

OUTREACH OFFSHORE LIMITED, CONDITIONS OF SALE

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1. **Definitions**
In these terms and conditions ("Terms") "Seller" means OUTREACH OFFSHORE Limited (Company No. SC123842); "Buyer" means the other party contracting with the Seller; "goods" means the products and "services", means the services to be purchased by the Buyer from the Seller.
2. **General**
2.1 These Terms are an integral part of every order (hereinafter defined) and of every Agreement.
2.2 Orders are accepted only upon and subject to these Terms. No term of any Buyer's order inconsistent with these Terms shall form part of any contract between Buyer and Seller.
2.3 No variation of these Terms shall have any effect unless agreed to in writing by both the Buyer and the Seller and any such agreement on the part of the Seller (other than in relation to price) shall only be effective if entered into in writing by a Director for the time being of the Seller or his duly appointed deputy.
2.4 No oral representation, undertaking or warranty purporting to be given on behalf of the Seller shall have effect to vary these Terms.
2.5 No drawings, illustrations or descriptions or any other information submitted or contained in catalogues or other advertising matter shall be deemed to form part of the order or the contract between the Buyer and the Seller and are provided for general information and guidance only.
2.6 All orders must be in writing and are accepted subject to OOL terms and conditions of sale. No terms or conditions put forward by the Buyer and no representations, warranties, guarantees or other statements not contained in Sellers Quotation or Order Acknowledgement nor otherwise expressly agreed in writing by the seller shall be binding on the Seller.
3. **Order Confirmation**
Unless otherwise expressly stated in writing all quotations and estimates by the Seller are invitations to treat. The Buyer's order whether for goods, services or both ("order") is an offer and will become binding only upon the Seller's written confirmation and acceptance of the order. A confirmed order may only be cancelled or varied with the Seller's consent and forms a binding contract between the Buyer and the Seller and is subject to these Terms ("contract"). The giving of the Seller's consent shall not in any way prejudice the Seller's right to recover from the Buyer full compensation for any loss or expense arising from such cancellation or variation.
4. **Price**
4.1 Unless expressly agreed upon otherwise, all prices for goods and/or services are net of Value Added Tax and/or any other applicable taxes or levy in the agreed currency.
4.2 All prices for goods quoted are Ex Works. All delivery costs are to be paid by the Buyer unless otherwise agreed in writing between the parties.
4.3 All prices for services quoted are (unless a fixed price is given) calculated using the Seller's daily fee rates for individuals and are calculated on the basis of an eight-hour day, worked during the hours of 8am to 6pm ("Business Hours") or otherwise if stated by the Seller. The Seller shall be entitled to charge an overtime rate of 150% of the daily fee rate on a pro rata basis for any time worked by individuals whom it engages on the services outside Business Hours.
4.4 In relation to services the quote excludes the following which shall be payable by the Buyer, following submission of an appropriate invoice: the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Seller engages in connection with the services; and the cost to the Seller of any materials or services procured by the Seller from third parties for the provision of the services.
4.5 Any price quoted by the Seller or comprised in the order or contract are provisional only but in the case of orders or contracts or any part thereof accepted for delivery within 21 days of the date of acceptance of the order or contract the price will remain firm. For orders or contracts or any part thereof accepted for delivery beyond 21 days of the date of acceptance of the order or contract, the price will be subject to such an increase as may be applicable at the date of dispatch of the goods or delivery of services and of each consignment thereof in consequence of variation in costs including the cost of raw materials, labour or currency exchange rates.
4.6 The price for goods and/or services does not include Value Added Tax or any other tax or levy on the supply of goods or services which will be an additional charge to the Buyer and charged at the rates ruling at the tax points.
5. **Payment**
5.1 Payment for capital equipment shall, without exception, be made by the Buyer in full prior to despatch. Payment for services and spare parts shall be made within 30 days from date of invoice (unless agreed in writing) for the services being carried out by the Seller or their nominee. The Buyer's payment obligation is deemed to have been met as soon as the full amount is unconditionally credited to the Seller's bank account as provided to the Buyer from time to time.
5.2 Any terms of payment that differ from those specified in 2.6 and 5.1 shall, without exception, require separate agreement in writing.
5.3 The Seller reserves the right to charge interest at the then current Bank of Scotland Base Rate plus eight percent (8%) per annum on any sums unpaid on the due date, such interest to accrue from day to day.
5.4 The Buyer shall not be allowed to set off, counterclaim, deduct or withhold any sum owed by the Seller to the Buyer against any sum due to the Seller from the Buyer. Nor shall the Buyer make any retention of money due to the Seller in connection with any dispute.
