

**DEFINITIONS:**

"Buyer" - The party that will buy Materials and Services from DSI.  
 "Terms" - These Terms and Conditions of Sale and Service.  
 "Contract" - Refers to the contract signed between the Buyer and DSI for the provision of Materials and/or Services, which will include these Terms and the Order.  
 "DSI" - refers to DSI UNDERGROUND SPAIN, S.A.U.  
 "Material" - Goods of any description that will be supplied by DSI to the Buyer.  
 "Order" - means i) The Buyer's instruction to provide Goods and/or Services (or the confirmation of the buyer regarding the offer by DSI to supply the same) either in writing (by letter, e-mail, fax or any other electronic means); ii) the written document to which the Terms are attached or that makes reference to them; or iii) any document evidencing the terms for the supply of Goods and/or Services performed by DSI.  
 "Price" - the price of Goods and/or Services set out in the Order.  
 "Services" - The services or work of any kind that shall be provided/performed for the Buyer by DSI.

**COMPLETE CONTRACT:**

These Terms are exclusive and in lieu of any other terms and conditions that may appear in the Buyer's Purchase Order or any other document; in addition, they apply to any provision of Material and/or Services provided/performed by DSI to the Buyer.

Any other terms set out in the Purchase order or in any other document issued or referred by the Buyer, regardless of its content, whether different or additional to the Terms, will be excluded and challenged by DSI, unless DSI expressly and clearly states its consent in writing regarding the adoption of such terms. The acceptance/reception of the Material and/or Services by the Buyer implies the acceptance of said Terms. There are no other covenants, representations or guarantees of any kind that are different from or additional to these that are provided in this Contract.

The issuance of an Order by the Buyer and/or of any other document or communication requesting the provision of Goods/Materials and/or Services from DSI, the reception by the Buyer of the Goods/Materials and/or Services from DSI as well as the payment of invoices by the Buyer to DSI for the supply of Goods and/or Services provided by the latter, will be considered as unmistakable signs of the express acceptance by the Purchaser to abide by these Terms and Conditions of Sale and Service.

**TERMS OF PAYMENT:**

The terms of payment shall be as set out at the beginning of this Contract together with the terms of this paragraph. Except as otherwise provided at the beginning of this contract, DSI shall issue the Buyer with an invoice on a regular basis in relation to the provision of Material and/or Services and the amount invoiced will be payable in accordance with agreed terms.

Failure to pay any of the invoices, without prejudice to the rights this confers on DSI to cancel the contract, as well as to claim any corresponding damages, shall accrue default interest equivalent to the legal amount increased by five points.

Equally, the Buyer shall be liable for any legal fees and reasonable expenses incurred by DSI related to the recovery of overdue bills. DSI, after notifying the Buyer, may reject the option to perform deliveries under this Contract, except for cash sales, if DSI should have doubts of the Buyer's ability to make the payments provided for in this Contract. The Buyer may not compensate for any amount due or allegedly due by DSI to the Buyer or in favour of any third parties against amounts owed by the Buyer to DSI.

**DELIVERY/RISK OF LOSS/TITLE:**

Except as otherwise stated in this Contract, delivery of the Material will be Ex Works (Incoterms 2010) at the facilities of DSI. Delivery dates will be confirmed after the reception of a binding Order from the Buyer. The risk of loss or damage and the responsibility regarding the Material shall lie with the Buyer once it has been delivered to the loader at the facilities of DSI. No shipment shall be made or acknowledged without the prior written consent by DSI. Unless otherwise agreed, DSI shall select the means of transport and routes. The title and rights of ownership of any Material included in/covered by this Contract shall remain with DSI until the purchase price has been paid in full or until DSI's rights of lien have expired.

**ACCEPTANCE OF THE MATERIAL:**

It shall be the duty of the Buyer to inspect the Material and to issue, if relevant, a written note to DSI mentioning any faults or the rejection of the Material due to any damage or if it does not comply with the specifications agreed. Any material that is not rejected by the Buyer, notifying DSI, will be considered as irrevocably accepted by the Buyer. If the Buyer notifies DSI in writing of any fault or rejection, and the said communication appears to be true in the view of DSI, DSI shall notify the Buyer of a reasonable time frame to replace the Material.

