

## **Hillstone Standard Terms and Conditions of Sale Issue ST13 - February 2018**

### **1. Scope and definitions**

1.1. In these terms and conditions «Hillstone Loadbanks » is acknowledged as the trade name for “Hillstone” whereby «Hillstone» means Hillstone Products Limited which has its registered offices at Units 1&2, Freetown Business Park, Hudcar Lane, Bury, BL9 6HD, England and « Customer » means you the customer. "Product" means any products and “Service” means any chargeable or other services (excluding warranty) listed in a quotation (“Quotation”) sent by Hillstone via email, fax or letter to Customer, which Hillstone agrees to supply to Customer on these terms and conditions.

1.2. If Customer has agreed, either electronically or via a signed agreement with Hillstone to terms and conditions applicable to this sale of Product and/or Services, then those terms and conditions (“Specific Terms and Conditions”) shall apply to this sale of Product and/or Services. In the event of a contradiction, the Specific Terms and Conditions shall prevail. If no Specific Terms and Conditions exist, then the terms and conditions contained herein (together “Terms and Conditions”) shall apply to all Quotations made by Hillstone and shall therefore constitute a sale agreement (“Agreement”) entered into between Hillstone and Customer, irrespective of whether Customer accepts these Terms and Conditions by a written acknowledgement, by implication, or by acceptance of Products and/or Services hereunder. The Terms and Conditions shall form part of any order placed by Customer (“Order”). Any term or condition on any Order or other document submitted by Customer shall be of no force or effect whatsoever. In particular, acceptance by Hillstone of an Order sent by Customer shall not be deemed an acceptance of any conflicting or additional terms and conditions. Hillstone specifically rejects any different or additional terms and conditions proposed by Customer, unless those terms and conditions are mutually agreed in writing in accordance with clause 12.4.

### **2. Orders**

2.1. All Orders must quote the single Quotation Number provided in Hillstone’s Quotation or the Order cannot be processed.

2.2. Information contained in a Quotation or which are given to Customer by Hillstone’s agents or employees constitutes an invitation to treat but does not constitute an offer by Hillstone to supply Products and/or Services. By placing an Order, Customer makes an offer to Hillstone to purchase the Products and/or Services. Any Order shall be subject to

acceptance by Hillstone and Hillstone may decline any Order in whole or in part, for any lawful reason whatsoever. If Hillstone accepts Customer's Order, Hillstone will notify Customer of its acceptance by sending an Order Confirmation in line with the issued quotation.

2.3 Any cancellation of an order by a customer, in whole or in part will only be accepted in writing and constitutes acceptance by the customer to reimburse Hillstone in full for all material and labour costs incurred up to the cancellation date, in respect of the order, including all profit and sales commission associated with the full order value, plus a 15% cancellation cost based on the original order value. Cancellation charges will be invoiced immediate the cancellation becomes effective for settlement within 7 days of the invoice date.

### **3. Delivery and Shipment**

3.1. Subject to these Terms and Conditions, Hillstone will supply to Customer the Products and/or Services indicated on the Order Confirmation.

3.2. Delivery dates which might be specified in the Order, the Order Confirmation, or in any other communication from Hillstone (whether oral or in writing) are estimates only and are stated in approximate working weeks.

3.3. Hillstone may make partial shipments of Customer's Orders, to be separately invoiced and paid for when due. Any delay in delivery of any instalment will not relieve Customer of its obligation to accept the remaining deliveries. Hillstone shall not be liable for any failure to ship complete orders or for any shipment delay.

3.4. The order will be supplied in line with our production schedules at the time of order placement. Final delivery may vary during manufacture due to factors outside of our control and in this event any delay will be advised ASAP.

3.5 For export shipments from the UK all goods will be supplied packed in suitable packaging with the costs shown as part of the quotation packed price or separately shown on the Order Confirmation. If a customer wishes to arrange packaging with a third party packing company the order will be deemed a UK sale and the full UK sales tax will be applied to the order, in accordance with clause 4.2. In such cases, title to, risk to and in and responsibility for the

goods will pass to the Customer immediately the third party packer takes any form of control over (no matter how partial) or commences packing the relevant goods whether within or outside Hillstone's premises.

3.6 Hillstone will appoint an approved "shipping agent" to process all export shipments. The Order Confirmation will show the shipping price at the time of order in line with the terms of shipping from the agent. At the time of shipping every effort will be made to hold the shipping price however we reserve the right to reflect any imposed price changes from the shipping agent to the customer.

