

Terms and Conditions of Sale

ALL REFINE (UK) LTD

Company Number: 05901582

2 Frederick Street, Kings Cross, London, United Kingdom, WC1X 0ND

DEFINITIONS

In these terms and conditions of sale:

CONDITIONS means these terms and conditions of sale as amended and replaced by ALL REFINE (UK) LTD from time to time.

QUOTATION shall mean ALL REFINE (UK) LTD's proposal, tender, quotation which may become the subject of an Order.

ORDER shall mean the order, purchase order or contract placed by or agreed by the Customer with ALL REFINE (UK) LTD.

CUSTOMER shall mean the Person who has placed the Order with ALL REFINE (UK) LTD.

CONTRACT means a contract between ALL REFINE (UK) LTD and the Customer evidenced by the acceptance by ALL REFINE (UK) LTD of the Customer's Order.

GOODS shall mean any item, parts, material, work or service being the subject of the order.

SPECIAL CONDITIONS shall mean any supplementary conditions issued with ALL REFINE (UK) LTD Service, Inspection, Plant or Maintenance products or agreed in writing between the Customer and ALL REFINE (UK) LTD.

PERSON includes a company, corporation or other body corporate, partnership, joint venture, association, Authority, Council, Governmental or Semi-Governmental agency or any other group or organisation wishing to contract with ALL REFINE (UK) LTD.

SITE shall mean the place, area, building or land in or on which the goods are or will be installed, used, provided or stored.

ALL REFINE (UK) LTD premises means the premises of ALL REFINE (UK) LTD listed on its quotation or otherwise made known to the Customer, its agents or subcontractors premises.

1. GENERAL

1.1 A Quotation is made, an Order is accepted, and any Contract is entered into on the express understanding that unless agreed by ALL REFINE (UK) LTD in writing to the contrary, these Conditions (and where applicable any Special Conditions) will apply to the exclusion of all others, including any attached to the Customer's Order.

1.2 No Contract shall be formed until the Order has been accepted by ALL REFINE (UK) LTD in writing and any conditions precedent to the formation of the Contract are satisfied and where required by ALL REFINE (UK) LTD, an acceptable Letter of Credit has been received. The Customer accepts that any work carried out prior to the Contract does not form part of the Contract.

1.3 Unless otherwise agreed between ALL REFINE (UK) LTD and the Customer, a Quotation by ALL REFINE (UK) LTD will be construed as an invitation to the Customer to place an Order in accordance with that Quotation.

1.4 ALL REFINE (UK) LTD reserves the right to alter the specification of the Goods to take account of improvements in design, unavailability of materials or for any other reason without being in breach of Contract.

1.5 All drawings and illustrations accompanying ALL REFINE (UK) LTD's quotation or contained in any catalogues, price lists, advertisements or otherwise made known by ALL REFINE (UK) LTD shall not form part of any Contract unless expressly agreed in writing by ALL REFINE (UK) LTD.

1.6 All weights, measurements, powers, capacities and other particulars of Goods quoted by ALL REFINE (UK) LTD are stated in good faith as being approximately correct and ALL REFINE (UK) LTD shall not be liable for any deviations therefrom.

1.7 The Quotation is based on the information and drawings supplied to ALL REFINE (UK) LTD by the Customer at the time of the Quotation and the Goods are limited to that shown in the Quotation.

1.8 Any variation or extra work requested by the Customer, or which in ALL REFINE (UK) LTD's opinion is necessary in connection with the Goods, and is carried out by ALL REFINE (UK) LTD, will result in an adjustment to the price and the completion date listed in the Quotation.

1.9 The Customer shall inform ALL REFINE (UK) LTD of any special requirements, environmental considerations, regulations (statutory or otherwise), limitations or hazards applicable to the Site and/or the Goods.

1.10 It is the sole responsibility of the Customer to ensure that the Goods comply with all relevant legislation including environmental legislation applicable to the Goods, without limitation, in relation to its storage, use, installation or application.

1.11 The Customer shall be responsible for any discrepancies, errors or omissions in any drawings and/or information supplied by the Customer to ALL REFINE (UK) LTD, including without limitation, in relation to the suitability of those drawings for the particular purpose for which they are to be used or applied by the Customer and shall indemnify ALL REFINE (UK) LTD against any loss caused by such discrepancies, errors or omissions.

