

TRADING TERMS AND CONDITIONS

- 1) In consideration of a Credit Account being granted the applicant agrees with SMS Diesel Spares Ltd and warrants the following:
 - To be bound by the terms set out within this document.
 - The applicant must notify SMS Diesel Spares Ltd in writing any change of address or ownership within the applicant's company, with seven (7) days of commencement of any such change.
 - Jurisdiction: The contract shall be constructed according to the Law of Ireland which shall be the proper Law of the contract. The parties accept the jurisdiction of the courts in Ireland.
 - Notwithstanding the delivery of the goods or part thereof the goods remain the sole and absolute property of SMS Diesel Spares Ltd as full and equitable owner until such time as the purchaser shall have paid the company the full purchase price together with the full price of any other goods the subject of any other contract with the company.
 - The purchaser acknowledges that he receives possession of and holds the goods delivered by SMS Diesel Spares Ltd solely as a bailee for SMS Diesel Spares Ltd until such time as the full price thereof is paid to SMS Diesel Spares Ltd together with the full price of any other goods then the subject of any other contract with SMS Diesel Spares Ltd.
 - Until such time as the purchaser becomes owner of the goods the purchaser will store them on the premises separately, and the purchaser shall ensure that the goods are kept in a good and serviceable condition, secure from risk of damage or theft and fully insured against such risks that are usual or common to insure against in the business of a similar nature to that of the purchaser.
- a) **Until the goods are paid for in full:** SMS Diesel Spares Ltd authorises the purchaser to sell the goods bought, but as an agent for SMS Diesel Spares Ltd. The purchaser shall however not represent to any third parties that it is in any way acting for SMS Diesel Spares Ltd and SMS Diesel Spares Ltd will not be bound by any contracts with third parties to which the purchaser is a party.
- b) Records shall be kept by the purchaser of any goods owned by the company.
- c) The proceeds of any sale of the goods shall be paid into a separate account and held on trust for SMS Diesel Spares Ltd, and the purchaser shall account for SMS Diesel Spares Ltd from this fund for the full price of the goods.

- d) The purchaser is entitled to the agreed period of credit extended by SMS Diesel Spares Ltd, but is required to account to SMS Diesel Spares Ltd for the full price of the goods once the goods are sold and the proceeds of the sale received.
- e) Should the purchaser die, stop payment or call a meeting of its creditors or becomes insolvent or subject to bankruptcy laws or being a company calls a meeting for the purpose of or go into liquidation or has a winding-up petition presented against it or has a receiver appointed, SMS Diesel Spares Ltd may at its option not withstanding its waiver of such default or failure and without prejudice to its other rights under this contract suspend or cancel this contract or require payment in cash before or on delivery or tender of goods or documents not withstanding terms of payment previously specified or may repossess and take-over the goods and dispose of same in its own interest without prejudice to any claim it may have for damages for any loss resulting from such resale.
 - On retaking possession of the goods SMS Diesel Spares Ltd may elect to refund the purchaser any part payment that may have been made and to credit the purchaser's account with the value of the goods less any charge for the recovery of the goods, or to re-sell the goods.
 - On retaking possession of the goods the company may elect to refund to the purchaser any part payment that may have been made and to credit the purchaser's account with the value of the goods less any charge for the recovery of the goods, or to resell the goods.
 - The applicant shall indemnify SMS Diesel Spares Ltd for costs, fees, commission charges and disbursements charged by any mercantile agent or solicitor engaged for the purpose of the collection or recovery of monies due and payable by the applicant to SMS Diesel Spares Ltd.
 - SMS Diesel spares Ltd reserve the right to vary this credit facility at any time without notice.

2) Trading Terms:

- (a) 30 days from the month-end statement on all purchases of spare parts.
- (b) All engines and engine assemblies or part there of should be paid on Cash-Sale basis out of cleared funds.
Or
As specified on an individual invoice issued by an SMS Diesel Spares Ltd sales person.

- (c) Credits
Goods being returned must be returned within 14 days of the purchase date to be considered for full credit. Any late returns will be subject to a handling charge of 10% of invoice value with a minimum of EURO 20.00.
All carriage on delivery and return freight must be to the purchaser's account.

3) Damage:

- (a) The seller does not accept responsibility for any damage or loss in transit unless:
"Notification" – Damage/Loss in transit or shortage is notified to seller within 3 days where delivery is made by the Seller's transport arrangement or goods carried by any other carrier.
"Non delivery (Total Loss)" – is notified within 7 days of the date of despatch.
- (b) All other "General claims" must be notified with 14 days of despatch. In the absence of notification the goods shall be deemed to have been supplied/delivered in accordance with the contract.

4) Warranty:

- (a) The invoice value of any goods supplied by the seller and subsequently agreed by the seller to be defective in design, materials or workmanship will be replaced or credited to the buyer.
- (b) All parts are sold subject to manufacturer's Warranty, provided the purchaser is a person dealing as a consumer.
- (c) SMS Diesel Spares Ltd cannot be held responsible for any specific verbal or implied verbal representations in regard to suitability and performance of parts.
- (d) Goods must be checked for suitability and tolerance prior to fitting or preparation. No responsibility whatsoever is accepted for the fitment of incorrect parts. The responsibility is clearly with the purchaser/fitter to ensure the parts supplied are correct for the particular job. SMS Diesel Spares Ltd is not responsible for any damage or consequential losses or cost resulting from the fitment of parts supplied.