

1. General

All orders for goods that are manufactured or sold, and services provided by David Brown Santasalo Service Canada Inc. or its subsidiaries or affiliates (later referred to as "Supplier") shall be subject to these David Brown Santasalo Sale of Goods and Services Standard Terms and Conditions (later referred to as "SSGS"). No change, modification, extension, rescission, termination, or additional condition will be binding unless agreed to in writing and signed by an authorized representative of Supplier. Supplier may alter these SSGS from time to time.

In no event shall any trade practice, delivery condition, general conditions or other terms, even if they form the basis of the order and Supplier has not objected to their content, shall become binding unless otherwise expressly agreed in a separate written agreement signed between the Supplier and the purchaser.

These SSGS apply to purchases of new gearboxes and gearbox service – including gearbox repairs, spare parts, field services and supervisory services.

2. Quotations

Price quotations by the Supplier are subject to change without notice, are not effective unless signed by an officer of the Supplier and shall expire thirty (30) days from their date.

3. Order and Order Confirmation

No order or other offer made by the purchaser shall be binding upon Supplier until accepted and confirmed in writing by an authorized representative of Supplier.

Any order provided by the purchaser, written or otherwise, shall be solely for the convenience of the purchaser and in no way alters or supersedes the provisions of these SSGS, which shall have priority and shall govern this transaction made between the parties.

By signing or stamping, and returning a copy of Supplier's price quotation or sending a written acceptance of Supplier's price quotation, the purchaser agrees to be bound by it and accept these SSGS.

4. Revisions to Order

The parties may make, in writing and signed by both parties, reasonable changes in the work requested to be performed by Supplier. If any changes cause an increase or decrease in the cost of, or the time required for the performance of, any of the goods and services to be supplied by Supplier, an equitable adjustment shall be made in Supplier's fee or delivery schedule, or both.

5. Cancellation

Any order placed with and accepted by Supplier is not subject to cancellation unless an agreement to the contrary has been executed in writing by an authorized representative of Supplier. All cancellations shall be subject to charges for Supplier's expenses already incurred, commitments made, overhead, and reasonable profit associated with the ordered goods and services.

6. Scope of Services

Unless otherwise agreed upon in writing between the parties, the scope of the repair work shall consist of fault tracing, replacing worn and/or damaged components, rebuilding the gearbox and functional check. In case service is to be made outside Supplier's premises (for example field service or supervisory services) or product in question is a replacement gearbox, the scope of work shall always be agreed case by case between the parties.

Upon completion of disassembly and inspection, and before any repair work is performed, Supplier has a right to alter any prices or price estimations it may have provided to purchaser. After purchaser has provided order confirmation, Supplier will proceed with gearbox repair work. The price estimate shall not be binding as additional damage is, from time to time, identified during the gearbox rebuilding process. Supplier shall inform the purchaser if the final price will exceed the estimate before completing the repair.

If the purchaser at any stage chooses not to proceed, or if the repair work is not carried out or completed due to any other reason than negligence of Supplier, the purchaser shall pay Supplier for documented costs of the work it has performed, including disassembly and inspection costs.

7. Working conditions

Where the repair work is to be carried out at the premises of the purchaser, the purchaser shall ensure that the following conditions are satisfied before the agreed date for the commencement of the services:

- a) The Supplier's personnel shall be able to start work in accordance with the agreed time schedule and to work during normal working hours. Provided that the purchaser has been given notice in reasonable time, work may be performed outside normal working hours to the extent deemed necessary by the Supplier;
- b) Before repair work is started the purchaser shall inform the Supplier of all relevant safety regulations in force at its premises. The repair work shall not be carried out in unhealthy or dangerous surroundings. All the necessary safety and precautionary measures shall have been taken before repair work is started and shall be maintained during the repair work;
- c) The purchaser shall make available to the Supplier free of charge at the proper time on the purchaser's premises all necessary cranes, lifting equipment and equipment for transport on its premises, auxiliary tools, machinery, materials and supplies (including fuel, oils, grease and other materials, gas, water, electricity, steam, compressed air, heating, lighting etc.), as well as the measuring and testing instruments of the purchaser available on the premises;
- d) The purchaser shall make available to the Supplier free of charge necessary storage facilities, providing protection against theft and deterioration of the tools and repair equipment, and the personal effects of the Supplier's personnel.

Supplier shall not be liable for any delay resulting from purchaser or third party failure to prepare the site properly or any unexpected other measure within the site outside of Supplier's influence.

