



## VEGE CONDITIONS OF CONTRACT

- 1.** In these conditions and in every Quotation and Acknowledgement of Order given by the Company "the Company" means International Engines Ltd t/a VEGE UK "the Customer" means the person(s), partnership, firm, company or other party or organization with whom or with which the Company contracts or intends to contract. "Material or goods" means the material or goods the subject of the contract or intended contract.
- 2.** Unless otherwise expressly agreed in writing by a director or the secretary of the Company and notwithstanding anything contained in the Customers enquiry, specification or order to the contrary, these conditions of sale apply to all contracts between the Company and the Customer.
- 3.** The giving by the Customer of any delivery instructions for the goods or any part thereof or the acceptance by the Customer of delivery of the goods or any part thereof or the issue by the Customer of any document in confirmation of the contract set out on the basis thereof, after the receipt by the Customer of a copy of these Conditions of Contract shall constitute unqualified acceptance by the Customer of these Conditions.

### **Retention of Title**

Ownership of the goods delivered shall not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:

**4.1.1** the goods; and all other sums which are or which become due to the Company from the Customer on any account.

Until ownership of the goods has passed to the Customer, the Customer must:

**4.2.1** hold the goods on a fiduciary basis as the Company's bailee;

store the goods (at no cost to the Company) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as the Company's property; not destroy, deface or obscure any identifying mark or packaging on or relating to the goods; maintain the goods in satisfactory condition insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Customer shall produce the policy of insurance to the Company; and hold the proceeds of the insurance referred to in condition 4.2.4 on trust for the Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

The Customer may resell the goods before ownership has passed to it solely on the following conditions:

any sale shall be effected in the ordinary course of the Customer's business at full market value; and any such sale shall be a sale of the Company's property on the Customer's own behalf and the Customer shall deal as principal when making such a sale.

The Customer's right to possession of the goods shall terminate immediately if:

the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe/performance any of his/its obligations under the contract or any other contract between the Company and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or the Customer encumbers or in any way charges any of the goods.

The Company shall be entitled to recover payment for the goods notwithstanding that ownership of any of the goods has not passed from the Company.

The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the goods are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.

If any of the events referred to in clause 4.4 occur, the Company may suspend further deliveries and may determine any contract then subsisting for the sale of goods without prejudice to any right or claim then vested in the Company against the Customer.

**5. Drawings and Samples.** All descriptive specifications, drawings and particulars of weight and dimensions submitted by the Company are to be deemed approximate only and descriptions and illustrations contained in the Company's catalogues, price lists, or other advertising matter shall not form any part of the Contract or constitute a sale by description. The Company does not undertake to supply drawings other than outline drawings, but any drawings which are supplied will remain their confidential property and not be divulged to third parties without written consent. Any samples submitted by the Company must be paid for by the Customer. Notwithstanding that a sample has been exhibited, such sample was exhibited and inspected solely for checking the quality of the bulk, and not so as to, and shall not, constitute a sale by sample under the Contract.

**6. Limitations of Usage.** If the product is specified for a particular use it shall not be used or resold for use for any other purpose save with the Company's consent in writing.

**DELIVERY PERIOD.** The quoted delivery period is, unless otherwise specified, the period from the acknowledgement by the Company of an order to proceed together with all the necessary information and any free issue material to enable the Company to put the necessary work in hand, until the date on which the goods are ready for dispatch from the Company's works. Every effort will be made to have the goods ready for dispatch on that date but the company cannot accept any liability for failure to achieve the delivery date unless the Company has given a written guarantee of delivery specifying agreed liquidation damages and loss has actually been suffered by the Customer and the bonus if the quoted delivery period is improved upon. After receipt of instructions to proceed cancellation or suspension by consent may be arranged on terms which fully indemnify the cancellation or suspension by consent and may be arranged on terms which fully indemnify the Company against costs incurred and any loss which may arise from the cancellation or suspension. In the event of cancellation or suspension by consent the goods will be considered to be ready for dispatch should delay occur because of the Customer's instructions or lack of instructions or failure to inspect within 7 days of notification, the delivery period shall be correspondingly lengthened.

