1. DEFINITIONS

“Company” means McCloskey International Ltd. “Customer” means the person, firm or company who buys or agrees to buy the Goods from the Company; “Goods” means the equipment, spare parts, wear parts and related technical documentation as referred to in Clause 2.2 below; “Contract” means the contract for the sale of goods between the Company and the Customer on the terms and conditions set out herein. Contract includes only such documents as are expressly made part of this contract by the Company and the Customer. Such documents may include Company’s quotation, technical specifications, purchase order, purchase order acknowledgment, letter of award and other attachments, but they do not include any other terms, conditions or documents, whether printed on a Customer’s purchase order form or otherwise. Descriptions, illustrations and other information contained in catalogues, price lists and other literature issued by the Company or on its behalf are intended to act as a general guide and description of the goods, and do not form a part of the Contract.

2. ENTIRE CONTRACT AND CONTRACT SCOPE

2.1. Company agrees to sell the Goods at the agreed prices conditioned upon Customer’s acceptance of the Contract. All purchase orders are subject to Company’s written acceptance. This McCloskey sales terms govern all sales including orders placed electronically. If a separate agreement is mutually agreed and executed by the Company and the Customer, such agreement shall prevail over these McCloskey sales terms. The Contract between Company and Customer supersedes all proposals and prior agreements, oral or written, and all other communications between Company and Customer relating the subject matter hereof. Any terms or conditions proposed by the Customer shall be null and void. All Contract changes must be agreed to in writing by both parties. Company’s quotations shall be binding upon Company only if and to the extent that (i) Company receives a purchase order based on Company’s quotation and (ii) Company acknowledges such purchase order in writing.

2.2. The scope of the Goods sold by the Company is exclusively described in Company’s specification of products attached or referred to in this Contract. Unless otherwise agreed, in writing, the scope does not include any services of the Company including, but not limited to, installation or commissioning of the Goods.

3. PRICE AND PAYMENT

3.1. Unless otherwise stated by the Company, the prices specified are Company’s ex-works prices and do not include any transportation costs incurred in the delivery of the Goods from the Company’s manufacturing location to the delivery address. The Company may vary the price expressed in the Contract to reflect any increase (for whatever reason) between the date of the Contract and the date of the Company’s invoice.

3.2. Unless otherwise agreed, the purchase price shall be paid within seven (7) days of the date of invoice or prior to delivery of the Goods, whichever comes earlier. If the Customer fails to pay by the due date, the Company shall be entitled to interest thereon from the date of the payment due date. The rate of interest shall be six months’ EURIBOR + seven (7) per cent per annum. If the rate of interest exceeds the maximum rate permitted by the law in the jurisdiction where a claim therefore is being asserted, the interest shall be reduced to such maximum legal interest rate. If the Customer is unable to pay, the Company is entitled to stop or suspend performance of the contractual obligations until payment is made. All payments shall be in GBP.

3.3. If the Customer has not paid the amount due within two (2) months after the due date, the Company is entitled to terminate the Contract without a notice period by written notice to the Customer and, in addition to the interest referred to in Clause 3.2 above, to claim compensation for the loss it has incurred.

3.4. All sums payable under this Contract by Customer to the Company shall be paid free and clear of all deductions and withholdings for taxes, duties, levies or other charges imposed by the federal, state, regional or other government in the country of the Customer or the site (if different) except as required by law. If any deduction or withholding is required by law, the Customer shall not pay the deduction due date pay to Company such additional sum(s) as shall, after the making of the deduction or withholding, result in the payment to Company of the net sum provided for in this Contract. The Customer shall make all necessary tax or other returns and all necessary payments in relation to any such deduction or withholding and shall pay (and hold Company harmless from liabilities for) any sum deductible as a result of any failure, delay or error in any such matter. The Customer shall promptly provide the Company with all appropriate certificates, receipts or other documents (whether or not issued by a taxing or other authority) evidencing the deduction or withholding.

3.5. All payments made to the Company pursuant to the Contract shall be made by the Customer from an account owned by the Customer at an internationally renowned bank or equivalent financial institution, or by letter of credit as provided for in the Contract. Should the Customer intend to use any other accounts or means of payment, e.g. a Customer group financial service provider, such arrangement shall be approved by the Company prior to any payments being received.

