

TERMS AND CONDITIONS

1. DEFINITIONS AND GENERAL
- 1.1 The following expressions shall have the following meanings in these terms and conditions:
- 1.1.1 **"the Company"** means "Crossland Tankers Limited";
 - 1.1.2 **"the Customer"** means the person(s), corporation or firm with whom the Company enters into a contract for the sale of goods and/or the supply of services upon these terms and conditions;
 - 1.1.3 **"the goods"** means any products which are to be sold by the Company to the Customer in accordance with the Contract as detailed in the acceptance of order form issued by the Company;
 - 1.1.4 **"the Contract"** means any Contract whatsoever made for the sale of the goods and/or supply of services by the Company to the Customer incorporating these terms and conditions;
 - 1.1.5 **"services"** means any work, design or other services to be provided by the Company pursuant to the Contract. #
 - 1.1.6 **"specifications"** means any plans, illustrations, drawings, designs, specifications or other technical information furnished by the Company to the Customer. These terms and conditions shall apply to all Contracts whether written or otherwise and made between Crossland Tankers Limited and the Customer for the sale or supply of goods and/or services by the Company to the Customer. It is accepted by the Customer that these terms and conditions govern all relations between the Company and it to the exclusion of any terms and conditions contained in any other document and also to the exclusion of all other terms, conditions, warranties and representations, written or oral, express or implied. No amendment shall be made to the terms and conditions unless the same has been accepted in writing by the Managing Director for the time being of the Company.
2. ACCEPTANCE OF CONTRACT
- 2.1 Quotations by the Company are furnished only in relation to specific enquiries and must be referred to when any order is placed. These terms and conditions, having been made available by the Company to the Customer at or prior to the date of such quotation and any order placed by the Customer, shall be on the basis of these terms and conditions, and the Customer by placing an order shall be deemed to have accepted these terms and conditions. All quotations by the Company shall remain valid for 30 days from the date thereof (unless otherwise stated therein, or unless previously withdrawn by the Company in writing).
- 2.2 The Customer's order shall become binding upon the Company notifying the Customer in writing of its acceptance of the order.
- 2.3 The Company will in fulfilling the Contract comply with all standards, regulations and legislation valid at the date of the Company's quotation. The Company shall not be responsible for any failure or defect of the goods resulting from the failure of any parts, equipment or components supplied by the Customer.
3. PRICES, PAYMENT AND CANCELLATION
- 3.1 All prices quoted are "ex works" unless otherwise stated and are exclusive of Value Added Tax which will be charged at the rate applicable at the appropriate tax point.
- 3.2 If an order is received for part only of the goods/services referred to in the Company's quotation, the Company reserves the right to vary its prices.
- 3.3 The Company shall be entitled to vary the prices contained in any quotation in the event of any changes in design or specification or delays arising from such changes, or in the event of any other delay which is the responsibility of the Customer.
- 3.4 The Customer shall pay a sum equivalent to 10% of the total Contract price (together with VAT at the prevailing rate (if applicable)) by way of deposit on placing an order with the Company. In the event of the Customer not accepting the Customer's order, the said deposit shall be returned to the Customer immediately, but otherwise shall be non-refundable. The balance of the Contract price shall be payable by the Customer within 7 days of receiving notification from the Company that the goods or services have been completed, and in any event payment for all goods or services (where appropriate) shall be made before delivery to the Customer. No set off, deduction or counterclaim shall be permissible, save with the express written agreement of the Managing Director for the time being of the Company.
- 3.5 Without prejudice to any other legal rights or remedies available to the Company, if any sums due to the Company are not paid on the due dates, the said sum shall carry interest at the rate of 5% per annum above the base lending rate for the time being of the Bank of England from the date on which such sum fell due until payment.
- 3.5.1 Where payment has been arranged by means of a Letter of Credit the Customer will within one week after acceptance of the order by the Company establish a Confirmed Irrevocable Letter of Credit for payment in sterling in Belfast by a draft at sight for 100% of the order/invoice value. The Customer shall be liable for any Bank or other charges in respect of any such transaction.