5.5 The Seller shall be entitled to suspend deliveries to the Buyer where the Seller's payment terms are not adhered to.
5.6 No goods can be returned for credit without the formal consent of the Seller. Goods purchased for the Buyer which cannot be returned to the manufacturer will not be accepted for return. Where the Seller accepts a return, the goods must be promptly returned carriage paid by the Buyer with appropriate paperwork and in a condition acceptable to the Seller, within 30 days of Seller's acceptance of the return. Once accepted by the Seller, a credit equal to the invoice price less 20% will be issued to the Buyer.
6. **Title**
6.1 No title to any goods shall vest in the Buyer unless and until the Buyer makes full payment to the Seller:
 - for those goods; and
 - for all goods supplied to the Buyer and for all outstanding sums due to the Seller.
 Until such payment has been made or goods have been sold, incorporated or utilised in the manufacture of products the Buyer shall in all respects treat and deal with goods as the custodian of the Seller and shall store goods so that they are readily identifiable as the property of the Seller. During such period (and without prejudice to its other rights) the Seller shall be entitled to enter any premises to inspect goods and, if the Buyer shall fail to make payment, to repossess and reclaim goods.
6.2 The Buyer shall not be entitled to incorporate goods with other goods so as to form a new product except on the condition that such new product shall be the property of the Seller until such time as payment in full is made by the Buyer of all sums payable in respect of goods.
7. **Storage**
If after one month from the date that the Buyer has been notified that goods are ready for collection they have not been collected from the Seller's premises then the Seller reserves the right to charge the Buyer a reasonable fee for storage commensurate with the commercial charges of warehouse keepers.
8. **Delivery**
8.1 Any time or date for delivery named by the Seller is an estimate only and the Seller shall not be liable for the consequences of any delay in delivery of goods, and it is specifically stated that time is not to be of the essence. Any times quoted shall in any event be calculated from date of the Seller's written order confirmation and receipt by the Seller of all information necessary to enable the Seller to prepare the goods for the Buyer.
8.2 Delivery shall be deemed to take place when goods reach the Buyer's premises or from the time of collection by the Buyer or his agent or carrier.
8.3 In the event of an agreed change in the order the Seller is entitled to set a new date for delivery.
9. **Services**
9.1 The Buyer shall:
9.1.1 co-operate with the Seller in all matters relating to the services and shall if the Seller in its sole discretion requires a manager to be appointed to oversee the services on behalf of the Buyer, such person to be identified before the commencement of the services. That person shall have the authority to contractually bind the Buyer on matters relating to the services including by agreeing to any changes to the initial services ordered;
9.1.2 provide to the Seller in a timely manner all documents, information, items and materials in any form (whether owned by the Buyer or third party) reasonably required by the Seller in connection with the services and ensure that they are accurate and complete in all respects;
9.1.3 inform the Seller of all health and safety and security requirements that apply at any of the Buyer's premises where services are or can reasonably be foreseen to be carried out; obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Seller to provide the services, including in relation to the installation of the Seller's equipment, the use of all Buyer materials and the use of the Seller's equipment insofar as such licences, consents and legislation relate to the Buyer's business, premises, staff and equipment, in all cases before the date on which the services are to start; and
9.1.5 where applicable, ensure that all the Buyer's equipment is in good working order and suitable for the purposes for which it is used in relation to the services and conforms to all relevant standards or requirements.
9.2 If the Seller's performance of its obligations under this contract is prevented or delayed by any act or omission of the Buyer, its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, the Seller shall be allowed an extension of time to perform its obligations equal to the delay caused by the Buyer.
10. **Liability**
10.1 Where any goods not manufactured by the Seller are found to be defective or in short supply, the Seller will only be liable to the Buyer to the extent of the Seller's entitlement against the manufacturer of goods in respect of such defect or short supply.
10.2 All risks including the risk of loss or deterioration or of damage to goods will be borne by the Buyer from delivery as defined herein and the Buyer shall insure goods for their full market value.
10.3 Unless the Buyer gives notice in writing to the Seller of defects in goods within 14 days of receiving the same, the Buyer shall be deemed to have accepted goods as having been delivered in all respects in accordance with the order and shall have no further right to reject goods or recover any compensation thereof. The above notice in writing shall have no effect unless it identifies goods and defects complained of in enough detail for the Seller to identify same and further the Seller is given a reasonable opportunity of inspecting the same. If goods have been delivered by a carrier such notification must also be sent direct to the carrier. There shall be no obligation on the Seller to remedy any such defects unless the Buyer shall strictly adhere to such administrative procedures as shall from time to time be introduced by the Seller.