4. DELIVERY

4.1. Unless otherwise agreed, the Goods shall be delivered EXW McCloskey manufacturing plant (Incoterms 2010). Risk shall pass to the Customer according to the delivery term.

4.2. Dates quoted for delivery of Goods are approximate only and the Company shall not be liable for any delay in delivery of the Goods howsoever caused. The Customer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery. Delivery time shall not be of the essence unless previously agreed by the parties in writing.

4.3. Partial shipments are permitted. Each partial shipment shall be considered delivery, and a pro rata payment shall become due as each partial shipment is made.

4.4. The Customer should make all necessary arrangements to inspect, examine and test all Goods prior to their dispatch from the Company’s premises. All claims or objections giving rise to the rejection of the Goods must be made by the Customer in writing within a period of two (2) business days after the inspection. Failure to make such claim within the stated period shall constitute an unconditional and irrevocable acceptance of the Goods.

4.5. If the Customer anticipates that he will be unable to accept delivery of the Goods at the time for delivery, the Customer shall forthwith notify Company in writing thereof, stating the reason and, if possible, the time when he will be able to accept delivery. If the Customer fails to accept delivery at the time for delivery, the Company may, at its sole discretion, and without prejudice to any other right or remedy which it may have, a) arrange for storage and insurance of the Goods at the risk and expense of the Customer until actual delivery has taken place and charge the Customer for such costs; or b) sell the Goods at best price readily obtainable and (after deducting reasonable storage, insurance and all other charges imposed by the federal, state, regional or other government in the country where the Goods from the Company is located (except infringement of the Contract in whole or in part for Customer’s breach of contract, in which case the Company is entitled to compensation for the loss it has suffered by reason of the Customer’s default).

5. LIABILITY FOR DEFECTS

5.1. Company’s limited liability for defects is set out in Appendix I. This limited warranty is expressly in lieu of all other warranties, representations, guarantees and the like, including but not limited to implied warranties of merchantability and fitness for any particular purpose, and constitutes the only warranty of the Company with respect to the Goods. The remedies provided herein and in the Appendix I are the Customer’s exclusive remedy against the Company under the Contract, whether in contract or in tort or under any other legal or contractual or extra-contractual basis or theory, and whether arising out of warranties, representations, instructions, installations or defects from any cause.

5.2. Save as stipulated in the Appendix I, the Company shall not be liable for defects in the Goods. This applies to any loss the defect may cause including loss of production, loss of profit and consequential or other indirect loss.

6. LIABILITY FOR DAMAGE CAUSED BY THE PRODUCTS

6.1. Company shall not be liable for any damage to movable or immovable property caused by the Goods after they have been delivered. Nor shall Company be liable for any damage to products manufactured by the Customer or to products of which the Customer’s products form a part. If Company incurs liability towards any third party for such damage or loss as described above, the Customer shall indemnify and hold Company harmless.

6.2. If a third party lodges a claim for loss or damage referred to in the Clause 6.1 against one of the parties, the other party shall be informed thereof in writing and test all Goods at the time for delivery, the Company may, at its sole discretion, and without prejudice to any other right or remedy which it may have, a) arrange for storage and insurance of the Goods at the risk and expense of the Customer until actual delivery has taken place and charge the Customer for such costs; or b) sell the Goods at best price readily obtainable and (after deducting reasonable storage, insurance and all other charges imposed by the federal, state, regional or other government in the country where the Goods from the Company is located (except infringement of the Contract in whole or in part for Customer’s breach of contract, in which case the Company is entitled to compensation for the loss it has suffered by reason of the Customer’s default).

6.3. If the Customer does not accept delivery of the Goods, the Company is entitled to stop or suspend performance of the contractual obligations until payment is made. All payments shall be in GBP.

6.4. All payments made to the Company pursuant to the Contract shall be made by the Customer from an account owned by the Customer at an internationally renowned bank or equivalent financial institution, or by letter of credit as provided for in the Contract. Should the Customer intend to use any other accounts or means of payment, e.g. a Customer group financial service provider, such arrangement shall be approved by the Company prior to any payments being received.