- 3.5.2 In the event of the Customer arranging payment by means of a Bill of Exchange, such Bill will be subject to an interest charge at the rate of 5% above the Bank of England base lending rate for the time being with all negotiation charges being the responsibility of the Customer.
- 3.5.3 Where goods are shipped "cash against documents (Foreign Port)" all bank and other charges abroad are payable by the Customer.
- 3.6 If the Customer fails to comply with its payment obligations the Company may withhold delivery/dispatch of any part of the goods remaining to be delivered/discharged, suspend manufacture of any part of the goods remaining to be manufactured, suspend its performance of any services or any other Contract between it and the Customer, or require the Customer to pay for goods prior to their delivery/dispatch from the Company's premises.
- 3.7 The Customer shall not be entitled to cancel an order which has been accepted by the Company unless the Customer reimburses the Company for any loss of profit and all costs, charges and expenses (including costs of tooling up and purchase of materials) incurred by the Company in respect of the order up to the date of receipt by the Company of written notification of cancellation from the Customer.
4. SPECIFICATIONS AND ALTERATIONS TO SPECIFICATIONS
- 4.1 Any specifications, whether in a quotation or otherwise, shall not, except where the contrary is stated, be binding as to the detail thereof. No warranty is given that the goods, services or completed work will exactly correspond to those specified. The following tolerances will apply to all figures, statements# or specifications in any drawings or other documents supplied by the Company:
- + / - 5% on weight
 - + / - 1% on measurement of distance
 - + / - 3% on capacity.
- 4.2 The Company reserves the right to modify the specifications or to substitute materials or components referred to therein. The Company will notify the Customer in writing of any material alterations to the specifications relating to the goods or services and the Customer shall be deemed to have accepted such alterations unless notice in writing to the contrary is received by the Company within 7 days of such notification.
5. TITLE
- 5.1 Title in any goods shall not pass to the Customer until the Customer has paid the purchase price of the goods in full (together with VAT where appropriate) and any other sums due under the Contract. This provision shall apply to Contracts under which any goods or services are supplied or delivered in separate parts.
- 5.2 Until the purchase price and any other sums due to the Company under the Contract have been paid the Customer shall hold the goods as bailee of the Company and shall store them separately and in such manner that they can be identified as the Company's property. The Customer shall keep and maintain the goods in good order and condition and be responsible for any loss or damage to the goods whatsoever caused. Until such time as payment in full for the goods has been made by the Customer, or in the event of any breach of the Contract by the Customer or the occurrence of any of the events specified in paragraph 5.3 below, the Company reserves the right to enter (with or without vehicles) upon any premises for the purposes of removing such goods (and any other products or goods created therefrom), including the right to sever where necessary any such goods from any property of the Customer. The Customer shall facilitate access to any premises to enable the Company to exercise such rights. In exercising such rights, the Company shall have no liability for any consequential loss incurred by the Customer.
- 5.3 The Company's rights referred to in paragraph 5.2 above shall arise in the event of:
- (a) any distress or execution being levied upon any of the goods the property of the Customer; or
 - (b) the Customer (or where the Customer is a Partnership, any Partner thereof) offers to make any arrangement with or for the benefit of or his creditors generally or a petition is presented to make the Customer or any such Partner bankrupt; or
 - (c) the Customer being a limited company has an administrative receiver or a receiver and manager appointed of the whole or any part of its undertaking, property or assets, or a petition is presented or an order is made or a resolution is passed for the winding up of the Customer, or for the appointment of an administrator thereof.
- (d) any breach of this Contract by the Customer.
- The rights and remedies conferred upon the Company in this condition are in addition to any other rights or remedies of the Company herein contained or at Law, including without prejudice, the right of the Company to recover the purchase price for the goods or services notwithstanding that the title to same has not passed from the Company to the Customer.
6. DELIVERY, INSPECTION, RISK AND ACCEPTANCE
- 6.1 Delivery shall be made to the Customer either at the Company's works or the place specified in the Contract or as subsequently agreed between the parties. Notwithstanding such delivery, the property in and title to the goods shall not pass to the Customer except as provided in Condition 5.
