



Standard Terms and Conditions

1. Interpretation

1.1 In these Conditions:

"BUYER" means the person who accepts a quotation of Eden for the sale of the Goods and Services or whose order for the Goods and Services is accepted by Eden

"GOODS" means the Goods (including any instalment of the Goods and Services or any parts for them) which Eden is to supply in accordance with these Conditions

"SERVICES" means the Services which Eden is to supply in accordance with these Conditions

"Eden" means Eden Transformer Oil Limited (a private company registered in England with limited liability under company number 05094065) whose registered office is Unit 1, Regent Business Centre, Revenge Road, Chatham Kent, ME5 8UD.

"CONDITIONS" means the standard terms and conditions of sale set out in this document and includes any special terms and conditions agreed in Writing between the Buyer and Eden

"CONTRACT" means the contract for the purchase and sale of the Goods and Services and services

"WRITING" includes telex, cable, e-mail, facsimile transmission and comparable means of communication

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

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

2. Basis of Sale

2.1 Eden shall provide and the Buyer shall purchase the Goods and Services in accordance with any order of the Buyer which is accepted by Eden in accordance with clause 3.1 which shall in any event be subject to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such order is made or purported to be made by the Buyer.

2.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and Eden.

2.3 Eden's employees or agents are not authorised to make any representations concerning the Goods and Services unless confirmed by Eden in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.

2.4 Any advice or recommendation given by Eden or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods and Services which is not confirmed in Writing by Eden is followed or acted upon entirely at the Buyer's own risk, and accordingly Eden shall not be liable for any such advice or recommendation which is not so confirmed.

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

2.6 A quotation by Eden does not constitute an offer and Eden reserves the right to withdraw or revise a quotation at any time prior to Eden's acceptance of the Buyer's order.



3. Orders and Specifications

3.1 No order submitted by the Buyer shall be deemed to be accepted by Eden unless and until confirmed in Writing by Eden's authorised representative.

3.2 The Buyer shall be responsible to Eden for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving Eden any necessary information relating to the Goods and Services within a sufficient time to enable Eden to perform the Contract in accordance with its terms.

3.3 The quantity, quality and description of and any specification for the Goods and Services shall be those set out in the Buyer's order (if accepted in Writing by Eden in accordance with clause 3.1).

3.4 If the Goods and Services are to be manufactured or any process is to be applied to the Goods and Services by Eden in accordance with a specification submitted by the Buyer, the Buyer shall indemnify Eden against all loss, damages, costs and expenses awarded against or incurred by Eden in connection with or paid or agreed to be paid by Eden in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from Eden's use of the Buyer's specification.

3.5 Eden reserves the right to make any changes in the specification of the Goods and Services which are required to conform with any applicable statutory or EU requirements or, where the Goods and Services are to be supplied to Eden's specification, which do not materially affect their quality or performance.

3.6 No order which has been accepted by Eden may be cancelled by the Buyer except with the agreement in Writing of Eden.

3.6.1 Cancellations within 5 working days of the intended delivery date of the Goods and Services will be payable at 100% of the quotation.

3.6.2 Cancellations prior to 5 working days of the intended delivery date of the Goods and Services will be payable at 50% of the quotation, plus any products or services that Eden has procured on behalf, or for resale to, the Buyer.

4. Price of the Goods and Services

4.1 The price of the Goods and Services shall be Eden's quoted price. All prices quoted are valid for 7 days only or until earlier acceptance by the Buyer, after which time they may be altered by Eden without giving notice to the Buyer.

4.2 Eden reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods and Services to reflect any increase in the cost to Eden which is due to any factor beyond the control of Eden (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 Services which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give Eden adequate information or instructions.

4.3 Except as otherwise stated under the terms of any quotation or in any price list of Eden, and unless otherwise agreed in Writing between the Buyer and Eden, all prices are given by Eden on an ex works basis and where Eden agrees to deliver the Goods and Services otherwise than at Eden's premises, the Buyer shall be liable to pay Eden's charges for transport, packaging and insurance.