8. Delivery and transfer of risk

Any agreed trade term shall be construed in accordance with the INCOTERMS in force at the time of the formation of the contract. If no trade term is specifically agreed, the delivery shall be Free Carrier (FCA). The risk shall transfer to the purchaser in accordance with the delivery term. If, in the case of delivery FCA or EXW, Supplier, at the request of the purchaser, undertakes to send the products or services to their destination, the risk will pass not later than when the products or services are handed over to the first carrier and Supplier shall not be responsible for any damage to or loss of products or services occurring thereafter. Any deliveries from purchaser to Supplier shall be Delivered Duty Paid (DDP) Supplier premises.

Any indicated dates of delivery are approximates only, but Supplier will attempt to meet them where possible. Supplier shall not be liable for delays in manufacturing or delivery or failure to manufacture or deliver due to any event in the nature of force majeure or any cause beyond Supplier's reasonable control. Supplier will not be bound by any penalty clause contained in any specification or order submitted by the purchaser unless such clause is specifically agreed to in writing by an authorized officer of Supplier.

If the purchaser anticipates that it will be unable to accept delivery of the products or services at the delivery time, it shall notify Supplier in writing thereof, stating the reason and, if possible, the time when it will be able to accept delivery. If the purchaser fails to accept delivery at the delivery time, it shall nevertheless pay any part of the purchase price which becomes due on delivery, as if delivery had taken place. Unless a separate storage agreement applies, Supplier shall arrange for storage of the products or services at the risk and expense of the purchaser. Supplier shall also, if the purchaser so requires, insure the products or services at the purchaser's expense.

Supplier may, with reasonable notice and in writing, require the purchaser to accept delivery within a final reasonable period. If the purchaser fails to accept delivery within such period, Supplier may terminate the contract in whole or in part. Supplier shall be entitled to compensation for all the loss it has suffered by reason of the purchaser's default including overhead and reasonable profit.

9. Terms Related to Supervision Service

These SSGS shall apply in their entirety to supervision service. In case of conflict between the terms in this section and rest of these SSGS, the terms of this section shall prevail with respect to the supervision service.

Supplier may provide services of one or more competent supervisors to give to the purchaser or his site representative necessary instructions for gear unit operations. The price and scope of supervision, number and qualifications of Supplier's staff, and the estimated duration of work, shall be agreed upon separately.

The supervision service only includes the necessary instructions for disassembly, assembly or commissioning of gear units. The scope of supervision shall be agreed in writing between the parties.

Supplier's technicians are not allowed to physically perform work or provide labor on customer's property. Supplier's technicians shall not provide any tooling, tools, or equipment of any kind for the purchaser's use. Supplier's technicians are not allowed to divulge any information regarding specifications, dimensions, or tolerances by any means including, but not limited to, drawings, technical documents or memory.

The purchaser shall, at his own expense, provide the skilled and unskilled labor, all equipment and everything necessary for the performance of physical work. The purchaser shall not be entitled to use Supplier's staff to perform any work not covered by the contract without the previous written consent of Supplier.

SUPPLIER DOES NOT ASSUME ANY LIABILITY FOR ANY DAMAGE TO THE GEAR UNIT, ANY OTHER PROPERTY OR EQUIPMENT OR PERSONAL INJURY, WHICH MAY OCCUR IN RELATION TO THE EXECUTION OF THE WORK. THE PURCHASER SHALL ASSUME LIABILITY FOR AND HOLD SUPPLIER HARMLESS FROM ANY CLAIMS, EXPENSES AND PROCEEDINGS RELATED TO SUPERVISION SERVICE PROVIDED BY SUPPLIER

The purchaser shall ensure that the following conditions are satisfied:

- a) The purchaser shall in due time provide Supplier with such information concerning local laws and regulations as is necessary for the proper execution of Supplier's obligations;
- b) The supervision shall not be carried out in unhealthy or dangerous surroundings. All the necessary safety and precautionary measures shall have been taken before supervision is started and shall be maintained during the time of supervision. Before commencement of supervision, the purchaser shall notify Supplier of all relevant safety regulations in force at the site and Supplier shall secure the observance of such safety regulations by his staff;
- c) Supplier's staff shall be able to obtain suitable and convenient board and lodging in the neighborhood of the site and shall have access to canteen facilities, internationally acceptable hygiene facilities and medical services;
- d) The purchaser shall make available to Supplier free of charge necessary storage facilities, providing protection against theft and deterioration of the personal effects of Supplier's staff, and;
- e) The purchaser shall make available to Supplier sufficient offices on the site, equipped with telephone and fax facilities.

