

TERMS AND CONDITIONS

1. NEW EQUIPMENT AND SPARE PARTS

- 1.1 Global Crushers & Spares Pty Ltd expressly warrants, (unless otherwise limited by it in writing), that it will make good any New Equipment supplied by it, or repair or replace original component parts or Spare Parts manufactured and originally supplied by it (hereafter called the goods) which are:
- (a) shown to its satisfaction to be defective due to faulty workmanship or materials, and
 - (b) which fail under normal use or operation within twelve months from delivery ; or
 - (c) in respect of spare parts which fail under normal use or operation within the period specified for the particular part in Global Crushers & Spares Pty Ltd Spare Part Warranty attaching to the individual part.
- 1.2 In the event Global Crushers & Spares Pty Ltd manufactures and supplies defective equipment or parts, the Customer agrees Global Crushers & Spares Pty Ltd liability is limited to making good any equipment or original component parts thereof which are returned by the Customer to Global Crushers & Spares Pty Ltd within the period set out in 1.1.(b) above. The Customer agrees to prepay transportation charges for delivery and return.
- 1.3 This warranty shall not apply in respect of:
- (a) wear parts and other consumable parts;
 - (b) spare parts not manufactured by Global Crushers & Spares Pty Ltd, but Global Crushers & Spares Pty Ltd shall use all reasonable endeavours to enforce the warranty (if any) given by the manufacturer for the benefit of the Customer,
 - (c) normal maintenance in accordance with operating manuals and instructions,
 - (d) normal wear and tear, or
 - (e) events specified in Clause 2.1.

2. SERVICE WORK

- 2.1 Global Crushers & Spares Pty Ltd warrants (unless otherwise limited by it in writing) that it will correct and make good any service, maintenance or repair work on equipment supplied to the Customer which:
- (a) is shown Global Crushers & Spares Pty Ltd satisfaction to be defective due to faulty workmanship or materials; and
 - (b) where an original component part or spare part is used by it in carrying out the repairs, the part fails under normal use or operation within three months from the date of delivery from its works or from the date the equipment re-enters service or 500 hours of operation, whichever occurs first.
- 2.2 Where Global Crushers & Spares Pty Ltd undertakes major overhauls of crushing equipment and plant reconditioning the warranty period in Clause 2.1 above is extended to 6 months. A major overhaul means work involving a total rebuild of the equipment or plant or as agreed in writing by Global Crushers & Spares Pty Ltd.
- 2.3 Global Crushers & Spares Pty Limited's liability under this express warranty is specifically limited to making good at its works or at the Customer's site if the service, maintenance or repair work was carried out at such site only, equipment, component parts or spare parts actually worked on during such service, maintenance or repair work.
- 2.4 This warranty shall not apply in respect of auxiliary equipment or component parts not manufactured by Global Crushers & Spares Pty Ltd but it shall use all reasonable endeavours to enforce any warranty given by the manufacturer for the benefit of the Customer.

3.0 GENERAL CONDITIONS - WARRANTIES AND LIABILITIES

- 3.1 Any of the following events will render any Warranty provided in Clause 1 and 2 void:
- (a) operation beyond rated capacity or outside manufacturer's recommendation;
 - (b) improper use including, without limitation, failure to observe gauge or warning signage, instructions or practices;
 - (c) improper installation or maintenance including, without limitation, failure to replace or adjust worn components or use of contaminated lubricants or filtration;
 - (d) improper application of the equipment or parts;
 - (e) use of a part not approved for such use by the manufacturer,
 - (f) damage caused by foreign influences including, without limitation, abnormal environmental conditions such as water and heat etc.
or
 - (g) electronic failure of safety equipment;
 - (h) if otherwise agreed between Global Crushers & Spares Pty Ltd and the Customer.
- 3.2 Without limitation to the preceding Clause 3.1, the Warranties provided in Clause 1 and 2 only apply if the machines or equipment are operated in accordance with the normal operating instructions set out in any manual or other material notified to the Customer by Global Crushers & Spares Pty Ltd.