6.5. Unless otherwise stated by the Company, the prices specified are Company’s ex-works prices and do not include any transportation costs incurred in the delivery of the Goods from the Company’s manufacturing location to the delivery address. The Company may vary the price expressed in the Contract to reflect any increase (for whatever reason) between the date of the Contract and the date of the Company’s invoice.

6.6. Unless otherwise agreed, the purchase price shall be paid within seven (7) days of the date of invoice or prior to delivery of the Goods, whichever comes earlier. If the Customer fails to pay by the due date, the Company shall be entitled to interest thereon from the date of the payment due date. The rate of interest shall be six months’ EURIBOR + seven (7) per cent per annum. If the rate of interest exceeds the maximum rate permitted by the law in the jurisdiction where a claim therefore is being asserted, the interest shall be reduced to such maximum legal interest rate.

6.7. If the Customer is unable to pay, the Company is entitled to stop or suspend performance of the contractual obligations until payment is made. All payments shall be in GBP.

6.8. If the Customer has not paid the amount due within two (2) months after the due date, the Company is entitled to terminate the Contract without a notice period by written notice to the Customer and, in addition to the interest referred to in Clause 3.2 above, to claim compensation for the loss it has incurred.

6.9. All sums payable under this Contract by Customer to the Company shall be paid free and clear of all deductions and withholdings for taxes, duties, levies or other charges imposed by the federal, state, regional or other government in the country of the Customer or the site (if different) except as required by law. If any deduction or withholding is required by law, the Customer shall not pay the deduction due date pay to Company such additional sum(s) as shall, after the making of the deduction or withholding, result in the payment to Company of the net sum provided for in this Contract. The Customer shall make all necessary tax or other returns and all necessary payments in relation to any such deduction or withholding and shall pay (and hold Company harmless from liabilities for) any sum deductible as a result of any failure, delay or error in any such matter. The Customer shall promptly provide the Company with all appropriate certificates, receipts or other documents (whether or not issued by a taxing or other authority) evidencing the deduction or withholding.

6.10. All payments made to the Company pursuant to the Contract shall be made by the Customer from an account owned by the Customer at an internationally renowned bank or equivalent financial institution, or by letter of credit as provided for in the Contract. Should the Customer intend to use any other accounts or means of payment, e.g. a Customer group financial service provider, such arrangement shall be approved by the Company prior to any payments being received.
occurring as a result of incorporating a design or modification at Customer’s request). The Company shall be liable under this Clause to pay the costs and damages only if the Customer promptly notifies the Company of any charge of such infringement, and the Company is given the right at its expense to settle such charge and to defend or control the defense of any action in respect of such charge. The Customer shall be obligated to assist the Company in the defense. For the avoidance of doubt, this Clause sets forth the Company’s sole and exclusive liability with respect to infringement of third party’s intellectual property.

8.2. The Company and its suppliers exclusively retain all right, title and interest in and to the intellectual property rights and related concepts, to developed know-how, inventions, innovations and improvements, concepts ideas and trademarks (“McCloskey IP”) furnished by Company to the Customer. Nothing in this Contract shall be construed as an assignment or transfer of title to or interest in McCloskey IP. The Customer may use McCloskey IP only for the installation, commissioning, operation, proper maintenance and repairing of the Goods at the site and such right of use is included in the fees. McCloskey IP may not be otherwise used, copied, reproduced or disclosed to a third party.

8.3. The Customer shall indemnify the Company against all costs, claims, damages or other expenses suffered by the Company in connection with any infringement of patent, copyright or other intellectual property right arising out of the manufacture or sale of goods in accordance with the Customer’s specifications.

9. TOOLING AND CUSTOMER’S PROPERTY

9.1. In the event special tooling (such as but not limited to molds, dies, forms, jigs, mandrels, fixtures and other special equipment, other than standard machinery which is required to produce the Goods) is required for the production of the Goods the parties shall enter into a separate agreement regulating such production. Unless otherwise agreed in writing, the Customer shall reimburse the Company for such tooling and tooling costs as part of the cost of sales.