- 6.2 Where the Company agrees to ship goods outside the United Kingdom or the Republic of Ireland, the Company shall not be liable for loss, damage or deterioration to the goods, however caused, beyond the point of shipment. The price quoted by the Company in such a Contract shall be on the basis of FOB UK or Irish Port (such terms to be construed in accordance with the prevailing standard terms of the International Chamber of Commerce current at the date of the Contract) but subject to any contrary provision herein contained. The parties hereby expressly agree that the Company shall not be required to give to the Customer notice in accordance with S.32(3) of the Sale of Goods Act, 1979.
- 6.3 The Customer shall be responsible for obtaining all insurances and for complying with any regulations, obtaining a licence as may be required governing importation of the goods to the country of destination and for paying all customs duties or any other duties, charges or taxes on importation of the goods.
- 6.4.1 If the Contract provides for testing of the goods or completed works by or on behalf of the Customer prior to delivery then upon the Company giving notice of availability of the goods or completed works for testing the Customer shall carry out such tests at his own expense as convenient during normal working hours at the Company's premises.
- 6.4.2 If the Customer fails to inspect the goods or completed works or carry out such tests as provided for by the Contract within 7 days of receiving notification from the Company that the goods and/or completed works are ready for inspection testing, or having carried out such inspection or testing, fails to notify the Company within 7 days, of any defect or discrepancy therein or of any other matter or thing in respect whereof it is alleged that the goods and completed works are not in accordance with the Contract, then the Customer shall be bound to accept and pay for the same accordingly.
- 6.4.3 In the event that any defect or discrepancy arising from inspection or testing of the goods or completed works is discovered by the Customer, then the Customer shall not be required to accept the goods or completed works (but shall not be entitled to reject the same or determine the Contract for this reason) until such defect or discrepancy has been remedied by the Company. The Company shall not be liable, and the Customer shall not be entitled to reject the goods or completed works, for any defect or discrepancy or for any failure of the goods or completed works to operate properly, caused in any way either directly or indirectly by the installation or use in the goods of any components or parts not manufactured by the Company, which have been incorporated in the goods or completed works at the request of the Customer.
- 6.5 If the goods are delivered to the contracted place of delivery by the Company's transport, the goods shall be at the risk of the Customer from the time at which the Company's transport reaches the contracted place of delivery, or in any other case the goods shall be at the risk of the Customer from the time they are carried by or loaded onto the vehicle on which they are to leave the Company's premises whether such vehicle belongs to the Customer or a third party.
- 6.6 The Customer shall carry out a thorough inspection of the goods immediately on delivery or collection thereof and any discrepancy between the goods delivered and those specified in the Company's delivery note or presented and such suspension shall not constitute a breach of the Contract on the part of the goods in transit shall be notified to the Company in writing within 5 working days of the Customer's receipt of the goods, and an acknowledgement/receipt of such notification shall be obtained by the Customer. No claim in respect of any discrepancy, non-delivery or damage will be entertained by the Company unless the provisions of this condition are complied with by the Customer and if the Customer shall fail to give notice in accordance with the provisions of this condition, or in the event of any dispute as to whether such notice has been validly given if the Customer fails to produce acknowledgement receipt of the notification, the goods shall be deemed in all respects to be in accordance with the Contract and the Customer shall be bound to accept and pay for the same accordingly.
- 6.7 Dates or periods for delivery of the goods and for the supply or completion of services (as the case may be) are estimated. The Company will use its reasonable endeavours to comply with such dates but failure to do so shall not constitute a breach of Contract entitling the Customer to either terminate the Contract or to claim damages against the Company. In such circumstances the Company shall be entitled to a reasonable extension of time in which to effect delivery of the goods or supply or completion of the services (as the case may be).