1.12 Unless specified in the Quotation, the Quotation does not include any chemicals, air, water or any consumable items which the Customer shall make available during installation, commissioning and for subsequent use at the Customer's own cost.

2. PRICE VARIATION AND PAYMENT

2.1 Unless otherwise specified and subject to 2.3 below the price quoted by ALL REFINE (UK) LTD in its Quotation is on the basis of delivery Ex-Works ALL REFINE (UK) LTD Premises, is strictly Net and does not include any tax (such as VAT), duty, levy, charges, or other imposts or packing and delivery which will be payable by the Customer in addition to the price payable by the Customer under the Contract.

2.2 Unless otherwise agreed:

(a) The Quotation will lapse after 30 days from the date therefrom unless withdrawn earlier by ALL REFINE (UK) LTD, and

(b) the price payable for the Goods, the subject of the Contract, is that ruling at the date of despatch of the Goods by ALL REFINE (UK) LTD, and unless agreed otherwise in writing, ALL REFINE (UK) LTD reserve the right to vary the price of the Goods in accordance with ALL REFINE (UK) LTD pricing policy ruling at the date of despatch.

2.3 If any law, order, regulation, duty or tax, etc. is made or changed after the date of ALL REFINE (UK) LTD Quotation which affects ALL REFINE (UK) LTD performance of the Contract, the price and completion date shall be varied accordingly.

2.4 Terms of payment are as stated in the Quotation or Acknowledgement of Order; standard terms are 35% with order, 55% on delivery and 10% on completion. If not so stated, payment is due in full within 30 days of the date of invoice following despatch of all or any part of the Order. If the Customer's credit has not been established with ALL REFINE (UK) LTD, terms are payment in advance or C.O.D. All payments made by the Customer shall be made without any deduction or deferment in respect of any disputes or claims whatsoever and/or in respect of any taxes imposed by, or under the authority of, any government or public authority.

2.5 Where the Quotation includes commissioning ALL REFINE (UK) LTD reserve the right to invoice the total value of the Goods on despatch of the Goods. The commissioning value will be invoiced upon the earlier of; completion of commissioning or 6 months from the date of despatch of the Goods.

2.6 Where the Quotation includes installation, ALL REFINE (UK) LTD reserves the right to invoice the total value of the Goods on despatch of the Goods. The installation value will be invoiced upon the earlier of; completion of installation or 6 months from the date of despatch of the Goods.

2.7 In the case of overseas sales, terms of payment are as stated in the Quotation or Acknowledgement of Order; standard terms are 40% with order and 60% on delivery. If not so stated, payment is due in full within 30 days of the date of invoice following despatch of all or any part of the Order.

2.8 ALL REFINE (UK) LTD reserves the right to amend the terms of payment at any time prior to accepting an Order.

2.9 All prices quoted by ALL REFINE (UK) LTD (unless otherwise indicated) are quoted in Pounds Sterling and Payment is due in Pounds Sterling at the address quoted on the invoice unless otherwise specified by ALL REFINE (UK) LTD.

2.10 ALL REFINE (UK) LTD reserve the right to charge interest on any overdue accounts at the rate of 2% per month calculated on a daily basis without prejudice to ALL REFINE (UK) LTD's right to receive payment by the due date.

2.11 If ALL REFINE (UK) LTD has agreed to give the Customer credit, the Customer must comply with the terms on which that credit is given.

2.12 Time for payment shall be of the essence.

3. WARRANTY

3.1 With regard to product warranty, and where agreed in writing performance warranty, then subject to the provisions of this clause 3, ALL REFINE (UK) LTD will at its option refund the price, replace, repair or in the case of destinations overseas deliver F.O.B. UK Port free of charge Goods supplied by ALL REFINE (UK) LTD which the Customer has demonstrated to the satisfaction of ALL REFINE (UK) LTD are by reason of poor materials or workmanship defective under proper use within 15 months from delivery Ex-Works ALL REFINE (UK) LTD Premises or from readiness for despatch if delivery is delayed by an act or omission of the Customer, or 12 months from commissioning, whichever is the sooner. ALL REFINE (UK) LTD shall not be liable to extend the warranty period following any claim under this Clause.

