

## **TERMS AND CONDITIONS OF SALE**

### **As is**

1. ALL ASSETS ARE SOLD AS IS, WHERE IS AND WITH ALL FAULTS. ANY EXPRESS OR IMPLIED WARRANTIES INCLUDING THOSE AS TO THE NATURE, QUALITY, QUANTITY, VALUE OR CONDITION OF ANY ASSET, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT ARE HEREBY EXCLUDED TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW. The Buyer acknowledges that any software or intellectual property rights attaching to an asset or assets may not be the property of the Seller or capable of transfer by the Seller. Neither the Seller nor GoIndustry DoveBid is in any way authorising the use by the Buyer of such software or intellectual property rights and any use of such software or exploitation of such intellectual property rights shall be at the Buyer's sole risk.

2. Illustrations, pictures or videos posted on GoIndustry DoveBid's website (the "Site") or otherwise provided by the Seller or GoIndustry DoveBid are for the convenience of the Buyers only. GoIndustry DoveBid has used its reasonable endeavours to ensure that the descriptions of each asset(s) appearing on the Site are accurate, but the Buyer relies upon such description at its own risk. Buyers should satisfy themselves prior to the sale as to the condition of the asset and should exercise and rely on their judgment as to whether the asset accords with its description at their own risk. Subject to the obligations accepted by GoIndustry DoveBid under these Terms and Conditions, neither the Seller nor GoIndustry DoveBid nor any of their respective employees or agents are responsible for errors of description or for the genuineness or authenticity of any asset.

### **General**

3. By submitting an offer, the Buyer represents, warrants and undertakes that it has the authority and capacity to make such an offer and purchase the assets and that any offer that it makes constitutes an irrevocable offer to buy the assets for the full offer amount upon these terms and conditions (and such additional terms and conditions (if any) as may be imposed by the Seller. For the purposes of these terms and conditions, we refer to any person or entity registering to offer or offering to buy goods as a "buyer" regardless of whether any contract of sale is concluded.

### **Payment terms**

4. The Buyer shall pay to GoIndustry DoveBid such premium ("Buyer's Premium") as set forth in the Notice to Purchasers or otherwise set forth on the Site for the privately negotiated sale in question to which will be added any applicable value added tax or the equivalent or similar sales taxes in the relevant jurisdiction at the current rate. The Buyer's Premium is not negotiable and is payable by all Buyers. GoIndustry DoveBid, when acting as agent for the Seller, may also receive commission from the Seller.

5. Payment for the assets is required as stipulated in the Notice to Purchasers or the invoice or as otherwise set forth on the Site for the privately negotiated sale in question. Buyers shall be responsible for any charges raised in respect of conversion or transfer of monies. If goods are exported, tax refunds or zero rating may apply, tax refunds (if any) will be made by GoIndustry DoveBid, subject to receipt of (i) satisfactory proof of export by the Buyer; (ii) the corresponding amount of tax refund from the relevant tax authority or the Seller and (iii) the relevant tax forms (if applicable).

6. The Buyer is advised to seek its own tax advice. The Buyer agrees that invoices may be issued in electronic form by email or otherwise.

## Collection/Removal

### 7. The Buyer will:

- (a) remove assets from the Seller's premises during normal business hours and not later than the Collection Date set forth in the Notice to Purchasers or otherwise set forth on the Site for the privately negotiated sale in question;
- (b) only remove assets by previous arrangement with, and subject to the supervision of GoIndustry DoveBid or its agent(s) or appointed representative(s);
- (c) not be permitted to remove any assets it has purchased from the Seller's premises until all sums due in respect thereof have been paid;
- (d) be responsible for the removal and insurance of the purchased asset(s) at its own expense; and
- (e) where so requested by the Seller and/or GoIndustry DoveBid, provide method statements and/or risk assessments for the removal of the assets to the satisfaction of the Seller and/or its appointed representative(s).

If, in GoIndustry DoveBid's opinion, removal of any asset or part thereof will be likely to cause serious damage to the Seller's premises, or any other damage which the Buyer is either unable or unwilling to rectify or is being undertaken without an approved "method statement" and/or "risk assessment", GoIndustry DoveBid may by notice to the Buyer rescind the sale of such asset or permit the removal thereof from the premises to proceed subject to such conditions as it may think fit to impose. GoIndustry DoveBid shall have no responsibility to disconnect utilities to the sold asset, including electric, gas, waste and water lines.

The Buyer shall provide, or ensure that their agent(s) performing removals on its behalf provide, on demand, evidence of insurance policies reasonably satisfactory to GoIndustry DoveBid and/or the Seller.

Without prejudice to any claims that GoIndustry DoveBid and/or the Seller may have against the Buyer for breach of contract or otherwise the Buyer will become liable from the Collection Date for all storage, security and administration expenses and the cost of and incidental to re-selling and/or otherwise disposing of un-cleared items.

8. The Buyer acknowledges that the Seller's facility is a potentially dangerous place. Flammable, noxious, corrosive and pressurized substances may be present. Heavy equipment may be operated, and electrical circuits may be live. Every person enters the site at his or her own risk with notice of the condition of the premises and the activities that will be or have been conducted on the premises. Buyers shall so advise their agents and employees. No person shall have any claim against GoIndustry DoveBid, the Seller or their respective agents or employees for any injuries sustained or for damages to or loss of property that may occur at the site. Nothing in this clause shall limit or exclude liability for death or personal injury resulting from the negligence of GoIndustry DoveBid or the Seller.