10.4 For capital equipment, 12 months full warranty and 24 months warranty for load bearing component or 1000 operating hours per year (Palfinger Products). The warranty period begins on the commissioning date providing that commissioning occurs no more than six (6) months from the ex-works factory accepted delivery date. If OOL are not required in the commissioning, the warranty begins on delivery. Parts and Labour during Outreach Offshore Limited's normal working hours are included. Travel time and other subsistence costs are chargeable at cost +10% (20% for outside UK). It is advised that an OOL engineer is present at Set to Work (STW) load test and commissioning stages, to ensure warranty guarantees are assured by overseeing correct installation. *Note: In the event of a warranty claim being made, the claim will be subject to the results of a thorough examination of the equipment by a qualified OOL Service Engineer. The result of this examination may invalidate the warranty in the event that the equipment is found to have been misused, abused, installed incorrectly or the OOL or OEM maintenance requirements have not been adhered to.*

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- 10.5 Where the Seller administers a warranty on behalf of a third-party manufacturer which the Seller represents, the third-party manufacturer shall at his discretion determine the admissibility of a warranty claim or may decide to submit a new or repaired part or repair the faulty part. The Seller shall not be liable on any basis whatsoever for any claim by the Buyer in relation to a third-party manufacturer's warranty or their administering thereof.
- 10.6 Subject to clauses 10.3 and 10.4 the Seller undertakes to make good any defect which shall develop in the goods within a warranty period specified in writing in the order confirmation. For spare parts the warranty period of 12 months shall commence on the date of despatch by the Buyer to the first user but not later than 28 days from date of despatch from the Seller to the Buyer, without written consent of the Seller. Without prejudice to the generality of the foregoing this shall not apply to:
- (a) any part from which the identification marks have been altered or removed.
- (b) any goods which have been altered without approval of the Seller or to which any part not approved by the Seller has been added.
- (c) any second-hand goods or part thereof.
- (d) any other item specifically excluded on the Warranty terms and conditions Document issued by the manufacturer of the goods or by the Seller.
- 10.7 It shall be the responsibility of the Buyer to ensure that all faulty or damaged parts are returned carriage paid to the Seller within 28 days of receipt by the Buyer of the replacement parts. Failure to do so within 28 days shall render any claim to be null and void.
- 10.8 If the Buyer does not receive the goods within 14 days of invoice date the Buyer shall immediately notify the Seller in writing of such non-receipt. If the Buyer fails to notify the Seller within this period the Seller shall not be liable for non-delivery of goods and the Buyer shall be liable to the Seller for any loss a damages which the Seller may suffer in consequence of the Seller's resultant omission to notify the carriers or insurers of the non-arrival of goods.
- 10.9 Where the Buyer purchases goods with the intention of selling them to a third party or parties, then the fact that the Seller has sold goods to the Buyer shall not of itself imply that the Seller was aware of or approved the terms of any statements made or to be made by the Buyer to any third party concerning the fitness for purpose, quality or duration of effectiveness of goods. If the Buyer makes any such statement to any third party in any "guarantee" (as defined in Section 30(2) of the Consumer Rights Act 2015) the Seller specifically excludes any liability either by the Buyer or any third party concerned arising under such guarantee whether the Seller was aware of such guarantee or not. When so selling goods, the Buyer shall ensure that they have not been damaged in any way and that they are fit for the purpose for which they are being sold and the Buyer shall in any sales literature or on any packaging in addition to that used by the Seller draw to any third party's attention the manufacturer's specifications and instructions.
- 10.10 Except as aforesaid all conditions, warranties and representations whether expressed or implied, statutory or otherwise, relating to goods are hereby excluded provided that nothing contained in these Terms shall exclude or restrict any of the conditions implied by Section 12 of the Sale of Goods Act 1979 or in the case of a sale to a person dealing as a consumer. Any of the conditions implied by Sections 13 to 15 (inclusive) of the Sale of Goods Act 1979, sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 or any other statutory right of a consumer are excluded under these Terms.
- 10.11 If upon completion of the services the services have been defectively performed, the Seller may, at its sole option and discretion, at no further expense to the Buyer, re-perform the services. The Buyer shall have no other remedy in respect of defectively performed services and in particular shall have no remedy in damages.
- 10.12 Except as aforesaid the Seller shall not be liable to the Buyer, whether in contract, delict, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with any order or contract for:
- 10.12.1 loss of profits;
- 10.12.2 loss of sales or business;
- 10.12.3 loss of agreements or contracts;
- 10.12.4 loss of anticipated savings;
- 10.12.5 loss of or damage to goodwill;
- 10.12.6 loss of use or corruption of software, data or information; and/or
- 10.12.7 any indirect or consequential loss.