3.2 With regard to Goods provided under a service or repair order, warranty shall be for 3 months from completion of the service or repair, such warranty only applying to the actual work done and to new parts supplied.

3.3 As soon as the Customer discovers, and in any event within thirty days of the Customer discovering, that the Goods do not comply with clause 3.1 written notices must be given to ALL REFINE (UK) LTD and if ALL REFINE (UK) LTD determines, the Customer must return the Goods to ALL REFINE (UK) LTD Premises carriage paid by the Customer.

3.4 The Customer will not require ALL REFINE (UK) LTD to perform any warranty obligations for so long as any amount due to ALL REFINE (UK) LTD by the Customer remains unpaid.

3.5 ALL REFINE (UK) LTD warranty set out under this Clause 3 shall be the Customer's sole and exclusive remedy for breach of warranty; it shall be in lieu of any warranty, expression or condition expressed or implied by law or otherwise as to the merchantability, suitability, adequacy, quality or fitness for any purpose of the Goods and ALL REFINE (UK) LTD will not be liable for any loss or damage including consequential loss or damage of any kind arising out of the supply or use of the Goods.

3.6 Goods which are of an expendable or consumable nature are excluded from the warranty in clause 3.1.

3.7 Where any recommendation or opinion is given by ALL REFINE (UK) LTD or its Agents to the Customer or is made known to the Customer as to the mode of storing, applying or using the Goods, ALL REFINE (UK) LTD shall not be liable for any loss or damage suffered by reliance thereon.

3.8 The design and operation of the Goods included in the Quotation is based on the raw water design analysis specified. Polyelectrolytes added to the water by some water supply companies may have a detrimental effect on the performance of the Goods. Polyelectrolytes are not detectable by chemical analysis and ALL REFINE (UK) LTD cannot accept any liability either for determining their presence or for resultant effect on performance of the Goods.

3.9 This warranty will only be operative and binding on ALL REFINE (UK) LTD in circumstances where, unless otherwise agreed in writing:

(a) the Goods have been supplied and put into operation by ALL REFINE (UK) LTD, and are the subject of a ALL REFINE (UK) LTD Maintenance Contract.

(b) replacement parts, pre-filter cartridges and other expendables have been supplied by ALL REFINE (UK) LTD.

(c) the Goods are at all times operated strictly in accordance with ALL REFINE (UK) LTD instruction and otherwise in accordance with good practice using commercially pure reagents.

(d) the Goods have not been modified or moved from the original installation location or altered except with ALL REFINE (UK) LTD written consent.

(e) water or liquid is of the same nature and analysis to that made known to ALL REFINE (UK) LTD at the date of the Order and the general physical conditions are maintained.

(f) ALL REFINE (UK) LTD are given adequate time and opportunity to rectify any failure in performance of the Goods covered by this warranty.

3.10 ALL REFINE (UK) LTD shall be under no liability for failure to obtain any performance figures quoted unless ALL REFINE (UK) LTD have expressly and specifically guaranteed them in writing. Limited warranty terms apply to the performance of reverse osmosis membranes and DI resin packs, as detailed in ALL REFINE (UK) LTD Special Conditions TCS 2.

3.11 If the Customer claims that the Goods do not perform as warranted ALL REFINE (UK) LTD reserve the right to send a ALL REFINE (UK) LTD representative to investigate the Customer's claim. If our representative is able to achieve the warranted performance without alteration other than routine adjustments or any fault in the Goods is found to be due to an act or omission of the Customer then such visits are to be at the Customer's expense.

3.12 The Customer expressly acknowledges that the provisions of Clause 3 satisfy the requirements of reasonableness specified in the Unfair Contract Terms Act 1977.

4. FORCE MAJEURE AND CANCELLATION

4.1 Should the execution of the Order or the fulfilment of ALL REFINE (UK) LTD's obligations be hindered or delayed by the Customer's instructions, lack of instructions or by any act or omission on the Customer's part or by any cause whatsoever beyond ALL REFINE (UK) LTD's control (including but not limited to strike, lockouts, fire, explosion, shortage of raw materials, delay in delivery from our suppliers, state of war whether declared or not, civil strife, sabotage, vandalism, epidemic or pandemic and exceptional weather conditions) ALL REFINE (UK) LTD at its absolute discretion shall be at liberty to cancel or suspend the Contract and any of its other obligations that are so affected forthwith without any liability whatsoever by ALL REFINE (UK) LTD to the Customer. Should ALL REFINE (UK) LTD suspend the Contract reinstatement will follow cessation of the Force Majeure restraint plus a reasonable time to restart the contract.

