

# Terms and Conditions

**This agreement, consisting of these terms and conditions and the attendant proposal, services rate sheet, and order acknowledgment is binding upon De Jong Europe B.V., Hereinafter. Seller, and the customer, herinafter buyer, and is the entire agreement.**

**1 Definitions** Goods: Are materials and documentations (including design engineering) supplied to fulfill the order requirements. **Sitework:** Shall include without limitation, field commissioning, start-up, installation supervision, site survey, training, or consultation services furnished by the Seller.

**2 Acceptance** The sale of goods and services is expressly conditional on Buyer's acceptance of Seller's terms and conditions as stated herein and on the typed portion of the attendant quotation. Unless otherwise specified in writing, all quoted prices are firm for ninety (90) days from the date of offer. Provided that the Buyer has not previously accepted Seller's terms and conditions, Buyer's receipt of goods or services shipped under this Agreement constitutes Acceptance of these terms and conditions.

**3 Documentation** Seller shall provide Buyer with the data/documentation, which is specifically titled in the quotation. Additional copies of data/documentation will be made available to Buyer at additional costs. Documentation includes, but is not restricted to, drawings, specifications, instruction manuals, training materials, and other such data or artwork furnished to the Buyer or the Buyer's subcontractors. The definitions and restrictors set forth in the following subparagraphs apply regardless of the type of media on which the documents are provided.

**4 Changes** Buyer's changes made after formation of this Agreement that affect the schedule or requirements for services or otherwise affect the scope of this Agreement shall be submitted in writing by Buyer and shall become binding only if approved in writing by Seller's cognizant representative. All charges and delays resulting from such changes shall be solely determined by Seller and shall be binding upon Buyer.

**5 Termination and Suspension** Provided that Seller receives adequate written notice from Buyer, Buyer may terminate or suspend performance at Buyer's convenience subject to all reasonable charges, which charges shall be solely determined by Seller. Unless the goods has been shipped, Buyer may cancel its order by written notice sent to Seller at its home office subject to the following conclusive charges: Contract cancellation charges are based on the time the cancellation is made with respect to work in progress. This includes but not limited to:

- a Actual hours plus costs of Seller's personnel in travel to and from customer office or job sites.
- b Actual cancellation charges imposed by Seller's vendors with respect to special materials.
- c Actual production status of Seller manufactured parts and assemblies. At time of system staging 100% cancellation charge shall be applied to all cancelled items.

**6 Tax** All government charges upon the service tendered by this Agreement, including, but not limited to, use, occupation, VAT, income, export and import taxes, shall be paid by Buyer or, in lieu thereof, Buyer shall furnish Seller with a tax exemption certificate acceptable to the authority imposing the tax on Seller. Any applicable customs fees, visa fees, brokerage fees, work permits, work taxes, or other taxes related to the project will be invoiced at cost.

**7 Inspection** Buyer may make reasonable inspections of goods at Seller's office. Seller reserves the right to determine the reasonableness of the request and to select an appropriate time and location for such inspection. All costs of inspection shall be solely determined by Seller and shall be to Buyer's account.

**8 Payments** Seller offers no discount periods and all payments are due 30 days after the invoice date, except as noted below. A monthly service charge of 1.5% may be charged on amounts owed by Buyer to Seller that have not been paid within 30 days of invoice date, subject to maximum amount permitted by law. Periodic invoices for Milestone Payments shall be issued when the contract price exceeds € 15,000. In such cases, invoices shall be issued based on the following milestones: Engineering:

- 1 20% upon order acknowledgement (note 1)
- 2 30% upon first submittal of engineering documentation (drawings, calculations, etc) (note 1)
- 3 Balance upon shipment of engineering manual Changes as provided in Clause 4 of the previous page may cause additional periodic invoices to be issued. Fore Sitework with duration greater than two weeks, billing for services will be initiated after the completion of the first two-week period and at two-week intervals thereafter. Failure of the Buyer's representative to sign time sheets of the Seller's representative shall not preclude payment for services rendered.

Note 1: Milestone Payments are due upon receipt of Seller's invoice.

**9 Limited Warranty** Seller warrants, to its original customer only, that goods manufactured by Seller are free from defects in material and workmanship for the lesser of 12 months from date of start-up or 18 months from date of shipment. If a failure to conform to specifications or a defect in materials or workmanship is discovered within this period, Seller must promptly be notified within writing, which notification, in any event must be received no later than 20 months from the day of shipment. Within reasonable time after such notification, Seller will correct any failure to conform to so specifications or any defect in materials or workmanship, or in lieu of such repair, and at its sole option, shall replace the equipment. Such repair, including both parts and labour, is at Seller's expense. All warranty service will be performed at service centres designated by Seller. **The above are the buyer's exclusive remedies for breach of warranty.**

Seller does not warrant:

- a defects caused by failure to provide a suitable installation environment for the product,
- b damage caused by use of the product for purposes other than those for which it was purchased,
- c damage caused by disasters such as fire, flood, wind, and lightning,
- d damage caused by unauthorized attachments or modification, (e) any other abuses or misuse by the Buyer, including improper installation.