4.4 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to Eden.

4.5 The cost of returnable pallets and containers will be charged to the Buyer in addition to the price of the Goods, but full credit will be given to the Buyer provided they are returned undamaged to Eden before the due payment date.



5. Terms of Payment

5.1 Subject to any special terms agreed in Writing between the Buyer and Eden, Eden shall be entitled to invoice the Buyer for the price of the Goods and Services on or at any time after delivery of the Goods and Services unless the Goods and Services are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event Eden shall be entitled to invoice the Buyer for the price at any time after Eden has notified the Buyer that the Goods and Services are ready for collection or (as the case may be) Eden has tendered delivery of the Goods.

5.2 The Buyer shall pay the price of the Goods and Services (less any discount to which the Buyer is entitled, but without any other deduction) within **30 days invoice** of the invoice date, and Eden shall be entitled to recover the price, notwithstanding that the property in the Goods and Services has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

5.3 Unless specifically agreed and confirmed in writing by Eden, the payment terms specified in 5.2 will take precedence over any payment terms on the Buyer's order, website or other documents.

5.4 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to Eden, Eden shall be entitled to:

5.4.1 Cancel the contract or suspend any further deliveries to the Buyer;

5.4.2 Appropriate any payment made by the Buyer to such of the Goods and Services (or the Goods and Services supplied under any other contract between the Buyer and Eden) as Eden may think fit (notwithstanding any purported appropriation by the Buyer); and

5.4.3 Charge the Buyer statutory interest and fees as per *Directive 2011/7/EU On Combating Late Payment In Commercial Transactions* Late Payment of Commercial Debts (Interest) Act 1998 :-

5.4.3.1 Interest at 8% plus the Bank of England base rate (<http://www.bankofengland.co.uk/boeapps/iadb/Repo.asp>). Plus,

5.4.3.2 Recovery costs.

5.5 In the event that Eden owes money to the Buyer under any contract or other arrangement entered into between Eden and the Buyer, Eden shall be entitled to set off such sums owed by Eden to the Buyer against any sums which the Buyer shall owe to Eden pursuant to this contract.



6. Delivery, Inspection and Complaints

6.1 Delivery of the Goods and Services shall be made by the Buyer collecting the Goods and Services at Eden's premises at any time after Eden has notified the Buyer that the Goods and Services are ready for collection or, if some other place for delivery is agreed by Eden, by Eden delivering the Goods and Services to that place.

6.2 Any dates quoted for delivery of the Goods and Services are approximate only and subject to 6.4 below, Eden shall not be liable for any delay in delivery of the Goods and Services howsoever caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by Eden in writing. The Goods and Services may be delivered by Eden in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.3 Where the Goods and Services are to be delivered in instalments, each delivery shall constitute a separate contract and failure by Eden to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.4 If Eden fails to deliver the Goods and Services (or any instalment) for any reason other than any cause beyond Eden's reasonable control or the Buyer's fault, and Eden is accordingly liable to the Buyer, Eden's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar Goods and Services to replace those not delivered over the price of the Goods. Provided always that time shall not be of the essence of this contract and no delay by Eden in the delivery of the Goods and Services (or any instalments) which does not exceed (6 months) shall give the Buyer the right to terminate this contract or purchase similar Goods and Services elsewhere.

6.5 If the Buyer fails to take delivery of the Goods and Services or fails to give Eden adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of Eden's fault) then, without prejudice to any other right or remedy available to Eden, Eden may:

6.5.1 Store the Goods and Services until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

6.5.2 Sell the Goods and Services at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

6.6 The Buyer shall examine the Goods and Services upon delivery and satisfy itself that they conform to Contract. A claim that Goods and Services are not in accordance with the Contract will not be accepted by Eden unless notice in writing, specifying the alleged default, is given to Eden within 7 days of delivery of the Goods.

6.7 Failure to notify Eden of the non-delivery of the Goods, or any of them, within 7 days of the due date for delivery will release Eden from liability for claims for non-delivery.