9.2. Any machinery, materials or other property of the Customer delivered by it to the Company shall be at the risk of the Customer while in the Company’s possession and neither the Company nor its employees, servants and agents shall have any liability for loss of or injury to such machinery, materials or property howsoever occasioned or any other damage whether direct or consequential arising there from.

10. SERVICES

10.1. Installation. Any installation or other work carried out in connection with the goods at the Customer’s premises or outside of the Company’s premises shall be subject to the separate charges in addition to the purchase price of the Goods and the Customer agrees to indemnify the Company, its employees, servants and agents in respect of all damage or injury, actions, suits, claims, demands, costs or charges incurred in connection with such installations and work howsoever the same shall be occasioned. Possible service or installation works have no effect on the passing of risk from Company to the Customer as set out in Clause 4.1 above.

10.2. Service. All hours the Company’s employees spend on Customer’s site shall be charged to the Customer, included hours wasted due Customer. The Customer must provide to the Company the technical processing and work howsoever the same shall be occasioned. Possible service or installation works have no effect on the passing of risk from Company to the Customer as set out in Clause 4.1 above.

10.3. Customer’s permits, approvals, data. The Company shall provide and pay for all permits and licenses required for the completion of installation and operation of the Goods. The Customer shall provide and pay for all necessary recordation, treatment, registration and reporting measures of electronic and other waste and hazardous substances. Timely performance by the Company is contingent upon Customer supplying to the Company, when needed, all required technical information and data, including drawing approval, as well as all required commercial documentation.

11. HEALTH, SAFETY AND ENVIRONMENTAL (“HSE”) REQUIREMENTS

11.1. The Customer shall take necessary measures to prevent health hazards and risks of injury or damage to equipment in respect to workplace safety, environmental issues and workers’ health issues.

11.3. Company’s Minimum Safety Requirements shall always be complied with. Among other things, Company’s HSE requirements shall include (i) maximum allowed radiation level being 0.4 uSv/h, (ii) requirements for safe transportation, (iii) safe working conditions at heights, (iv) use of proper safety devices and personal protective clothing, (v) strict avoidance of asbestos, chemical and toxic exposure, as well as (vi) relevant sorting, recovery, treatment and other handling of electronic, electrical and other waste, chemicals and hazardous substances, and necessary registration and reporting obligations in such respects.

11.4. In case of Customer’s breach or other failure to comply with any of obligations described in Clause 11, Company may, at its sole option and without liability, to immediately suspend its performance of the Contract and remove its personnel (including also subcontracted workforce) from the site. Should the parties not have reached a revised agreement within four (4) weeks, Company shall have the right, at its sole option and without liability, to terminate this Contract with immediate effects.

11.5. The Customer agrees to indemnify, defend and hold Company (including also its directors, officers, employees, affiliated entities, insurers, sub-contractors and agents) harmless from any and all loss, damage, legal fees, expense, cost and other liability whatsoever resulting from any Customer’s breach, negligence, non-compliance or other failure of Customer’s obligations as described in this Clause 11.

12. RETENTION OF TITLE

12.1. The Goods shall remain the property of the Company until paid for in full to the extent that such retention of title is valid under the applicable law. The Customer shall at the request of the Company assist the Company in taking any measures necessary to protect Company’s title to the Goods in the country concerned. The retention of title shall not affect the passing of risk under the applicable delivery terms.

12.2. Until such time as the property/ownership of the Goods passes from the Company to the Customer as set out in Clause 12.1 above, the Company shall keep the Goods separately and readily identifiable as the property of the Company. If the Customer is in default of its payment obligations under this Contract, and fails to rectify this within seven (7) days after the Company’s written notice thereof, the Company may (without prejudice to any other of its rights available at law under this Contract) enter upon the Customer’s premises and without any court order or other process of law may repossess and remove the Goods, or render the Goods unusable without removal, either with or without prior notice thereof to the Customer.

12.3. The Customer hereby authorizes the Company to do so, and waives any right or right of action for damages by reason of such entry, removal or disabling. Any such repossession or action by the Company shall not constitute a termination of this Contract.

13. DESIGNS AND SPECIFICATIONS

The Company reserves the right at any time to make any modification in design or specification of the goods without giving prior notice to the Customer.