Supplier shall be entitled without prior notice, to suspend the supervision and withdraw his staff, if an invoice is not paid at the due date.

If the physical work is suspended for a cause for which Supplier is not responsible:

- a) The purchaser is entitled to send home the Supplier's staff, provided he pays the expenses resulting therefrom, or;
- b) Supplier is entitled to recall its staff at the expense of the purchaser if the suspension of physical work exceeds a period of one month.

If Supplier's staff is sent home or recalled, the contract is not terminated and its performance is merely suspended until the purchaser has required the return of Supplier's staff to the site by giving at least one month's notice or as may be agreed. If the suspension of physical work last longer than three months Supplier is entitled to terminate the supervision contract.

10. Prices and Payments

Payments shall be made within thirty (30) calendar days of the date of the invoice. If the purchaser fails to pay by the stipulated date, Supplier shall be entitled to interest from the day on which payment was due. Late payments are subject to a delinquency charge, at the rate of one percent (1%) per month on the unpaid balance until paid. Where the balance is payable in installments, Supplier reserves the right to charge interest on overdue installments at the rate of one percent (1%) per month on the unpaid balance from the date payment is due to the date payment is received. Pro rata payments shall become due as shipments are made. If shipments are delayed by or at the request of the purchaser, payment shall become due when Supplier is prepared to make shipment. If the cost to Supplier is increased by reason of delays caused by the purchaser, such additional cost incurred by Supplier shall be paid by the purchaser.

The price of the products or services shall not include transportation or packaging of the products.

11. Title and Security Interest

Title to and ownership of products or services shall not transfer to the purchaser but shall remain with Supplier until such time as all amounts owing to Supplier with respect to such products or services, including interest, costs, and expenses, are fully paid in cash, notwithstanding the transfer of risk to the purchaser pursuant to other clauses of these SSGS.

The purchaser shall at the request of Supplier assist it in taking any measures necessary to protect Supplier's title to products or services.

12. Taxes

The Supplier's prices do not include sales, use, excise, or other tax payable to any government authority in respect of the sale of Supplier's equipment. The purchaser shall pay, in addition to the Supplier's price, the amount thereof that the Supplier may be required to pay.

13. Warranty

The Supplier warrants that new gearboxes or parts provided by Supplier are clear from defects in material and workmanship, for a period of twelve (12) months from the startup date or latest eighteen (18) months from the date of delivery provided that:

- a) the purchaser notifies the Supplier in writing of the alleged defect immediately after it becomes known to the purchaser, however, by the end of the warranty period at the latest, and;
- b) no alterations, repairs, or services have been performed by the purchaser or third parties on the equipment without written approval of an authorized officer of the Supplier.

Supplier undertakes at its discretion either to repair or replace defective equipment covered by the warranty provided that the Purchaser has given Supplier the opportunity to examine and test the defective part.

For repaired replacement parts provided pursuant to the warranty shall be granted a new warranty period of one (1) year counted from the date of repair or replacement. However, all warranties (whether for repaired or replacement parts, latent defects or otherwise) shall expire no later than thirty (30) months from original date of delivery of equipment.

Warranty shall not apply to and Supplier shall not be liable for:

- a) consumables or parts having a life expectancy shorter than the warranty period;
- b) ordinary wear and tear;
- c) defects, damages, losses or costs (i) resulting from improper or incomplete handling, storage, erection, operation, maintenance or other use of equipment by purchaser or third parties, or (ii) caused by non-compliance with Supplier's manuals or instructions including the use of the equipment above rated capacity or under excess loads;
- d) modifications to equipment made by purchaser or third parties without a prior written consent of Supplier, or
- e) any other acts or omissions of the purchaser or third parties;
- f) expense relating to the dismantling, re-installation or transportation of products or services or other parts of plant or machinery in connection with repairs or replacements;
- g) defects caused by overload conditions or extreme weather conditions

THIS WARRANTY IS IN LIEU OF ALL OTHER EXPRESSED OR IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. THE SUPPLIER DOES NOT ASSUME, ON ITS BEHALF, ANY OTHER OBLIGATION OR LIABILITY. THE SUPPLIER'S MAXIMUM AGGREGATE WARRANTY LIABILITY IS LIMITED TO THE VALUE OF DEFECTED PRODUCT IN QUESTION. THE SUPPLIER SHALL NOT BE LIABLE TO ANY LOSS, WHICH MAY BE CAUSED IN CONNECTION THEREWITH, SUCH AS LOSS OF PROFIT, LOSS OF PRODUCTION, LOSS OF USE OR ANY OTHER CONSEQUENTIAL OR INDIRECT OR ECONOMICAL LOSS.

