as per license and authority procedures for a TUV approved maintenance schedule

14.4 Any inspection or Maintenance/repairs is to be carried out by Tanks & Pipeworks or an approved TUV NORD contractor

14.5 The customer needs to specify the alleged defect within 7 days of discovering it and needs to give the opportunity to access the premises at all reasonable times for carrying out the necessary repair work

14.6 Notification to the supplier must be made if any physical changes are made to tank and pipework internal alterations prior to works being carried out, Vacuum build up vent or tank testing must be approved prior to any testing by customer or third party

15 .The warranty under clause 14.1 and 14.1a shall not apply to:

- (a) products that have been modified and/or subjected to improper handling, storage, installation, operation or maintenance or to any product normally consumed in



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operation;

- (b) any item which is purchased by the Supplier or furnished by the Customer as a component part of a product, or not manufactured by the Supplier and purchased for the Customer except to the extent to which such items are covered by the warranty, if any, of the original manufacturer of it;
- (c) the design on those jobs where the Supplier prepares shop drawings, tracing drawings or lists from designs furnished by others;
- (e) damage to a product caused by abrasive materials, corrosion due to aggressive fluids, lightning, improper voltage supply, mishandling or misapplication
- (f) actual operating conditions being different from those specified in the Agreement or in any variations;
- (h) any products or materials normally consumed in operation or that have a life shorter than the applicable warranty period specified in this clause 14.1; 14.1a
- (i) any item which is a component part of the Goods provided by the Supplier to the Customer where such item is furnished to the Supplier by the Customer where such defects in materials and equipment supplied by the Customer could not reasonably have been discovered by the Supplier; or
- (j) any Goods not manufactured by the Supplier but purchased by the Supplier except to the extent to which such Goods are covered by the warranty, if any, of the original manufacturer.

15. Customer's Default

15.1 If the Customer fails to make any payment by the final date for payment then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to:-

15.1.1 cancel the order or suspend any further deliveries of Goods to the Customer or suspend performance of the Works provided that the Supplier has first given the Customer not less than 7 days' written notice of its intention to suspend and its grounds for doing so;

15.1.2 if the non-payment continues for a further 14 days of the suspension of performance under clause 15.1.1, the Supplier may terminate this Agreement with immediate effect by notice in writing to the Customer;

15.1.3 appropriate any payment made by the Customer to such of the Goods and Works (or the goods supplied under any other contract between the Customer and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer).

15.2 This condition applies if:-

15.2.1 the Customer fails to perform or observe any of its obligations hereunder or is otherwise in breach of this Agreement (save for those set out in clause 15.1); or



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- 15.2.2 any of the events listed in clauses 10.6.1-10.6.13 occurs to the Customer; or
- 15.2.3 the Customer ceases, or threatens to cease, to carry on business; or
- 15.2.4 the Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.
- 15.3 If Condition 15.2 applies then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to cancel the Agreement or suspend any further deliveries under the Agreement without any liability to the Customer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 16. Liability and Insurance**
- 16.1 No actions or proceedings under or in respect of this Agreement whether in contract or in tort in negligence or for breach of statutory duty or otherwise shall be commenced against the Supplier after the expiry of 6 years following completion of the Works or such earlier date that may be prescribed by law.
- 16.2 The Supplier shall, throughout the carrying out of the Works, maintain in force a product liability insurance policy with an insurance company in the United Kingdom of good repute as long as the levels of cover are available to the Supplier on reasonable terms and at a reasonable premium.
- 16.3 Further and notwithstanding anything to the contrary contained in this Agreement and without prejudice to any provision in this Agreement whereby liability is excluded or limited to a lesser amount, the liability of the Supplier under or in connection with this Agreement whether in contract or in tort, in negligence, for breach of statutory duty or otherwise for any claim shall not exceed the amount, if any, recoverable by the Supplier by way of indemnity against the claim in question under its product liability insurance policy in force at the time that the claims or (if earlier) circumstances that may give rise to the claim is or are reported to the insurers in question.
- 16.4 Without prejudice to any provision in this Agreement whereby liability is excluded or limited to a lesser amount, the Supplier shall be liable under this Agreement for the reasonable costs of repair, renewal and/or reinstatement of any part or parts of the Works to the extent that the Customer reasonably incurs such costs or the Customer becomes liable either directly, or by way of financial contribution for such costs but the Supplier shall not be liable for any other losses (including loss of use, loss of profit or any other consequential loss) incurred by the Customer.
- 16.5 The Customer shall indemnify the Supplier against all damages, costs, claims and expenses suffered by the Supplier arising from loss or damage to any equipment (including that of third parties) caused by the Customer, or its agent or employees.
- 16.6 The Supplier shall not be liable to the Customer or be deemed to be in breach of these terms and conditions by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations if the delay or failure was due to any cause beyond the



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Supplier's reasonable control.

17. Communications

17.1 All communications between the parties about the Agreement shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or sent by electronic mail:

17.1.1 (in the case of communications to the Supplier) to its registered office or such changed address as shall be notified to the Customer by the Supplier; or

17.1.2 (in the case of the communications to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Agreement or such other address as shall be notified to the Supplier by the Customer.

17.2 Communications shall be deemed to have been received:

17.2.1 if sent by pre-paid first class post, two Business Days after posting (exclusive of the day of posting); or

17.2.2 if delivered by hand, on the day of delivery; or

17.2.3 if sent by fax or electronic mail on a Business Day prior to 4.00 pm, at the time of transmission and otherwise on the next Business Day.

17.3 Communications addressed to the Supplier shall be marked for the attention of the Supplier's Authorised Representative as named in the Memorandum of Agreement.

18. Force Majeure

18.1 In the event that either party is prevented from fulfilling its obligations under this Agreement by reason of any supervening event beyond its control including but not limited to war, national emergency, flood, earthquake, strike or lockout the party shall not be deemed to be in breach of its obligations under this Agreement. The party shall immediately give notice of this to the other party and must take all reasonable steps to resume performance of its obligations.

18.2 Each party shall be liable to pay to the other damages for any breach of this Agreement and all expenses and costs incurred by that party in enforcing its rights under this Agreement.

18.3 If and when the period of such incapacity exceeds << 6 >> months then this Agreement shall automatically terminate unless the parties first agree otherwise in writing.

19. Confidentiality

The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Supplier, its employees, agents or subcontractors, and any other confidential information concerning the Supplier's business or its products or its services which the Customer may obtain. The Customer shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Customer's obligations under the Agreement, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality



TANKS & PIPEWORKS LTD.

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corresponding to those which bind the Customer. This clause 19 shall survive termination of the Agreement.

20. Waiver

No waiver by the Supplier of any breach of the Agreement by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

21. Severance

If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

22. Third Party Rights

22.1 The Customer may request that the Supplier executes and delivers to the Customer a collateral warranty in favour of a third party but the Supplier reserves the right to:

- (a) refuse to give the collateral warranty; or
- (b) Charge an additional fee to provide the collateral warranty provided that the form of collateral warranty to be given shall be subject to any requirements of the Supplier or its insurers.

22.2 Subject to the provision of a collateral warranty under clause 22.1, a person who is not a party to the Agreement shall have no rights under the Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.

23. Governing Law and Jurisdiction

These terms and conditions shall be governed by the laws of England and the parties agree to submit to the exclusive jurisdiction of the English courts.

22. Adjudication

Either party may refer any dispute under this Agreement at any time for adjudication under The Scheme for Construction Contracts Regulations 1998 with the adjudicator to be chosen and appointed, upon the request of either party, by the President or a Vice-President, at the time of the request, of the Chartered Institute of Arbitrators.