6.8 Any Goods and Services considered to be damaged or defective (together with their packaging materials) shall be retained by the Buyer intact as delivered for a period of twenty one days from notification of the claim to Eden, within which time Eden or its agents shall have the right to investigate the complaint and examine the Goods and Services and, if possible, to remedy any defect. Any breach of this condition will release Eden from any liability for Goods and Services which are alleged not to conform to Contract.

6.9 If Eden agrees with the Buyer that the Goods and Services are damaged or defective and that it is not possible to remedy any defect then Eden shall, at its sole option, replace the Goods and Services or credit the Buyer accordingly.

6.10 If Eden disagrees with the Buyer that the Goods and Services are damaged or defective then the dispute shall be referred to an independent third party appointed jointly by Eden and the Buyer or, failing agreement within 7 days, by a party appointed, on the application of either Eden or the Buyer, by the President for the time being of Institute of Chartered Accountants. Such independent third party shall act as an expert and not as an arbiter and his decision shall be final and binding on, and his costs and expenses shall be borne equally by, Eden and the Buyer.

6.11 Eden shall have no liability to the Buyer in respect of damaged or defective Goods and Services (and the Buyer shall be required to pay the full contract price) where:-

- (a) Any claim made by the Buyer is not in accordance with these Conditions;
- (b) Damage has been sustained after delivery of the Goods and Services to the Buyer, or its agents;
- (c) Defects are caused by installation, operation or maintenance carried out other than in accordance with any instructions supplied orally or in writing with the Goods and Services or by wear and tear, accident or misuse, improper operation or neglect or if any adjustment, alteration or other work has been performed on the Goods and Services by any person other than Eden or its employees or agents; or
- (d) A receipt has been obtained by Eden, duly signed by the Buyer or one of its employees or agents, confirming that the Goods and Services have been delivered in a satisfactory condition.



7. Risk and Property

7.1 Risk of damages to or loss of the Goods and Services shall pass to the Buyer:

7.1.1 In the case of Goods and Services to be delivered at Eden's premises, at the time when Eden notifies the Buyer that the Goods and Services are available for collection; or

7.1.2 In the case of Goods and Services to be delivered otherwise than at Eden's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when Eden has tendered delivery of the Goods.

7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until Eden has received in cash or cleared funds, payment in full of the price of the Goods and all other Goods agreed to be sold by Eden to the Buyer for which payment is then due.

7.3 Until such time as the property in the Goods passes to the Buyer Eden shall be entitled at any time to require the Buyer to deliver up the Goods to Eden and, if the Buyer fails to do so forthwith, the Buyer irrevocably authorises Eden and its agents and employees to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

7.4 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of Eden, but if the Buyer does so all moneys owing by the Buyer to Eden shall (without prejudice to any other right or remedy of Eden) forthwith become due and payable.



8. Warranties and Liability

8.1 Subject to the conditions set out below Eden warrants that the Goods and Services will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 3 months from the date of delivery.

8.2 The above warranty is given by Eden subject to the following conditions:

8.2.1 Eden shall be under no liability in respect of any defect in the Goods and Services arising from any drawing, design or specification supplied by the Buyer;

8.2.2 Eden shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow Eden's instructions (whether oral or in writing), misuse or alteration or repair of the Goods and Services without Eden's written approval;

8.2.3 Eden shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the price due for the Goods and Services has not been paid in full;

8.2.4 The above warranty does not extend to parts, materials or equipment not manufactured by Eden, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to Eden.

8.3 If Eden agrees that it is or (as the case may be) it is found to be liable under the provisions of clause 8.2 above, then Eden's entire liability to the Buyer shall be limited, at the option of Eden, to repairing or replacing the Goods and Services or refunding the purchase price (or a proportionate part thereof) for them.