**8. Storage.** If for any reason physical possession of the goods does not pass in accordance with the Contract, the Company shall store in his works or elsewhere, unless otherwise agreed, at the Customer's expense and risk. If, on the expiry of six months after tendering delivery, the goods remain undelivered the Company reserved the right forthwith to cancel the order. This cancellation shall entitle the Company to dispose of the goods and obtain from the Customer compensation for loss of profit in addition to any other sums due under any other conditions of contract.

**9. Delivery.** Delivery is ex-works unless otherwise stated. If the price is quoted "carriage paid" the Company acts as the Customer's agent in the matter of the contract with the carrier. 'A Carrier' for the purpose of these terms and conditions means a carrier engaged by the Company (acting as agent of the Customer) for the purpose of delivery of the goods and materials as appropriate.

**10. Loss or Damage.** Goods of the Company in the physical possession of the Customer are at the Customer's risk. The Company shall not be responsible for loss or damage to the vehicles, goods, patterns or other property received from the Customer whilst in the physical possession of the Company arising from any cause. Customer's vehicles are driven or towed by the Company at the Customer's sole risk and responsibility. The Customer's only remedy for loss or damage to goods, patterns or other property in transit is against the Carriers. In the case of goods to export the Company will give a reasonable opportunity to the Customer to inspect and test the goods at the Company's works before dispatch and the Company shall not be liable for any defects whatsoever after such an opportunity has been given and the goods have been dispatched.

**11. Defects.** Save as provided by clause 12 and in place of any warranty conditions or liability, implied by law, the Company's liability in respect of any defect in or failure of the goods supplied or for any loss or damage attributable thereto, is limited to making good by replacement or repair defects which under proper use appear therein and arise solely from faulty materials or workmanship within a period of six months after the original goods shall have been first dispatched, at the termination of which period all liability on the Company's part ceases. Provided always that such defective parts are promptly returned free to the Company's works unless otherwise arranged. The Company shall not be liable for claim for consequential damages. The Company accepts no responsibility for rectification carried out without the Company's consent. In the case of all proprietary products not of the Company's make the Company will extend to the Customer such rights as the Company may receive under the benefit of any warranty of Guarantee given to the Company by the manufacturer. Any labour charges incurred by the Company or Customer in replacing or rectifying such parts shall be paid for by the Customer. For the avoidance of doubt, nothing in these conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.

**12. Machining, Processing or Embodiment of Customer's Material.**

Materials or goods sent by the Customer to the Company for whatever purpose shall be delivered to and collected from the Customer's premises free of all charges and expenses to the Company. The Company's prices for machining, embodiment or processing do not include either packing, handling charges or the cost of freight in either direction. If the Company is required to meet any such expenses the Customer agrees to indemnify the Company in respect of the full cost thereof. The Customer also agrees to pay the full cost of packing or packing cases.

Should any material or goods sent for machinery processing or embodiment be spoiled or damaged, or should the work carried out not conform to the specification requested by the Customer, in any manner and/ or by whatever cause, the Company does not accept liability for the value of such material or goods, or the cost of any prior operations performed thereon or for any consequential or other loss of any nature whatsoever. In such event the Company's sole liability shall be to re-execute, free of charge, the work which it has agreed to perform under this contract upon replacement goods or materials supplied by the Customer at his own cost.

Sub-paragraph (b) above applies also to finished parts sent to the Company for fitting or other purposes.

The goods or materials sent by the Customer for such purposes shall be reasonably soft, homogeneous and suitable for rapid machinery and should any material or goods be spoiled owing to hard places or defective material, the Customer shall pay the Company for the work done and shall be liable to the Company for the cost of any consequential damage to cutters or other tools caused thereby. In such case the Company shall not be liable for replacements.