9. The Buyer acknowledges that neither Seller nor its appointed representative(s) are obliged to give any other support or owes any other performance other than those described in these Terms and Conditions. In particular, the Buyer acknowledges that neither the Seller nor GoIndustry DoveBid will give any start-up assistance or trouble shooting support during re-assembling and start-up of the assets unless otherwise agreed in writing.

International statutory compliance exclusion.

10. It is expressly brought to the Buyer's attention that, at the time of sale, any asset for sale in this sale:

(a) may not necessarily comply with the Health and Safety at Work Etc. Act 1974, Environmental Protection Act 1990 or any other UK and/or EC Acts, Regulations, Directives or their applicable laws or equivalent or similar laws in any relevant jurisdiction or; and

(b) could contain blue or white asbestos, hazardous substances, dangerous chemicals etc. which if not handled correctly during their removal from a site could be in breach of the Health & Safety at Work Etc. Act 1974, Control of Substances Hazardous to Health Regulations 2002 or any other current legislations covering the use of such substances in a working environment in the UK, the EC, the United States or any other relevant jurisdiction. GoIndustry DoveBid has no duty to remove any hazardous substances that are contained in or are a part of any asset.

11. The Buyer undertakes to:

(a) remove, ship and use any purchased plant and equipment within any relevant jurisdiction in a way that does not contravene any relevant legislation and in full compliance with all applicable health and safety standards and regulations; and

(b) comply with all current applicable legislations in any relevant jurisdiction and reasonable instructions by GoIndustry DoveBid in relation to the removal/disposal of waste including hazardous waste.

### **Exports**

12. The Buyer agrees to comply with all applicable export control and related laws and regulation and not to violate any applicable local, state, national or international law, statute, ordinance, rule or regulation. Buyers acknowledge that GoIndustry DoveBid is not the exporter of any purchased asset unless expressly stated. GoIndustry DoveBid makes no representation or warranty concerning, and has conducted no investigation to ascertain which assets, if any, constitute, for example, "Restricted Technology" for US law purposes or whose export is otherwise restricted under applicable law. GoIndustry DoveBid and/or the Seller reserves the right to cancel or rescind any sale at any time in the event it determines, in its absolute discretion, that the sale does or may violate applicable export or import control or related laws and regulations.

### **Transfer of risk and title**

13. Upon notification of acceptance of its Offer, the Buyer shall assume all risks in and relating to the assets. The Buyer is advised to effect in respect of all such risks arising thereafter any insurance it may consider necessary. The duty of GoIndustry DoveBid and/or the Seller to make assets available shall be deemed performed upon notification of acceptance of the Buyer's offer even if an asset is subsequently damaged and/or part thereof has been lost.

Property and title in each asset shall not pass to the Buyer until:

(a) full payment therefore has been received or (where payment or part payment is made by cheque) until the cheque(s) in question have been cleared; and

(b) each such asset has been removed from the Seller's premises in its entirety.

### **Limitation of Liability**

14. Neither Seller nor GoIndustry DoveBid shall be liable, in contract, tort (including negligence) or for breach of statutory duty or in any other way for:

(a) any loss arising from or in connection with loss of revenue, profits, contracts or business or failure to realise anticipated savings or profits;

(b) any loss of goodwill or reputation; or

(c) any indirect or consequential losses suffered or incurred by Buyer,

arising out of or in connection with these Terms and Conditions and any of the actions or events contemplated within them or deriving from a sale of goods pursuant to them ("Relevant Events").

The aggregate respective liability of Seller or GoIndustry DoveBid in respect of any other loss or damage suffered by a Buyer and arising out of or in connection with these Terms and Conditions or arising out of or in any way connected with any Relevant Events, whether in contract, tort (including negligence) or for breach of statutory duty or in any other way, shall not exceed (i) in the case of the Seller, the amount of the purchase price paid by the Buyer; and (ii) in the case of GoIndustry DoveBid the buyer's premium paid by the Buyer, in each case in respect of the goods which are the subject of the claim.

The Buyer undertakes to defend (by counsel satisfactory to GoIndustry DoveBid) and indemnify GoIndustry DoveBid and Seller and hold GoIndustry DoveBid and Seller harmless from and against any claim, demand, cause of action, liability or expense (including attorneys' fees and costs) asserted against or incurred by GoIndustry DoveBid, the Seller or any third party in connection with the sale, removal, shipment or use of any purchased assets or a breach by the Buyer of these Terms and Conditions.

Nothing in this clause shall limit or exclude liability for death or personal injury resulting from the negligence of Seller or GoIndustry DoveBid or their respective employees or agents.

Notwithstanding any contrary provision in these Terms and Conditions, neither the Seller nor GoIndustry DoveBid limits or excludes its liability in respect of fraud, any breach of section 12 of the Sale of Goods Act 1979 or any other statutory or other liability which cannot be excluded under applicable law.

15. GoIndustry DoveBid is acting as agent of the Seller and is not responsible for acts and omissions of the Seller or any of the Seller's principals, officers, directors, employees or other agents.

### **Choice of Law and Venue**

16. These Terms and Conditions and any claims (including non-contractual disputes) shall be governed by and construed in accordance with the laws of England and the Parties hereby irrevocably submit to the exclusive jurisdiction of the English courts over any claims, disputes or matter arising from these Terms and Conditions.

17. None of these Term and Conditions shall be relied upon or be enforceable under the Contract (Rights of Third Parties) Act 1999 by any third party who is not party to these Terms and Conditions.

18. In the event that any of the provisions of these Terms and Conditions shall prove to be invalid or null and void, the remainder of the provisions shall not affected thereby.

These Terms and Conditions are drawn up in the English language. If these Terms and Conditions are translated into another language, the English language text prevails.

GoIndustry DoveBid

February 2011