14. Damages and Limitation of Liability

IN ANY CASE THE OBLIGATIONS OF THE SUPPLIER ARE LIMITED TO THE AMOUNT PAID TO SUPPLIER BY THE PURCHASER FOR THE GOODS OR SERVICES UNDER THIS AGREEMENT. SUPPLIER SHALL IN NO EVENT BE LIABLE FOR CLAIMS, EXPENDITURES, OR LOSSES ARISING FROM OPERATIONAL DELAYS OR WORK STOPPAGES OR DAMAGE TO PROPERTY CAUSED BY DEFECTIVE EQUIPMENT, OR FOR ANY INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER, WHETHER BASED ON BREACH OF CONTRACT OR WARRANTY, CONTRACT TERMINATION, NEGLIGENCE, TORT, STRICT LIABILITY, INDEMNITY, AT LAW OR IN EQUITY, OR OTHERWISE.

THE PARTIES SHALL NOT BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL LOSS, SUCH AS, INCLUDING AND NOT LIMITED TO, LOSS OF PROFIT, LOSS OF PRODUCTION, LOSS OF TURNOVER, LOSS OF USE OR ANY OTHER ECONOMICAL LOSS.

15. Intellectual Property

Unless otherwise expressly agreed in writing, Supplier shall retain exclusive rights to all proprietary information, technologies, trade secrets, inventions, copyrights, trademarks, trade dress and service mark rights, patents, patent applications, or patentable ideas (hereinafter "Intellectual property") developed in connection with the goods and services provided pursuant to these SSGS. None of the Supplier pre-existing Intellectual property shall transfer to the purchaser.

Supplier shall, at its discretion and cost, defend or settle any patent, trademark, or copyright infringement suit or proceeding brought against the purchaser to the extent it is based on a claim that Supplier designed equipment that infringes any existing patent, trademark, or copyright issued on or before the date of these SSGS, and subject to the condition that the purchaser notify Supplier in writing within fifteen (15) days from the purchaser's knowledge of such claim. Supplier shall be given authority, information, and assistance to defend and negotiate the settlement of same. Subject to the conditions below, Supplier shall pay all direct damages and costs awarded against the purchaser for such infringement, except any cost or damage due to settlement incurred by the purchaser without Supplier's written consent.

If equipment becomes the subject of a claim as set forth above, Supplier shall, at its discretion and cost, do any one or combination of the following:

- a) Procure for the purchaser the right to continue using the infringing equipment or part thereof;
- b) Replace the infringing part with an equivalent non-infringing part; or
- c) Modify the infringing part so that it becomes non-infringing.

Supplier shall have no liability, and purchaser shall hold Supplier harmless, for claimed infringement of any patent or other Intellectual property rights resulting from or in the event that:

- a) The purchaser fails to give Supplier prompt notice of any such claim or action;
- b) The equipment is wholly designed, specified, or manufactured by the purchaser or one of its purchasers, even though it may incorporate, in whole or in part, Supplier's components;

- c) The change or modification to equipment by the purchaser or a third party is without the written consent of an authorized representative of Supplier; or
- d) The equipment was used in a manner or for a purpose other than as specified in Supplier's manuals and instructions.

THE FOREGOING STATES SUPPLIER'S ENTIRE LIABILITY FOR ANY INFRINGEMENT OR CLAIMED INFRINGEMENT OF ANY PATENT OR OTHER INTELLECTUAL PROPERTY RIGHTS. NO LICENSE IS GRANTED OR PATENT INDEMNITY MADE WITH RESPECT TO PRODUCTS THAT ARE MANUFACTURED USING EQUIPMENT THAT WAS SOLD BY SUPPLIER

All drawings and technical documents relating to the products or services or their manufacture submitted by Supplier, prior or subsequent to the formation of the contract, shall remain the property of Supplier. Drawings, technical documents or other technical information received by purchaser from Supplier shall not be used for any other purpose than that for which they were provided. They may not, without the consent of Supplier be used or copied, reproduced, transmitted or communicated to a third party. In no case shall Supplier provide any manufacturing or similar documents.

16. Assignment

No contract to purchase equipment from the Supplier may be assigned by the purchaser without prior consent of the Supplier in writing by one of its authorized officers.