4.2 ALL REFINE (UK) LTD shall be entitled to suspend or terminate its performance under the Contract forthwith if the Customer: (a) makes default in any payment under this or any other Contract, (b) becomes bankrupt or, in the case of a Limited Company, resolves to go into liquidation, (c) becomes subject to a receivership, (d) ceases to carry on business, (e) enters into any scheme of arrangement or composition with or assignment for the benefit of any of its creditors, (f) commits any breach of a term of a Contract. Any such suspension or termination shall be without prejudice to any other rights or remedies ALL REFINE (UK) LTD may have against the Customer. In the case of suspension then clause 5.2 shall apply. Upon termination the Customer will be immediately liable to ALL REFINE (UK) LTD for all amounts due to ALL REFINE (UK) LTD.

4.3 The Customer may not cancel the Order without ALL REFINE (UK) LTD's written consent (except for ALL REFINE (UK) LTD Planned Inspection Service Contracts, see clause 11) which shall only be given upon the Customer's undertaking to pay cancellation charges to compensate ALL REFINE (UK) LTD for all costs and charges incurred by ALL REFINE (UK) LTD including loss of profit and such sums being notified to the Customer by ALL REFINE (UK) LTD in writing. In the case of process water systems, cancellation charges prior to delivery are normally 30% of Order value up to one month after date of Order, 60% up to two months, after which 90% becomes payable.

4.4 In no case may Goods be returned without the consent of ALL REFINE (UK) LTD. Products built to Order or not of ALL REFINE (UK) LTD original manufacture may not be returned. All Goods returned to ALL REFINE (UK) LTD must be carriage paid at the Customer's risk and other than circumstances of faulty merchandise, wrongful delivery, by quantity or type, shall, without prejudice to ALL REFINE (UK) LTD's other rights and remedies, incur a minimum handling charge of 30% of invoice value.

5. DELIVERY

5.1 Any dates quoted for delivery of the Goods are quoted Ex-Works ALL REFINE (UK) LTD Premises and are to be treated as estimates only. Unless otherwise agreed in writing ALL REFINE (UK) LTD shall not be liable to the Customer or to any other Person for failure to deliver within quoted time(s).

5.2 If ALL REFINE (UK) LTD is prevented by the Customer's instructions, lack of instructions, or any act or omission on the Customer's part from despatching or completing Goods at the date specified in the Contract, then the cost involved in storage, protection, insurance, re-inspection, rescheduling and delivery shall be charged to the Customer, the due date for payment by the Customer shall be calculated from the date that the Goods would have been delivered or completed in accordance with the original terms of the Contract.

5.3 If the customer prolongs the completion of the Order at any stage and for any reason then notwithstanding the above ALL REFINE (UK) LTD shall be entitled to recover any additional costs incurred in, but not limited to, project management, engineering or administration of the prolonged Order.

5.4 Partial deliveries or partial completion of the Order shall in no way nullify any of these terms and conditions from applying to the partial delivery or completion or to the balance of the Order.

6. PROPERTY AND RISK

6.1 The property in the Goods shall not pass to the Customer until the full price has been paid to ALL REFINE (UK) LTD and where applicable the costs of transport, insurance and freight.

6.2 Until ALL REFINE (UK) LTD receives full payment for the Goods the Customer must hold the Goods as bailee for ALL REFINE (UK) LTD and must at its own expense keep the Goods properly and safely stored and must not pledge, hypothecate, or mortgage the Goods or part with possession of the Goods without the prior written consent of ALL REFINE (UK) LTD. If the full amount for the goods is not paid by the due date, ALL REFINE (UK) LTD shall be entitled to take possession of the Goods and as licensee of the Customer may enter the premises of the Customer for the purpose of such recovery.

6.3 The risk in the Goods shall pass to the Customer upon delivery and the Customer shall insure the Goods against all usual risks until the price is paid.