**WARRANTY:**

**Materials** - DSI only guarantees that the Material delivered pursuant to this contract complies with the specifications (either as agreed in writing based on the Buyer's standard specifications or DSI's specifications based on the product information that is current on the date of delivery or as provided for in the relevant Order) at the time of shipment and must be free of any defects and have the required level of quality. Any recommendation or technical advice issued by DSI to the Buyer is considered to be reliable, but DSI does not guarantee the results that will be obtained nor that the Buyer's purposes shall be fulfilled; it is the Buyer, at his own expense, who accepts said recommendations or advice.

Equally, DSI guarantees that the Material supplied under this Contract will not infringe any patent regarding the form in which it is supplied, but DSI does not guarantee any infringement due to the use made by the Buyer if it is combined with other products or due to the execution of any process. This guarantee is conditional until the Buyer gives notice in writing to DSI of any claim made against the Buyer for infringing the patent and until DSI authorises the Buyer to assume complete and exclusive control of the defence or settlement of such claim or of any legal action that is based on the same.

DSI DOES NOT GRANT ANY EXPRESS OR IMPLIED GUARANTEES, WHETHER LEGAL OR OTHERWISE, IN RESPECT OF MATERIALS, INCLUDING, BUT NOT LIMITED TO, A GUARANTEE IN RESPECT OF THE SATISFACTION OF A PARTICULAR PURPOSE OR WARRANTY OF MERCHANTABILITY.

**Service Assurance** - DSI guarantees that the Services will be carried out in a correct manner and with the adequate level of quality. The sole and exclusive option open to the Buyer and the entire liability of DSI in respect of this assurance shall be, at the discretion of DSI: (a) use reasonable commercial efforts to repeat the provision of any Service that has not been substantially complied with, in accordance with the provisions of this assurance; or (b) reimburse the payments made by the Buyer in connection with the part of the Services that have not been substantially complied with. In that case, the Buyer shall notify DSI in writing within a period of 30 days from the provision of the services.

EXCEPT AS OTHERWISE PROVIDED IN THIS CONTRACT OR IN ANY STATEMENT THAT SPECIFICALLY MODIFIES THE ASSURANCES PROVIDED BY DSI, DSI EXPRESSLY DISCLAIMS ANY OTHER WARRANTY, REPRESENTATION, CONDITION, OR AGREEMENT, WHETHER EXPRESS OR IMPLIED (INCLUDING BUT NOT LIMITED TO, ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF SATISFACTION OF A PARTICULAR PURPOSE, MERCHANTABILITY, DURABILITY, TITLE, CONFORMANCE OR NON-INFRINGEMENT) THAT ARE GENERATED BY OR ARE RELATED TO THE PROVISION OR FAILURE TO PROVIDE SERVICES.

**LIMITATIONS OF DSI LIABILITY:**

DSI's total liability under this Contract and for any damages related to any action or claim under the Contract or liability (including negligence) or omission of a duty or for any other reason, that is caused under or related to this

Contract or the supply of Materials and/or Services, shall not, at any time, exceed 100% of the total amount paid to DSI for this Contract.

DSI may not, under any circumstances, be held liable for: i) any indirect damages or any costs associated with delays in the provision of the supplies or services; ii) any indirect damages or loss. (Including but not limited to, expenses, compensation for damages, loss of profits, loss of business or contract, pure economic loss, deterioration of image incurred or suffered by the Buyer).

**CLAIMS:**

All claims, with the exception of those for patent infringement, must be made in writing within 30 calendar days after the delivery of the Materials or the provision of the Services specified in this Contract, on the understanding that failure by the Buyer to submit a claim to DSI within the aforesaid period constitutes a waiver by the Buyer to any claim, and this waiver shall be understood as complete and irrevocable. The Buyer shall use all reasonable efforts to minimize such claims and their economic impact and to mitigate losses. No claim may exceed the purchase price paid for the Materials or Services that are the basis for the claim. The deadline issue is essential regarding all notifications submitted by the Buyer to DSI.

If the Buyer notifies DSI in writing of any defect regarding the Material within 30 calendar days after the date of the last delivery of Material and the said Material fails to comply with the relevant assurances mentioned above, the sole and exclusive remedy for the Buyer will be to obtain the replacement from DSI of the Material that does not meet the specifications or a refund of the price paid for such Material supplied by DSI that fails to comply with the agreed specifications.