- 3.3 Global Crushers & Spares Pty Ltd shall not be liable to any person for any loss or damage caused by, or arising directly or indirectly from any failure of the equipment, component parts or spare parts or any part thereof or by delay in service, maintenance or repair pursuant to this contract, howsoever caused.
- 3.4 Except as provided in this contract the subject to the provisions of Clause 3.5, all warranties or conditions whether express or implied by law or contained in the Customer's specifications or order do not apply to the contract.
- 3.5 If any Act (including the *Trade Practices Act*) implies any conditions or warranties in this contract and the Act avoids or prohibits provisions in a contract excluding or modifying the application of these conditions or warranties, these conditions and warranties will be deemed to be included provided that the liability of Global Crushers & Spares Pty Ltd for breach of any of these conditions and warranties will be limited to any one or more of the following at Global Crushers & Spares Pty Limited's election:
- (a) If the breach relates to goods;
 - (i) the replacement of the goods or supply of the equivalent goods;
 - (ii) the repair of the goods; or
 - (iii) payment of the costs of replacing or repairing the goods or acquiring equivalent goods.
 - (b) If the breach relates to services;
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.
- 3.6 Except as provided herein, Global Crushers & Spares Pty Ltd will not be liable in any circumstances for any loss or damage (including that resulting from the use of the goods by any person), economic loss or special general or consequential damages arising for any reason, including negligence of Global Crushers & Spares Pty Ltd, its employees or agents or any defect or malfunction in or relating to the goods or any services provided to the Customer.

4. CANCELLATION

- 4.1 The contract will not be cancelled or amended without Global Crushers & Spares Pty Limited's prior consent in writing.
- 4.2 If the Customer;
- (a) attempts to cancel the contract without Global Crushers & Spares Pty Limited's consent;
 - (b) seeks to amend or cancel the contract after its acceptance by Global Crushers & Spares Pty Ltd;
 - (c) seeks additional equipment or modifications; or
 - (d) seeks to revise the date of delivery or completion; then the Customer will be liable for all costs, expenses and losses whatsoever including Global Crushers & Spares Pty Limited's loss of profit resulting from such cancellation or revision.
- 4.3 In the event the contract's delivery date is revised, the Customer will be liable to pay the latest prices for the goods the subject of the contract.

5. RETENTION OF TITLE

- 5.1 Global Crushers & Spares Pty Ltd and the Customer specifically agree that Global Crushers & Spares Pty Ltd retains ownership of the goods and such ownership shall not pass to the Customer until payment in full has been received by Global Crushers & Spares Pty Ltd in respect of all the goods supplied by it at any time. The Customer accepts delivery of the goods on this basis and accordingly it is agreed that:
- (a) The Customer shall stand in a fiduciary relationship with Global Crushers & Spares Pty Ltd.
 - (b) The Customer will at all times store the goods separately and in such a way that they remain identifiable from goods supplied by any other supplier.
 - (c) The Customer shall have the power to sell the goods as agent for and on behalf of Global Crushers & Spares Pty Ltd provided that: (i) all proceeds of the sale shall be paid into and kept in a separate account: (ii) separate records shall be maintained by the Customer in respect of that account: (iii) the seller shall be entitled to maintain a claim against the proceeds of sale of any other goods into which the goods have been manufactured.
 - (d) Global Crushers & Spares Pty Ltd shall be entitled to enter upon the Customer's premises at any time and without prior notice in order to re-take possession of the goods.
 - (e) Risk shall pass to the Customer at the time of delivery of the goods and the Customer shall insure against that risk.
 - (f) Each of the above provisions is severable if they be adjudged to go beyond what is reasonable.
- 5.2 Notwithstanding that risk in the goods shall pass to the Customer on delivery, title to the goods shall remain with Global Crushers & Spares Pty Ltd until all money owing to Global Crushers & Spares Pty Ltd in relation to the goods has been paid in full and until such time, the Customer will hold the goods as bailee for Global Crushers & Spares Pty Ltd and store or otherwise identify the goods in a manner that clearly shows the ownership of Global Crushers & Spares Pty Ltd, and if required, deliver up the goods to Global Crushers & Spares Pty Ltd at its own cost and expense.