6.4 The provisions of this clause 6 shall survive the determination of the Order for whatever reason.

7. LIMITATION OF LIABILITY

7.1 Notwithstanding any other provision hereof to the contrary:

(a) ALL REFINE (UK) LTD shall not be liable to the Customer or any other Person, whether in contract, tort (including negligence) or howsoever, for any incidental and consequential damage or economic loss, pollution and environmental damage, occupational disease and toxic torts, loss of any profit, loss of any order or contract, non-operation or increase in expense of operation, damage to property; and

(b) Save in the case of death or personal injury caused by ALL REFINE (UK) LTD's negligence or default and where the Customer has shown ALL REFINE (UK) LTD to be at fault, ALL REFINE (UK) LTD's total aggregate liability to the Customer under or in respect of the Order, whether such liability shall arise in contract, tort (including negligence) or howsoever, shall be limited to the guarantee period and to the lower of the price of the Goods or £250,000, save for ALL REFINE (UK) LTD Planned Inspection Service Contracts which shall be limited to £5,000 (see Clause 11).

7.2 The Customer shall advise ALL REFINE (UK) LTD of any claims for which the Customer may seek indemnification from ALL REFINE (UK) LTD. ALL REFINE (UK) LTD reserve the right to defend directly any such claims.

7.3 If the Customer uses or sells the Goods in such a manner as to infringe any patent rights, design rights, trade mark or copyright ALL REFINE (UK) LTD shall not be responsible for such infringement and the Customer agrees to indemnify ALL REFINE (UK) LTD from and against all liability arising therefrom.

7.4 Should the Customer free issue any materials or parts to ALL REFINE (UK) LTD for use in carrying out the Contract then ALL REFINE (UK) LTD shall not be liable for any loss or damage that may occur to such material or parts from whatever cause.

8. INCOTERMS

8.1 The latest Edition of Incoterms shall (except to the extent of any inconsistency with these conditions) form part of the Contract where relevant.

9. INSTALLATION, COMMISSIONING AND SERVICE

9.1 Inspection and testing and/or installation of the Goods is not provided by ALL REFINE (UK) LTD unless specifically accepted as part of the Order. For Orders where ALL REFINE (UK) LTD have included for the services of an engineer to supervise erection and/or commissioning and/or carry out service, the rates for those services shall be those ruling at the time of performance of the service.

9.2 For Orders where ALL REFINE (UK) LTD have included for full erection, (unless otherwise specified in the Quotation) the Customer shall provide, suitable access to and possession and control of the Site, properly prepared foundations ready to receive the Goods as and when delivered, adequate off-loading facilities, temporary hand-railing and scaffolding, all civil engineering and builders works and materials of any kind, suitable storage, guarding and protection for the Goods from time of delivery, all necessary fences and barriers, any oil, air, water, electric power, communication services, lighting and heating necessary on the Site during and after installation and all necessary toilet, welfare and other facilities including discharge facilities and adequate assistance. All these shall be supplied at the Customer's expense to enable the work to be expeditiously and continuously carried out and should additional work or expenditure be incurred due to lack of the above ALL REFINE (UK) LTD reserves the right to increase the price. The price (unless otherwise specified in the Quotation) does not include any frost protection, site wiring, cabling, painting and treatment chemicals, which the Customer shall provide in adequate quantities of commercially pure quality, during start-up, testing, commissioning.

10. ORDER OF PRECEDENCE

In any case of conflict between the provisions of any Special Conditions these terms and conditions and any other documents or communication, the following order of precedence shall apply: first the Special Conditions, secondly these terms and conditions, thirdly any other documents or communication.

11. ALL REFINE (UK) LTD SERVICE CONTRACTS

11.1 Where the Customer has entered into a Contract with ALL REFINE (UK) LTD which is identified as a ALL REFINE (UK) LTD Service Contract the following conditions apply in addition to all other terms and conditions of these Conditions.

11.2 ALL REFINE (UK) LTD agrees to undertake in relation to the Goods specified overleaf on each visit, the work applicable to such visit as specified in the Schedule annexed to the Service Contract.

11.3 Should ALL REFINE (UK) LTD be unreasonably delayed in gaining access to the Site specified in the Service Contract then ALL REFINE (UK) LTD may charge the Customer waiting time at its rates ruling at the time.