11. **Termination**
- 11.1 Without affecting any other right or remedy available to it, the Seller may terminate a contract made under these Terms with immediate effect by giving written notice to the Buyer if:
- 11.1.1 the Buyer commits a material breach of any provision of these Terms which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 10 days after being notified to do so;
- 11.1.2 the Buyer repeatedly breaches any provision of these Terms in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to these Terms;
- 11.1.3 the Buyer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;
- 11.1.4 the Buyer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors;
- 11.1.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Buyer;
- 11.1.6 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Buyer (being a company);
- 11.1.7 the holder of a qualifying floating charge over the assets of the Buyer (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 11.1.8 a person becomes entitled to appoint a receiver over all or any of the assets of the Buyer or a receiver is appointed over all or any of the assets of the Buyer;
- 11.1.9 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of Buyer's assets and such attachment or process is not discharged within 14 days;
- 11.1.10 any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 11.1.1 to clause 11.1.9 (inclusive); or
- 11.1.11 the Buyer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 11.2 Without affecting any other right or remedy available to it, the Seller may terminate any order or contract made subject to these Terms with immediate effect by giving notice to the Buyer if:
- 11.2.1 the Buyer fails to pay any amount due under an order on the due date for payment and remains in default not less than 5 days after being notified in writing to make such payment; or
- 11.2.2 there is a change of control of the Buyer.
12. **Variation**
- The Seller reserves the right to make any changes in the design or specification of goods to be supplied so long as the performance of the goods remains unimpaired. Where the Seller is not the manufacturer of the goods, any changes made by the manufacturer without prior knowledge and consent of the Seller which render the goods to be less suitable for the intended purpose will permit the Seller at its sole discretion to terminate the contract in consequence of the aforesaid unforeseen changes in specification by the manufacturer and the Seller shall not be liable for any loss a damage howsoever incurred by the Buyer or any third party in relation to the termination of the contract.
13. **Force Majeure**
- If any event beyond the control of the Seller (including but without limitation any fire or flood, war, epidemic, pandemic riot, terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations, nuclear, chemical or biological contamination or sonic boom, interruption or failure of utility service, act of government or act of God or any labour or trade dispute, strikes, industrial action or lockouts) interferes with production, supply or transportation of goods, or the supplying of the services then the quantity of goods to be supplied or the services to be provided under any contract made under these Terms may be reduced and/or delayed by the Seller without liability to the Buyer.
14. **Part Exchange**
- 14.1 Where the Seller and the Buyer have agreed that payment of any part of the contract price shall be made by the Buyer transferring to the Seller ownership of specified goods of the Buyer then the Buyer warrants:
- 14.1.1 that it has at the contract date and will have at the date of delivery good and marketable title free of any lien, charge or encumbrance to the specified goods; and
- 14.1.2 that the specified goods will be in the same condition at the date of delivery as they were when inspected by the Seller.
- 14.2 Title to the goods shall be transferred by the Buyer making delivery to the Seller's premises at Falkirk, Scotland.
- 14.3 The Seller may at its sole discretion reject the goods delivered and recover from the Buyer the resulting unpaid balance of the Contract Price if upon inspection by the Seller the said goods are found not to be as represented originally by the Buyer or as inspected earlier by the Seller or his representative.
15. **Site Working**
- Where work is to be carried out by the Seller out with the Seller's premises then the Seller's Site Work Conditions (a copy of which is available from the Seller) are agreed by the Buyer and shall be deemed to be incorporated into any contract made under these Terms.
16. **Data Protection**
- The Buyer and the Seller acknowledge that for the purposes of the
- (i) Data Protection Act 1998,
- (ii) the Privacy and Electronic Communications (EC Directive) Regulations 2003;
- (iii) from 25 May 2018 the General Data Protection Regulation (EU 2016/679) and any legislation implemented in connection with the General Data Protection Regulation;
- (iv) any data protection legislation coming into force as a result of the United Kingdom leaving the European Union and
- (v) any replacement legislation in respect of any of the same coming into effect from time to time and in each case as amended, extended or superseded from time to time ("Data Protection Legislation") they will fulfil their roles as Data Controller and/or Data Processor in any given circumstance and take reasonable steps to ensure compliance with the Data Protection Legislation at all times.
17. **Notices**
- Notices shall be given by either party in writing, addressed to the other party at the last known address of the party to whom notice is being sent. Any such notice shall be deemed to have been given 24 hours after time of sending.
18. **Law**
- This Contract shall be governed and construed in accordance with the Laws of Scotland and the parties hereby submit to the exclusive jurisdiction of the Scottish Courts.