- 6.8 In the event of industrial disputes, extreme weather conditions, national emergency, prohibitive governmental regulation, shortages of materials or power, breakdown or failure of machinery, war or the threat of war, interruption in communications or means of transport, fire or other damage to the Company's premises, or any other cause beyond the control of the Company or in the event of any failure by the Customer to give adequate or any instructions when requested to do so by the Company to enable the Company to fulfil its obligations under the Contract, then the Company shall be entitled to suspend performance of the Contract for as long as it is so delayed or prevented and such suspension shall not constitute a breach of the Contract on the part of the Company. The Company shall notify the Customer in writing of any such suspension of performance of the Contract and if such suspension continues for more than 4 weeks, the Company may by notice in writing to the Customer terminate the Contract but without prejudice to the Customer's right to be paid in accordance with the Contract for any part of the goods which may have been completed or any services supplied to the Customer prior to the suspension
- of performance by the Company and to be reimbursed all other costs, charges and expenses incurred by the Company pursuant to the Contract up to the date of such notice of suspension and in the event of the Customer's failure to give adequate or any instructions, the Company's loss of profit. Any payment due by the Customer hereunder will be payable in the same manner as provided in clause 3.4 hereof.
- 6.9 If the Contract provides for collection of the goods and/or completed works by the Customer and the Customer fails to collect any goods within 7 days of being notified that they are ready for collection, the Company may store them at the Customer's risk in which event the Customer shall pay the Company's reasonable storage charges. If the Company agrees to delay delivery/dispatch of the goods at the request of the Customer, the Customer shall pay the Company's reasonable storage charges and the goods shall be stored at the Customer's risk from the date upon which the goods are ready for delivery or dispatch.
7. GENERAL
- 7.1 If the Contract provides for or includes services to be performed by the Company whether of construction, installation, commissioning, repair, maintenance, rectification or improvement, then, unless the Contract otherwise provides, the following additional provisions shall apply thereto:
- 7.2 The Company shall where possible carry out such services during normal working hours. If the Company agrees to carry out such services outside normal working hours then the applicable overtime rates shall be paid for by the Customer in addition to the Contract price.
- If such services are to be performed or provided at the premises of the Customer or at any other premises as agreed between the parties then it shall be the responsibility of the Customer to ensure that the following are provided to the Company free of charge:
- (a) convenient and safe access to such premises or any part thereof as required by the Company;
 - (b) any necessary supplies, services or facilities required by the Company to enable it to perform the Contract in a safe and proper manner;
 - (c) secure storage, protection and shelter for all equipment, plant, machinery, tools, materials or goods on the said premises or to be brought onto the said premises;
 - (d) any ancillary building or other works required to enable the Company to perform the Contract;
 - (e) Any necessary permissions or consents or statutory approvals as may be required to permit the provision or performance of the services at such premises.
- The Customer shall be liable for any expenses incurred by the Company as a result of any breach by the Customer of this clause. A certificate of the Company's auditors shall be binding on the Customer as conclusive evidence of the amount of such expenses.
- 8.0 SUSPENSION, TERMINATION, LIEN AND DAMAGES
- 8.1 Without prejudice to any rights of the Company by law, statute or under these conditions the Company may suspend further performance of the Contract or determine the Contract if:
- (a) the Customer shall fail to take delivery of the goods or completed works when required to do so, or shall after due warning commit or continue any serious breach of its obligations under the Contract; or
 - (b) any of the events set forth in clauses 5.3(a), (b) or (c) occurs.
- 8.2 Without prejudice to any rights of the Company by law, statute or under these terms and conditions the Customer shall be liable to the Company in the event of suspension or determination of the Contract for:
- (a) the value of any works completed or goods manufactured at the date of termination in accordance with the Contract;
 - (b) the value of any works begun or goods to be manufactured but not completed at such date, such value to include the cost of materials, labour, tooling up, overheads and a fair profit as determined by the Company's auditors whose decision shall be conclusive and binding on the Customer; and
 - (c) the cost of goods and materials ordered by the Company pursuant to the Contract for which the Company has to pay.
- In addition to any other remedy available to it the Company shall have a general lien on all goods and materials belonging to the Customer which may be in the possession of the Company (whether paid for or not) in respect of all sums due to the Company by the Customer under the Contract and may upon 7 days notice to the Customer sell such goods or materials and apply any monies received on such sale in reduction of such sums.