The foregoing limited warranties and remedies are in lieu off all other warranties, express or implied, including but not limited to the implied warranties of merchantibility and fitness for a particular purpose, and remedies. In no case shall seller be liable for any special, incidental, or

consequential damages based upon any legal theory. Such damages include, but are not limited to, loss of profits, loss of savings or revenue, loss of use of the product or any associated equipment, cost of capital, cost of any substitute equipment, facilities or services, downtime, the claims of third parties including customers, injury to property and, unless precluded under applicable state law, bodily and personal injury.

Seller's warrants that engineering services will be performed in accordance with good industry engineering principles and practices. Seller will ensure that personnel engineering services will have the ability and experience for proper, efficient, and professional performance.

**10 Force Majeure** Seller shall not be liable for failure to perform due to labour strikes or acts beyond Seller's direct control.

#### **11 General Provisions**

- a** Neither party shall have the right to assign its rights or obligations under this Agreement except with the written consent of the other party, provided, however, that a successor in interest by merger, by operation of law, assignment, purchase, or otherwise of the entire business of either party, shall acquire all interest of such party hereunder. Any prohibited assignment shall be null and void.
- b** There are no understandings, Agreements or representations, expressed or implied, not specified in this Agreement.
- c** No action, regardless of form arising out of transactions under this Agreement, may be brought by either party more than two years after the cause of action occurred.
- d** No representative of Seller has any authority to modify these terms and conditions unless the modification is contained in a written instrument signed by the Director of Seller.
- e** This Agreement is formed and shall be construed under the law of the Netherlands.
- f** Seller may correct all stenographic, typographical and clerical errors in quotations or engineering services rate sheet and specifications at any time.
- g** If goods supplied hereunder are used in a nuclear power generation facility, Buyer fully indemnifies Seller pursuant to Seller's Standard Nuclear Liability Form.

**12 Insurance** At Buyer's request, Seller shall furnish Buyer with certificates of insurance demonstrating the Seller's insurance coverage. Such certificates shall contain a statement that the insurance coverage shall not be changed or cancelled without at least thirty- (30) day's prior written notice to the Buyer.

**13 Limitation of Liability** Seller's total liability for any and all losses and damages arising out of Any and all causes whatsoever including, without limitation, defects in the goods, services, software, documentation, or Sitework supplied under this Agreement, shall in no event exceed the purchase price of the applicable item(s).

**14 General Indemnification** Seller agrees to defend, indemnify, and save harmless Buyer from any claims for bodily injury or damage, and any costs, expenses, or damages incurred as a result thereof, which are based solely on the negligence, gross negligence or intentional misconduct of Seller's employees, agents, contractors, or subcontractors. Buyer agrees to defend, indemnify, and save harmless Seller from any claims for bodily injury or property damage, and any costs, expenses,

or damages incurred as a result thereof, which are based solely on the negligence, gross negligence or intentional misconduct of Buyer's employees, agents, contractors, or subcontractors.

**15 Nonwaiver** Any failure by any party to strictly enforce the terms and conditions as stated in this Agreement or to exercise any rights acquired hereunder shall not constitute a waiver of such terms or rights and shall not affect the right of the party to enforce or exercise such terms or rights in the future.

**16 Severability** If any one or more of the provisions or subjects contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable, it shall not affect the validity and enforceability of any other provisions or subjects. Sitework Provisions: In addition to the foregoing paragraphs, the following provisions shall also apply to any and all services performed by Seller's personnel at the Buyer's designated location. Applicable rates will be charged for Sitework based on the Seller's Services Rate Sheet in effect at the time the service is performed, unless otherwise agreed in writing by the Seller.

**17 Safety** Buyer shall ensure that Seller's personnel are not exposed to unreasonable hazards on or in the vicinity of the worksite. Buyer shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the worksite. Seller shall ensure that Seller's personnel will comply with the Buyer's documented safety regulations provided to the Seller while on the worksite. Seller shall ensure that Seller's personnel are provided with basic safety training for the normal work environment. Site specific training shall be provided at the Buyer's expense.

**18 Hazardous Locations** Seller reserves the right to refuse to dispatch personnel to worksites threatened by warfare, terrorist activities, or other unsafe conditions as determined by the Seller's management. A variety of factors will be considered in determining whether a location is hazardous, including whether the country within which the work is to be performed is under a Travel Warning Status. As determined by the Dutch Ministry of foreign affairs. Seller reserves the right to recall personnel if the worksite does not meet reasonable health and safety standards. Time spent in hazardous locations will be billed at applicable hazardous location rates (which are location and situation specific).

**19 Living Conditions** If the Buyer provides meals and living accommodations, Seller reserves the right to recall the Seller's personnel if the accommodations and meals are not suitable (as determined by the Seller's management). Seller reserves the right to make alternate arrangements at the cost of the Buyer if other accommodations are available.

**20 Maximum Time on Worksite** Seller reserves the right to replace personnel after two weeks for offshore locations and three weeks for onshore locations at the Buyer's expense.

**21 Seller's Personnel on Worksite** Seller reserves the right to determine the number of Seller's personnel required for implementation of a project. All costs for the Seller's personnel on worksite shall be paid by the Buyer.

**22 Communications Access Buyer** shall provide at no cost to Seller unlimited access to telephone, fax, and data transmission lines to the Seller's personnel on worksite for communicating with the Seller's office for purposes associated with the required work.