The Company does not undertake to check or rectify the Customer's materials or goods, neither does the Company accept liability for loss or damage after dispatch.

In the event of the Customer not being the owner of the goods or materials sent for machinery, processing, embodiment, fitting or other purposes as aforesaid, the Customer warrants with the Company:-

that the Customer has informed the owner thereof of this contract and the terms thereof and in particular that the Company accepts no liability for loss or damage to such goods or materials as aforesaid. The Customer shall keep the Company fully indemnified against damages and costs incurred by the Company with regard to any proceedings brought against the Company by such owner.

**13. Prices and Terms of Payment.** All prices are nett ex-works unless otherwise agreed and payment is due in total on delivery unless otherwise agreed in writing. The Company reserves the right to charge interest at the rate of 8% over Nat West Base Rate on any amount not paid at the due date from this reservation shall in no way constitute a right to the Customer to delay payment. If from any cause beyond the Company's control the Company is not able to dispatch the goods, payment of the contract value of the goods shall be due upon presentation of invoices and notification from the Company that the goods are ready for dispatch, and payment shall be made in full as though the goods had been dispatched. If delivery is delayed due to non-receipt of free issue or embodiment lien items, then the contract value of the goods shall be due at the agreed date without extension or delay.

Any liability on the Company's part is subject to the agreed terms of payment and all other of the Customer's obligations to the Company under the Contract being strictly observed. No delay in manufacturing starting up or using machines or other goods supplied from whatever cause and no manufacturing defect discovered after use shall interfere with payment by the Customer in accordance with the terms laid down. The Company reserves the right to deliver any one or more consignments, each consignment to be paid for in accordance with the foregoing terms and in the event of payment not being made for any one consignment the Company is at liberty to suspend all operations in connection with the contract pending settlement of any outstanding payment.

**14.** In addition to any lien to which the Company may by Statute or otherwise be entitled, the Company shall (in the event of the Customer's insolvency or non-payment of the Company's Account at due date) be entitled to a general lien on all goods in the Company's possession (although such goods or some of them have been paid for) for the unpaid price of any other goods sold and delivered to the Customer by the Company under this or any other Contract. The Company reserves the right to make a handling charge of 10% on spare parts returned for credit (except where wrongly supplied).

**Price Variation.** All prices are subject to variations due to rises or falls in the price of materials, services and wages applied directly to the job and to overheads, extra expenses incurred

because of a Customer's instructions or lack of instructions and to any alterations or additions requested by the Customer subsequent to the date on which the Customer's order is placed. Prices are also subject to variations arising from any Tax or levy affecting Costs but not those applying to profits. Estimated prices for repair work are based on what can be seen without dismantling. Supplementary estimates will be submitted in respect of further defects and additional charges will be made.

**Patents.** When goods are supplied to Customer's designs the Company does not hold himself liable for infringement of any patents or other rights, and the Customer shall keep the Company fully indemnified against damages and costs incurred by the Company with respect to any proceedings brought against the Company by any party claiming patent rights in respect of goods manufactured by the Company to the Customer's order.

**Force Majeure.** The Company reserves the right to defer the date of delivery or to cancel any contract between the Company and the Customer or reduce the volume of the goods ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without any limitation, acts of God, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

## **18. General**

**18.1** Each right or remedy of the Company under the contract is without prejudice to any other right or remedy of the Company whether under the contract or not.

**18.2** If any provision of the contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed to be severable and the remaining provisions of the contract and the remainder of such provision shall continue in full force and effect.

**18.3** Failure and delay in enforcing or partially enforcing any provision of the contract by the Company will not be construed as a waiver of any of its rights under the contract.

**18.4** Any waiver by the Company of any breach of, or any default under, any provision of the contract by the Customer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the contract.

**18.5** The formation, existence, construction, performance, validity and all aspects of the contract shall be governed by English law and the parties submit to the non-exclusive jurisdiction of the English courts.