14. CANCELLATIONS AND TERMINATION FOR CAUSE

14.1. Customer’s orders are irrevocable. The Company may not cancel a purchase order and/or the Contract without the Company’s consent.

14.2. The Company may terminate this Contract by a written notice to the Customer if the Customer (i) becomes bankrupt or insolvent or goes into liquidation (or any equivalent proceedings with the same effect), or stops or suspends payment of any of its material part of its debts or is unable to pay its debts as they fall due; (ii) is in material breach of this Contract and has not remedied such breach within 30 days from the written notice from the Company.

14.3. In case clauses 14.1 or 14.2 apply, the Company shall have right to get compensation for all incurring costs and damages including, without limitation, warehousing, handling, modifications, capital and remuneration cost as well as overhead and reasonable profit.

15. CHANGE MANAGEMENT

All changes to the scope of supply shall be mutually agreed in writing in order to be valid. Each party shall appoint a primary contact person that is duly authorized to agree on changes to the scope of supply on behalf of that party, including changes to the project time schedule, contract price and other terms of the Contract resulting from such changes. The Company shall have no obligation to commence work in respect of any change prior to written agreement of the parties’ authorized representatives.

16. FORCE MAJEURE

16.1. The following circumstances shall be considered as force majeure circumstances if they delay or impede the performance of the Contract or make the performance unreasonably onerous: industrial disputes and any other circumstance beyond the control of a party such as storm, flood, fire, pandemic or epidemic decrease, military or political action, bankruptcy, insolvency, strike, shortage of transport, general shortage of materials, restrictions in the use of power and defects or delays in deliveries by sub-contractors caused by any such ...
16.2. The party intending to claim relief under Clause 16.1 shall inform the other party by written notice without delay on the occurrence and on the cessation of such circumstance.

16.3. If force majeure circumstances as described in Clause 16.1 prevent the Customer from fulfilling his obligations, it shall reimburse the Company for cost incurred in securing and protecting the Goods. The Customer shall also reimburse the Company for costs incurred for personnel, sub-contractors and equipment which, with the consent of the Customer, is held in readiness to resume work.

16.4. Notwithstanding other provisions of these terms and conditions, each party shall be entitled to terminate this Contract by written notice to the other party if the performance of the respective party is delayed more than six (6) months by reason of force majeure as described in Clause 16.1.

17. COVID-19

17.1. The parties are aware that the Coronavirus COVID-19 (“Outbreak”) was declared a pandemic by the World Health Organization on March 11th, 2020. This Outbreak may or may not impact the normal execution and performance of this Contract. Should there be an impact to the performance of this Contract, the parties agree:

17.2. The affected party will notify the other in writing, outlining the effect of the Outbreak on its performance under this Contract;

17.3. Company shall have no liability for damages to the Customer, including but not limited to liquidated damages, penalties, fines or fees, whether arising out of or in connection with the Outbreak;

17.4. Company is entitled to a reasonable extension of time representing the impact of the Outbreak on its performance or delivery obligation;

17.5. Any additional cost directly attributable to the Outbreak in Company’s performance of the Contract for the Goods or otherwise will be borne by the Customer; and

17.6. Notwithstanding other provisions of these terms and conditions, each party shall be entitled to terminate this Contract by written notice to the other party if the non-performance of the contract due to this Outbreak continues for more than six (6) months.

18. TRADE SANCTIONS COMPLIANCE

18.1. With respect to the fulfilment of each purchase order and the Contract, the Customer and Company undertake as follows: (a) To comply with any and all laws and regulations applicable to the Customer or Company with respect to the purchase order, the Contract and any action taken pursuant to either prohibiting or otherwise restricting trade with any individual, entity or jurisdiction, or imposing licensing requirements on the same, including without limitation financial sanctions, trade embargoes and export controls such as those imposed by the US Treasury Department Office of Foreign Assets Control (OFAC), the US Department of State, the US Commerce Department, the European Commission or any member state of the European Union (together “Sanctions and Export Control Laws”); (b) To not take any action, or make any omission, that could cause any party to be in breach of, or otherwise be exposed to any restriction or penalty pursuant to, or suffer any adverse consequences of any kind arising directly or indirectly from, any Sanctions and Export Control Laws, including without limitation making any Products or any item incorporating the Products available for the direct or indirect benefit of a person subject to financial sanctions, such as those named on the OFAC list of Specially Designated Nationals and Blocked Persons, the EU Consolidated List of Financial Sanctions Targets or any similar list maintained by any EU member state, or any party owned or controlled by such a person (together “Sanctions Targets”).