9. WARRANTY AND LIMITATION OF LIABILITY
- 9.1.1 The Company will provide a warranty in respect of goods and/or services sold or supplied by it in accordance with the terms of this clause. The warranty shall apply only for a period of 12 months (or such longer period as may be agreed by the Managing Director for the time being of the Company, in writing) from the date upon which the risk in the goods passes to the Customer ("the warranty period") in accordance with clause 6.5, or from the date on which the Customer is notified by the Company of completion of the services.
- 9.1.2 This warranty shall not apply unless the Customer advises the Company in writing of any alleged defect in or failure of the goods or services as soon as reasonably possible upon it first becoming aware thereof and in any event within the period set out in clause 9.1.1 hereof and (if applicable) returns the goods to the Company for inspection, examination or testing, or in any other case allows the Company access to the goods wherever they may be for such purposes. The Company will not be responsible for any excess or additional damage caused by any alleged defect or failure which the Customer has either failed to notice, or to notify to the Company at the earliest possible opportunity.
- 9.2 If it is established to the reasonable satisfaction of the Company that the goods or services have proved defective in materials or workmanship under proper use and maintenance within the warranty period then the Company shall have the option either:
- (a) to repair or make good any defect or failure free of charge (including any costs of transportation of the goods to and from the parties for that purpose); or
 - (b) to replace the goods; or
 - (c) to agree a reduction in the price of the goods and/or services to compensate the Customer for the defect or failure subject as hereinafter appears. In the event of the Company electing to replace any defective goods or services it shall deliver replacement goods or services to the Customer on such delivery the title to the defective goods shall (if applicable) pass back to the Company. The Customer shall be responsible for making any such defective goods available for collection by the Company or in the event of the Company electing to carry out repair to defective goods or services, to make such arrangements for access and facilities as the Company may require for such purpose.
- 9.4 This guarantee is in substitution for any other legal remedy of the Customer in respect of any alleged defect or failure in the goods or services and the liability of the Company shall in all such cases and for all such purposes be limited to the obligations imposed by this warranty. Any other condition, warranty, representation or undertaking on the part of the Company as to the quality of the goods or their fitness or suitability for any purpose however and whenever expressed or which may be implied by statute custom of the trade or otherwise is hereby excluded and the provisions of Section 13 to 15 inclusive of the Sale of Goods Act 1979 shall not apply to the Contract except where the Customer deals as consumer within Section 12 of the Unfair Contract Terms Act 1977. Except as and to the extent provided by this guarantee the Company shall not be liable to the Customer in Contract, tort, or for breach of statutory duty for any loss or damage direct, indirect or consequential (including economic loss of any kind) which the Customer may suffer by reason of any act, omission, neglect or default (including negligence) in the performance of the Contract by the Company's employees or agents.
- 9.5 Nothing contained in this condition shall operate so as to:
- (a) exclude the liability of the Company for death or personal injury resulting from the negligence of the Company, its employees or agents;
 - (b) exclude the conditions and warranties implied by Section 12 of the Sale of Goods Act 1979;
 - (c) impose on the Company any liability in respect of any representation, suggestion or comment with regard to the goods made by the Company, its employees or agents in the course of any negotiations between the Company and the Customer leading to the making of the Contract, unless in the case of any such representation the Company has expressly agreed in writing that it shall be a term of the Contract. If at the request of the Customer a Certificate of Conformity is provided the issue thereof shall not operate to confer upon the Customer any rights or remedies against the Company in respect of the goods which the Customer would not have had in the absence of any such Certificate;
 - (d) impose on the Company any liability in respect of any component or other part of the works supplied by the Customer or any third party, in which case the Company's liability shall be limited to the extent of any guarantee or warranty provided by the manufacturer of such component or part.
- 9.6 In the event of the Company contracting to manufacture goods in accordance with drawings, specifications, designs or other information supplied by the Customer, then the Customer acknowledges that provided the goods are so manufactured the Company shall not be liable to the Customer in Contract or in tort for any loss or damage the Customer may suffer because the goods subsequently prove to be unsuitable for the purpose or purposes for which the Customer required them or prove not to be of satisfactory quality within the meaning of the Sale of Goods Act 1979.