17. Default

If the purchaser defaults in performing any of its obligations to Supplier under this agreement or any other agreements, the Supplier may at its option and without incurring any liability thereby, elect to terminate this agreement and to terminate any or all other agreements with the purchaser, or to terminate this agreement together with any or all such other agreements.

Furthermore, the Supplier shall have a right to all damages sustained, including loss of profits. The Supplier shall also in addition to any rights or remedies provided herein, have all of the rights and remedies with respect to defaults by the purchaser as may be provided for under the laws of the particular State in which the transaction occurred.

18. Indemnity

The purchaser shall indemnify, defend and hold harmless the Supplier, its directors, officers and employees from any and all claims or liability for damage to property or personal injury (including death) caused in whole or part by, arisen out of or related to the equipment supplied by the Supplier, unless caused by the sole negligence of the Supplier.

19. Insolvency

If the purchaser should be insolvent or cease doing business or to be the subject of any proceedings under and bankruptcy, insolvency, reorganization or arrangement statute or law, such act shall, at the Supplier's option, be deemed a default under this contract, and the Supplier may elect to cease performing and cancel this contract with respect to any equipment not delivered or received prior to the election. All of the foregoing shall be without prejudice to recovery by the Supplier of damages for work performed and for loss of profits and material and equipment delivered.

20. Confidentiality

Parties shall maintain in strict confidence and safeguard all confidential and proprietary information, including, but not limited to, commercially valuable notes, summaries, reports, analyses, drawings and software. The parties recognize and acknowledge the confidential and proprietary nature of such materials and acknowledge the irreparable harm that could result if it is disclosed to a third party or used for unauthorized purposes without prior written consent. Except where required by law, the parties shall use such confidential and proprietary information only for the purpose of conducting business in a manner contemplated by the contract made between the parties including these SSGS and shall use the same degree of care as with its own proprietary and confidential information, which shall be at least a reasonable standard of care, and to prevent disclosure of the proprietary information, except to the parties' personnel to the extent necessary to permit them to perform the agreed-upon services.

These SSGS shall not restrict either party's right to use residual information. Residual information shall mean any information retained in the unaided memories of the receiving party's employees who have received or had access to confidential information of the disclosing party but do not have confidential information in their possession.

The parties acknowledge that money damages would not be a sufficient remedy for any breach of this section. Accordingly, in the event of any such breach, in addition to any other remedies at law or in equity that the parties may have, they shall be entitled to equitable relief, including injunctive relief or specific performance or both.

21. Force Majeure

Neither party shall be responsible to the other for any delay or failure to fulfill any obligation for any damage caused by cases of force majeure.

To effectively invoke force majeure a party shall immediately notify the other party in writing of the commencement and reason of any circumstances constituting force majeure and the presumed duration of such circumstance.

The parties shall have right to terminate contracts should the case of force majeure last more than six (6) months.

22. Miscellaneous

This instrument sets forth the entire understanding and agreement of the parties hereto in respect of the subject matter hereof, and all prior undertaking between parties hereto, together with all representations and obligations of such parties in respect of such subject matter shall be superseded by and merged into this instrument. No provisions of this instrument shall be waived, changed, terminated, modified, discharged, or rescinded orally or otherwise except by a writing signed by the party to be charged by any such waiver, change, termination, modification, discharge or rescission. No waiver of any breach of any provision of this agreement shall constitute a waiver of any similar or dissimilar provision prior to subsequent breach or shall constitute an amendment or modification of this agreement, or any provision thereof. If any provision of this agreement shall be held to be unenforceable or inapplicable in any respect, such holding shall not affect the enforceability of any other provision of this agreement under any other circumstances. The provisions of contract between the parties and these SSGS shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and (subject to any restrictions or assignment herein above set forth) assigns.

23. Governing Law and Venue

These SSGS shall in all respect be governed and interpreted in accordance with the substantive law of the state of Ontario, Canada excluding its conflict of laws provisions.

Any controversy, dispute or difference arising out of these SSGS may only be brought in the Ontario Superior Court of Justice. The parties especially waive any rights for jury trial.

24. Bill 101

The parties acknowledge having required that the present SSGS and all invoices, documentation, notices and judicial proceedings entered into, given or instituted pursuant hereto or relating directly or indirectly hereto be drawn up in English. David Brown Santasalo Service Canada Inc. et l'acheteur reconnaissent avoir exigé que le contrat ainsi que les présents SSGS soient rédigés en anglais.