18.2. Company shall have the right to suspend performance of its obligations under this Contract and each purchase order pursuant thereto, and the right to terminate this Contract, with immediate effect and without liability, if: (a) in its reasonable judgment, circumstances exist that could result in the non-fulfilment of the undertaking in Clause 18.1; (b) the Customer becomes a Sanctions Target; (c) any bank refuses to receive or otherwise process any payment under the Contract, or (d) in its reasonable judgment, performance of its obligations becomes commercially non-viable because of the Sanctions and Export Control Laws. The Customer shall reimburse Company for any claims, damages, losses, costs and expenses (including attorney’s fees) suffered or incurred by Company resulting from (i) the Customer’s breach of either of the undertakings in Clause 18.1; or (ii) Company’s suspension of its obligations under, or termination of, this Contract pursuant to this Clause 18.2.

18.3. In the event that Company terminates this Contract and any purchase order pursuant to Clause 18.2 above, and without prejudice to the Company’s other rights and obligations under this Contract, Company shall be entitled to use the money as a set-off against claims under Clause 18.2 last paragraph.

19. NON-ASSIGNMENT

The Customer is not entitled to assign its rights or obligation under the Contract.

20. DISPUTES AND APPLICABLE LAW.

20.1. All disputes arising out of or in connection with this Contract shall be finally settled in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce in force at the date on which the notice of arbitration is submitted in accordance with the Rules. The arbitral tribunal shall be composed of one arbitrator. The seat of arbitration shall be in Stockholm, Sweden. The language of the proceedings shall be English.

20.2. This Contract shall be governed by the laws of Sweden with the exception of its conflict of laws provisions. The application of the United Nations Convention on the International Sale of Goods is expressly excluded.
McCloskey International Limited (the “Company”) warrants its new equipment and parts therein manufactured and sold to be free, under normal use and service, of any defects in manufacture or materials for a period of the lesser of: (i) 28 months from date of shipment from the Company’s factory; (ii) 24 months from date of Initial Commissioning (“IC”) (demo, rental or sold); or (iii) the date when the engine meter reaches 3000 hours, provided that (1) the Company receives written notice of the defect within 30 days of its discovery and (2) the purchaser of the equipment from the Company (the “Customer”) establishes that (a) the equipment has been operated and maintained within the limits of rated normal usage; and (b) the defect in any matter is not the result of intentional or negligent action or inaction by the Customer, its agents or employees or by the end user (the “Operator”) and that (c) a Pre-Delivery Inspection form (“PDI”) and an Operation and Safety Training Waiver form (“OSTW”) have been completed in full, signed and delivered to the Company within 30 days of the equipment’s IC date. If requested by the Company, the Customer must return the defective equipment or part to the Company’s specified manufacturing facility, or other location designated by the Company, for inspection. If any of the above preconditions of (1) and (2) (a), (b) and (c) have not been met, then this warranty shall not cover the alleged defect.

Company’s obligations and liability under this warranty is expressly limited to, at Company’s sole option, repairing or replacing with new or remanufactured parts or components, any part, which appears to the Company upon inspection to have been defective in material or workmanship. Such parts shall be provided at no cost to the Customer, at delivery term EXW Company’s manufacturing location. If requested by the Company, components or parts for which a warranty claim is made shall be returned to the Company at a location designated by the Company. All components and parts replaced under this limited warranty shall become the property of the Company upon Company’s request.

This warranty shall be null and void if parts (including wear parts) other than genuine Company’s parts are used in the equipment. The Company shall have no liability to the extent any defect, fault or occurrence has been caused as a result of the use of any other than genuine Company’s spare and wear parts in the equipment or plant in question.