11.4 Any log book or plant records provided with the service remains the property of ALL REFINE (UK) LTD and shall be returned in the event of the Service Contract being terminated.

11.5 The Service Contract shall commence on the date hereof and shall continue for an initial term of one year and thereafter shall continue in force unless terminated by either party giving a minimum of one month's written notice expiring at the end of such period or on the first or any anniversary thereafter.

11.6 ALL REFINE (UK) LTD reserves the right to vary the annual charge each year by written notice to the Customer no later than one month prior to the anniversary date of the Service Contract.

12. HEALTH AND SAFETY

12.1 The Customer shall ensure that where ALL REFINE (UK) LTD carries out work on a Site or premises prescribed by the Customer, all conditions, equipment or articles provided to ALL REFINE (UK) LTD for use on the Order are in accordance with applicable Health and Safety and COSHH regulations.

12.2 The Customer shall indemnify ALL REFINE (UK) LTD against all claims and demands made against ALL REFINE (UK) LTD in respect of any injury, loss or damage suffered by any person or occasioned to any property by reason of any special hazards, perils and dangers present on Site, and all costs and damages incurred by ALL REFINE (UK) LTD in consequence of any such claims and demands, unless the Customer shall have given written notification to ALL REFINE (UK) LTD of such hazards, perils or dangers prior to commencement of the Order and taken all reasonable steps to prevent the occurrence of such injury, loss or damage.

13. ASSIGNMENT

13.1 The Contract may not be assigned in whole or in part by the Customer without the prior written consent of ALL REFINE (UK) LTD. Nothing in these conditions will prevent ALL REFINE (UK) LTD from assigning any of its rights or from making any arrangement for its obligations to be fulfilled by another person or from subcontracting any of its obligations.

14. CONFIDENTIALITY

14.1 The Customer shall ensure that in respect of all information or data received by the Customer relating to the subject matter of the Order or to ALL REFINE (UK) LTD's business or affairs, disclosed whether in writing, orally or by any other means to the Customer by ALL REFINE (UK) LTD or by any third party on ALL REFINE (UK) LTD's behalf, remains the property of ALL REFINE (UK) LTD, and shall be treated as confidential by the Customer and will not be disclosed to any third party without ALL REFINE (UK) LTD's written consent. The Customer shall procure that persons to whom such information is divulged by them shall themselves observe the requirements of this condition.

14.2 The sale of Goods by ALL REFINE (UK) LTD to the Customer does not confer any right or licence to use, exploit or otherwise utilise any intellectual property right subsisting in the Goods.

15. SEVERABILITY

15.1 Each undertaking in the Conditions shall be considered as a separate undertaking and if one or more of the undertakings contained in the Conditions is found to be unenforceable or in any way an unreasonable restraint of trade the remaining undertakings shall continue to bind the parties.

16. COPYRIGHT

16.1 The copyright subsisting or which subsequently subsists in all documents, drawings, specifications, designs, programs, or any other material prepared by ALL REFINE (UK) LTD whether readable by humans or by machines shall belong to ALL REFINE (UK) LTD absolutely and they shall not be reproduced or disclosed or used in their original or translated form by the Customer without ALL REFINE (UK) LTD's written consent for any purpose other than that for which they were furnished.

17. MISCELLANEOUS

17.1 The failure by ALL REFINE (UK) LTD to insist upon the performance of any one or more of the terms contained in these Conditions will not be deemed to be a waiver of any rights and remedies that ALL REFINE (UK) LTD may have. No provision of these Conditions or a Contract will be deemed to have been waived by ALL REFINE (UK) LTD unless the waiver is in writing and signed by the duly authorised officer of ALL REFINE (UK) LTD.

17.2 These Conditions and any Contract may only be varied, amended or added to with the written consent of ALL REFINE (UK) LTD, executed by a duly authorised officer of ALL REFINE (UK) LTD.

18. LAW

These Conditions, Quotation, Order and Contract shall be governed by and construed in accordance with English Law subject to the exclusive jurisdiction of the English Courts.

ALL REFINE (UK) LTD | Company No. 05901582 | 2 Frederick Street, Kings Cross, London, WC1X 0ND