6. ACCEPTANCE

The Customer will examine the goods immediately upon the goods arrival at the place of delivery and will within fourteen (14) working days from the date of delivery give written notice to Global Crushers & Spares Pty Ltd of any matter or thing which the Customer believes the goods are not in accordance with the contract. If the Customer fails to give such notice the Customer will be deemed to have accepted the goods and Global Crushers & Spares Pty Ltd will not be liable for any damage to the goods including but not limited to any damage which may have occurred in transit.

7. DELIVERY

7.1 The whole or part of the goods supplied by Global Crushers & Spares Pty Ltd will be at the Customer's risk immediately upon delivery to the Customer or into the custody of anyone acting on the Customer's behalf, whichever is the sooner. If the goods are to be delivered to the Customer at Global Crushers & Spares Pty Limited's premises Global Crushers & Spares Pty Ltd will give notice when the goods are ready for delivery and if for any reason the Customer fails to collect the goods within seven (7) days from the date of such notice, then risk in the goods shall pass immediately to the Customer and Global Crushers & Spares Pty Ltd shall be entitled to payment for the goods, Global Crushers & Spares Pty Ltd will arrange for storage of the goods, the cost of which and all other incidental costs shall be payable by the Customer.

7.2 Global Crushers & Spares Pty Ltd agrees to make every effort to complete the work or supply the goods within the agreed delivery date, but shall not be liable for any penalty, claim or damages and any delivery date extended at Global Crushers & Spares Pty Limited's discretion in the event of any strikes, industrial bans and/or limitations, lockouts, accident, combination of workmen, breakdowns, power blackouts or rationing, or delays in transit, Acts of God, force majeure, or any delay in the completion of essential designs and/or drawings beyond Global Crushers & Spares Pty Limited's control, or of any lack of essential labour or materials or changes in existing hours and/or days of work or restrictions or impositions, due to or to which Global Crushers & Spares Pty Ltd may become subject, owing to defence or other national requirements or additional work required by the Customer beyond that which was tendered by Global Crushers & Spares Pty Ltd or any other cause whatsoever beyond Global Crushers & Spares Pty Limited's control.

8. PRICE VARIATION

All prices are in Australian Dollars, unless stated otherwise, and are subject to variation as advised.

9. CONFIRMATION

Global Crushers & Spares Pty Limited's quotation is subject to confirmation in writing on receipt of the Customer's order and such confirmation shall constitute an acceptance of the Customer's order.

10. GST

Unless otherwise stated all prices are exclusive of GST.

11. GOVERNMENTAL CHARGES

Should Global Crushers & Spares Pty Ltd become liable for payment to any government authority in respect of any tax (excluding income tax), duty or impost not in existence at the date of tender, or should Global Crushers & Spares Pty Limited's liability increase under any existing tax (excluding income tax), duty or impost, such payment or increased payment shall be to the Customer's account.

12. SEVERABILITY

If any clause or clauses of the Contract shall be finally held void and/or unlawful by any authority having proper jurisdiction, the balance of this agreement shall remain in full force and effect. In such case, the parties hereto agree to enter into negotiations for the purpose of and to try to achieve replacement of such void and/or lawful clause or clauses by valid and lawful provisions, the economic effect of which shall come as close as legally possible to the economic effect the parties hereto wanted to achieve on contracting such void and/or unlawful clause or clauses.

13. VALIDITY

All quotations and tenders are valid for a period of 30 days unless otherwise stated.

14. WHOLE CONTRACT

The contract formed by acceptance of the offer shall be subject to these General Conditions of Sale. No other terms or conditions, except those contained elsewhere in this offer or those expressly agreed to by Global Crushers & Spares Pty Ltd in writing shall apply to or bind Global Crushers & Spares Pty Ltd.