10. PATENTS, TRADEMARKS AND COPYRIGHTS AND CONFIDENTIALITY
- 10.1.1 If the Company supplies goods or carries out work on behalf of the Customer in accordance with designs, drawings, specifications or other information provided by the Customer, then the Customer shall indemnify the Company against all claims, actions or demands made or brought against the Company in respect of the infringement of any patent, trademark, copyright or registered design.
- 10.1.2 The Company will indemnify the Customer in respect of any claim, demand or action brought against the Customer in respect of the alleged infringement of any patent, trademark, copyright or registered design arising from the manufacture or sale of the goods and/or services by the Company provided
- (a) that the Customer immediately advises the Company of any such claim, demand or action and provides to the Company such assistance as the Company may reasonably require in connection therewith; and
 - (b) that the goods and/or services sold by the Company under the Contract and all parts thereof have been used only for the purpose(s) disclosed to the Company prior to the making of the Contract or to be reasonably inferred from the nature of the goods and/or services; and
 - (c) that the Customer has not and does not make any admission which may be prejudicial to the Company's position in respect of any such claim, demand or action.
- 10.2 The Company reserves the copyright and all other intellectual property rights for its drawings, prints, plans, designs and other data and shall be entitled to retain the benefit of any research, development work or invention, or any information or disclosure, made received or acquired by the Company in the performance of the Contract.
- 10.3 The Customer shall keep confidential all information, designs, drawings, prints, plans and other data disclosed by the Company to it concerning the manufacture of the goods, or the provision of the services or any research or development work in connection therewith and shall not exploit such information for its own purposes without the prior written consent of the Company.
- 10.4 All information, designs, drawings, prints, plans, models or other data are supplied to the Customer on the basis that they remain the Company's property at all times and shall be returned by the Customer to the Company on demand.
11. SUBCONTRACTING
- The Company shall be entitled to subcontract the fulfilment of the Contract or any part thereof or any other works it has contracted to carry out.
12. HEALTH AND SAFETY
- 12.1 The Customer hereby undertakes with the Company pursuant to Article 7(8) of the Health and Safety at Work (NI) Order 1978 ("the Order") that the Customer will take all necessary steps (including any testing or examinations, and training of employees who will use the same) prior to the goods being brought into use to ensure, so far as reasonably practicable, that the goods are designed, constructed and operational so as to be safe and without risk to health and safety at all times when the goods are being properly used and that it will take such steps as are necessary to secure that there will be available in connection with the use of the goods adequate information about the use for which they are designed and have been tested, an audit any conditions necessary to ensure when put to use that they will be safe and without risks to health. The Customer shall be responsible for the training of all employees who will use the goods (save where otherwise expressly agreed with the Company).
- 12.2 The Customer shall indemnify the Company against all actions, suits, claims, demands, losses, charges, costs and expenses which the Company may suffer or incur in connection with any claim by any third party alleging facts which if established would evidence a breach on the part of the Customer of the terms contained in sub-paragraph 12.1 above.
- 12.3 The Company shall not be liable to the Customer in any civil proceedings brought by the Customer against the Company under any Health and Safety Regulations made pursuant to the Order where such exclusion of liability is permitted by law.
- 12.4 The Customer shall keep the Company fully and effectively indemnified against all claims, costs, actions, damages, expenses, losses or liabilities (including economic or consequential loss) resulting directly or indirectly from any claim brought under the Consumer Protection (NI) Order 1987 (or any legislation amending the same or substituted thereby) by any individual (including an employee of the Customer) against the Company.
13. GENERAL
- 13.1 No failure or delay by the Company in exercising any right or remedy under this Contract, nor any indulgence or extension of time granted, shall be construed or operate as extinguishing such right or remedy or as a waiver thereof.
- 13.2 If at any time any one or more of these conditions (or any clause, sub-clause or any part thereof) is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted herefrom and the validity and/or enforceability of the remaining provisions of these conditions shall in any way be affected or impaired thereby.
- 13.3 The Contract and these conditions shall be governed by and construed in all respects in accordance with Northern Ireland law and the Company and the Customer submit themselves to the exclusive jurisdiction of the Northern Ireland Court.