The Buyer shall compensate DSI, without prejudice to DSI, for any claim, action, lawsuits, procedures, costs, expenses, damages and liabilities, including legal fees and expenses, attributable to or that are claimed to be attributable in whole or in part due to the breach of the Contract by the Buyer, his negligence or any other failure occurring or related to the use, implementation, non-performance or incorrect use of the Material or Services provided by DSI in accordance with this Contract.

**FORCE MAJEURE:**

DSI may not be held liable for the breach of its obligations if, while performing them, said obligations were suspended, delayed, interrupted or considered impossible or impractical for reasons of Force Majeure. In the event of a situation of Force Majeure should have a negative impact on DSI, DSI will be entitled to an extension of the deadline to fulfil its obligations. Furthermore, DSI and the Buyer will negotiate in good faith any changes regarding the Contract, including deadlines and Price.

Force Majeure refers to external events or that are reasonably beyond the control of DSI, which include, but are not limited to, floods, earthquakes, or any natural disaster; epidemics or pandemics; war or threats of war, armed conflicts, the imposition of sanctions, embargoes, the severance of diplomatic relations or similar actions, terrorist attacks, civil war, civil unrest; nuclear, chemical, or biological contamination or sonic shocks; any law, governmental rule, regulation, or directive, or any action taken by the government or public authorities, including, but not limited to, the execution of an embargo, restrictions to imports or exports, quotas or any other restriction or prohibition, or failure to obtain the necessary licence or approval; fire, explosion, or accidental damage by third parties; loss during shipment; adverse weather conditions; the interruption or failure of a basic service, including, but not limited to, electricity, gas, or water; any labour dispute, including, but not limited to, strikes, industrial action, or closures (other than those by DSI employees); failure of DSI suppliers to fulfil their obligations, the inability to obtain raw materials; and the unexpected failure of the production plant, machinery, computers, and vehicles.

If a Force Majeure situation lasts more than 3 months or immediately incapacitates DSI from fulfilling its obligations; DSI shall terminate its obligations by notifying the Buyer and shall not be liable to any fine/penalty and the Buyer shall pay DSI the proportional part of the Price of the goods and/or Services delivered by DSI up to the date when the obligations were terminated. DSI reserves the right to distribute its available Materials among any or all of its buyers and among the departments and divisions of DSI based on what is deemed to be reasonable, fair, and practical, without being liable for any failure to fulfil the execution of this Contract.

**TAXES:**

Any taxes, contributions, fees, or any other charge or increase imposed or that may be imposed by law on the production, storage, removal, withdrawal, transport, use, or delivery of the Material sold or the Services provided under this contract will be added to the said price and will be payable by the Buyer.

**TRANSFER:**

No right or interest under this Contract shall be transferred and no obligation under this Contract shall be delegated by the Buyer without the prior written consent of DSI. Any attempt to transfer or delegate without the relevant consent shall be null and void and ineffective for all purposes.

For its part, DSI may transfer its rights and/or obligations under the Contract, in whole or in part, to any company, affiliate, subsidiary, or controlling entity with which it is related.

**APPLICABLE LAW/JURISDICTION:**

This Contract shall be governed in accordance with the laws that are effective and in force on the date provided in this Contract, of the location where the DSI offices are domiciled as indicated in the first part or on the title page of this Contract. Any proceedings that may occur or that are related to this Contract must and may only be lodged with the Courts that correspond to the domicile of DSI; in the understanding that DSI, as it deems appropriate, may exercise legal actions in any jurisdiction where the Material supplied and/or Services provided under this Contract are located or have taken place; where the Buyer has declared to have an office or any other facility; or as allowed in any way available.

The parties expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods.

**SPECIAL MATERIALS:**

If this Contract covers Materials that are manufactured specifically for the Buyer and the Contract is terminated or an Order is cancelled, the Buyer shall accept delivery of and pay for said Materials that have been manufactured and those still being manufactured, up to the date DSI receives the notification of the said termination or cancellation.

**CHANGE ORDERS:**

The Buyer, without invalidating the provisions set out in this Contract, may order changes to the tasks regarding the general scope of this Contract, which may consist in additions, eliminations, or other revisions. Before DSI is required to apply the said change order, the parties shall agree in writing all aspects regarding said changes that affect the price of the Contract and the terms of delivery of the items that have been changed.