8.4 Subject as expressly provided in these Conditions and except where the Goods and Services are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

8.5 Where the Goods and Services are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these Conditions.

8.6 Nothing in these Conditions is intended to exclude or limit the liability of Eden to the Buyer for the following matters:-

8.6.1 Death or personal injury caused by Eden's negligence;

8.6.2 Failure to give good title to the Goods. However, save for these matters and save for the liability accepted by Eden under clauses 8.3 and 6.4 and clause 9 below Eden shall have no liability of any nature whatsoever to the Buyer whether for breach of contract, any act or omission (including negligence), breach of any statutory duty, breach of any warranty, condition or other term implied by law, misrepresentation (unless fraudulent) or in any other manner whatsoever. Under no circumstances shall Eden be liable to the Buyer for any loss of profits, loss of contracts, loss of goodwill, administration and management expenses, or any consequential loss or damage of any nature even if any of these matters were reasonably foreseeable.

8.7 Eden shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of Eden's obligations in relation to the Goods, if the delay or failure was due to any cause beyond Eden's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond Eden's reasonable control:

8.7.1 Act of God, explosion, flood, tempest, fire or accident;

8.7.2 War or threat of war, sabotage, insurrection, civil disturbance or requisition;

8.7.3 Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

8.7.4 Import or export regulations or embargoes;

8.7.5 Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of Eden or of a third party);

8.7.6 Difficulties in obtaining raw materials, labour, fuel, parts or machinery;

8.7.7 Power failure or breakdown in machinery.

8.8 These Conditions do not create any right enforceable by any person not a party to it except that a person who is the permitted successor to or assignee of Eden is deemed to have the benefit of all rights of Eden.



9. Indemnity

9.1 If any claim is made against the Buyer that the Goods and Services infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of any drawing, design or specification supplied by the Buyer, Eden shall indemnify the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:

9.1.1 Eden is given full control of any proceedings or negotiations in connection with any such claim;

9.1.2 The Buyer shall give Eden all reasonable assistance for the purposes of any such proceedings or negotiations;

9.1.3 Except pursuant to a final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of Eden (which shall not be unreasonably withheld);

9.1.4 The Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavours to do);

9.1.5 Eden shall be entitled to the benefit of, and the Buyer shall accordingly account to Eden for, all damages and costs (if any) awarded in favour of the Buyer which are payable by, or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and

9.1.6 Without prejudice to any duty of the Buyer at common law, Eden shall be entitled to require the Buyer to take such steps as Eden may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which Eden is liable to indemnify the Buyer under this clause.

10. Insolvency of Buyer

10.1 This clause applies if:

10.1.1 The Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

10.1.2 An encumbrancer takes possession, or a receiver or administrative receiver is appointed, of any of the property or assets of the Buyer; or

10.1.3 The Buyer ceases, or threatens to cease, to carry on business; or

10.1.4 Eden reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

10.2 If this clause applies then, without prejudice to any other right or remedy available to Eden, Eden shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods and Services have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.



11. General

11.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

11.2 No waiver by Eden of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

11.3 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.

11.4 The Contract shall be governed by the laws of England. In the event of any dispute or difference arising between the parties which cannot be resolved through negotiation, the parties shall attempt to resolve the same in accordance with the Guidelines for Conciliation and Mediation or the Guidelines for Supervised Settlement Procedure ("Mini Trail") of the Chartered Institute of Arbitrators. If such dispute or difference is not resolved by one of these procedures within 28 days of the parties entering into it, or if either party refuses to participate in it, the same shall be referred to a single arbitrator to be agreed upon by the parties pursuant to section 16(3) of the Arbitration Act 1996 ("the Act") or in default of agreement, to be appointed by the President or Vice President for the time being of the Chartered Institute of Arbitrators. In this clause 12.5, "dispute or difference" does not include a claim for the price of the Goods and Services by Eden from the Buyer. The Arbitration shall be regarded as commenced for the purposes set out in section 14(1) of the Act when one party sends to the other a notice to concur in the appointment of an Arbitrator. The seat of the arbitration shall be in London. The Arbitrator shall determine the dispute or difference in accordance with the Law of the Contract.