Accessories, assemblies and components included in the Company’s equipment, which are not manufactured by the Company, are subject to the warranty of their respective manufacturers. Normal maintenance, adjustments, or maintenance/wear parts, including, but not limited to, friction plates, clutch and brake linings, paint, bearings and filters, are not covered by this warranty and are the sole maintenance responsibility of the Customer or end user.

Company’s obligation under this warranty shall not include duty, taxes, environmental fees, including without limitation, import clearance duties, disposal or handling of tires, batteries, petrochemical items, or any charges whatsoever, or any liability for direct, indirect, incidental or consequential damages.

Improper maintenance, improper use, abuse, improper storage, operation beyond rated capacity, operation after discovery of defective or worn parts, accident, sabotage, alteration or repair of the equipment by persons not authorized by the Company shall render this warranty null and void. The Company reserves the right to inspect the installation of the product and review maintenance records and procedures to determine if the failure was due to improper maintenance, improper use, abuse, improper storage, operation beyond rated capacity, operation after discovery of defective or worn parts, or alteration or repair of the equipment by persons not authorized by the Seller.

Parts Warranty: Seller warrants the parts ordered from the Company to be free of defect in material or workmanship for either (s) a period of 12 months after date of shipment from the factory or (g) the balance of the remaining new equipment warranty, whichever occurs first.

All warranties (whether for replacement parts, latent defects or otherwise) shall expire no later than the earlier of (i) 28 months from the date of shipment; (ii) 24 months from IC; or (iii) the date when the engine meter reaches 3000 hours.

NO TRANSFERABILITY OF WARRANTY: This warranty is limited to the original Customer and is not assignable or transferable without written agreement of the Company.

The Customer and/or the Operator shall have the right to carry out the warranty repair or replacement only subject to the Company’s prior written consent. Nevertheless, provided that the Customer is an official distributor of the Company, the Company, under this warranty, agrees to compensate to the Customer certain direct documented costs of site repair labor as following: (i) for repairs taking place during the warranty period of the date (a) when the engine meter reaches 1500 hours or (b) 12 months from date of IC (whichever comes first): travel costs and the costs of Company parts used in such warranty repair; (ii) for repairs taking place after the warranty period set out in (i) and until the warranty period expires, cost of Company parts only. The Company may revoke this agreement to compensate the costs of a distributor at any time at Company’s sole discretion.

Exclusions

The following items are NOT covered under the Company’s limited product warranty (the following list is not exhaustive):

1. Items sold by any individual or legal entity that is not an authorized Company’s distributor.
2. Components which are not manufactured by the Company. Such components are covered by the warranty that is provided by the manufacturer of such components. Such components may include, but not limited to: engines, batteries, tires, customer supplied parts.
3. Normal Operational Maintenance Services and Wear Parts. Maintenance services and wear parts are excluded from warranty claims. Such maintenance services and wear parts not COVERED include, but not limited to, such as: seals, gaskets, clutch and brake linings, adjusting or replacing flushing or scrapers, proper tightening of fasteners, adding or replacing of filters, belts, nozzles, adjustments of any kind, service supplies such as towels and lubricants, machine inspections;
4. Transportation Cost and/or Damage. Any damage caused by carrier handling is a transportation claim that should be filed immediately with the respective carrier, not to Company.
5. Deterioration. Repairs, work required, or parts exposed as the result of age, storage, weathering, lack of use, demonstration use, or used for transportation of corrosive materials;
6. Secondary Failures. Should any Customer or Operator, continue to operate a machine after it has been noted that a failure has occurred, Company will not be responsible under the warranty for resultant damage to other parts due to continued operation;
7. Workmanship of Others. Company does not accept responsibility for improper installation or labour costs or costs of any kind from personnel other than authorized Company’s personnel, unless otherwise agreed in advance in writing.
8. Stop & Go Warranty. Company does not recognize “Stop & Go” warranties.
9. Defects, damages, losses and costs resulting from improper or incomplete handling, storage, erection, operation, maintenance or other use of the products by the Customer or third parties, or caused by non-compliance with the Company’s manuals or instructions;
10. Modifications to the products made by the Customer or any third party without a prior written consent of the Company;
11. And any other acts or omissions of the Customer or any third party.