3.7 Export documentation, where required, will be supplied as extra to the prices given in the quotation. The customer will be responsible to advise the correct export procedure for the intended destination country. Where this information is not provided we will seek guidance from our shipping agent however we will not accept any liability for any additional costs incurred by the Customer during the exporting procedure, in accordance with clause 4.4

3.8 Unless agreed in writing we will not accept penalty discounts, back to back delivery dates or claims for time of essence costs relating to deliveries.

#### **4. Prices and Validity**

4.1 The price for the Products and Services will be the price indicated in the Order Confirmation.

4.2 Prices do not include value added tax or other local taxes or duties (collectively "Taxes"). All Taxes, if any, due on account of purchases hereunder shall be paid by Customer. UK sales tax will be charged and added at the prevailing rate at the time of sale.

4.3 Quotation and submitted prices from Hillstone are open for acceptance for 30 days from the quotation date unless otherwise withdrawn.

4.4 Local Taxes and duties applied during exporting of Products and/or Services are payable by the Customer

## **5. Acceptance**

Unless otherwise agreed in writing all shipments (which for the purpose of this clause shall be deemed to include the contents of packaged Products as well as the packages themselves and the number of packages) shall be deemed correct and undamaged unless at the time of delivery Customer specifies on Hillstone's copy of the delivery documentation the precise shortfall or error in delivery or inform Hillstone of such shortfall or error in writing within three (3) days after the original delivery date of the given shipment. Customer's failure to inform Hillstone in this way shall constitute a waiver of any such claim. All communications with Hillstone must include the single Quotation Number provided in Hillstone's Quotation, and the exact nature of the discrepancy between the order and shipment in number or type of Products shipped. For under-shipments, Hillstone shall, at its sole discretion, issue a replacement shipment, or a credit to Customer's account if Hillstone has granted credit terms to Customer within thirty (30) days of receipt of Customer written notice.

## **6. Payment**

6.1 For UK orders placed where no credit account or credit history is established with the customer, 50% payment is required with order by cheque or against pro-forma invoice and the remaining 50% payment will be due against pro-forma invoice, prior to delivery of the goods.

6.2 All overseas orders will require 50% payment by TT bank transfer against pro-forma invoice, which will be issued on placement of order. The remaining 50% payment will be due by TT bank transfer against pro-forma invoice, prior to dispatch of the goods.

6.3 All payments are issued in GBP (Great Britain Pounds) Sterling unless otherwise agreed.

6.4 Where items are quoted in foreign currency, Hillstone reserves the right to adjust the invoice value in line with the exchange rate at the time of invoicing.

6.5 Where a credit account has been established all invoices other than cancellation charges, will be due for full settlement within 30 days of the invoice date. Failure to meet payment dates on any single invoice will result in all outstanding invoices being due for immediate settlement. We reserve the right to withhold deliveries, if any payment on the customer's account is overdue. All goods remain the property of Hillstone until payment is received in full. Any sums not paid on the due date, will be charged interest at a rate of 8% above the

base rate, compounded and accrual on a daily basis from the date of the invoice to the date when the payment is received as well after as before judgement.

## **7. Law**

This Agreement shall in all respects be governed by and interpreted under the laws of the English Courts and the parties submit to the exclusive jurisdiction of the courts of the English Courts. Notwithstanding the foregoing, Hillstone reserves the right to institute proceedings against Customer in the courts having jurisdiction in the place where Customer has its seat or in any jurisdiction where a harm to Hillstone is occurring.

## **8. Warranty**

Unless otherwise agreed in writing a standard warranty of 12 months, from date of dispatch from our works applies to all goods sold. Any faulty items will be replaced or repaired as deemed applicable by Hillstone after testing on return to our works. All equipment must be installed and used in line with the appropriate Hillstone Products Operating and Maintenance Instructions applicable to the equipment. Failure to adhere to these Operating and Maintenance Instructions or incorrect or faulty use of any equipment shall automatically invalidate all warranties. Transportation and insurance costs for items returned under warranty are not included in the warranty cover and will be charged extra.

## **9. Descriptions and specifications**

Descriptions, specifications, weights and other particulars contained in literature, quotations or correspondence are as accurate as possible at the time of issue, however, in line with our policy of continual improvement, Hillstone reserves the right to make detail changes to specification, design or components at the time of design or manufacture. Hillstone bears no responsibility for the accuracy of any data given in good faith or for the incorrect use by other parties of the equipment supplied.

## **10. Intellectual Property**

All designs and software are the intellectual property of Hillstone.

## **11. Export control**

Customer shall comply with all laws, regulations and orders of the United States, the United Nation Organization, and the member states of the European Union and the European Free Trade Association, applicable to the export, re-export, transfer or resale of products or the provision of services and related technical data (“Export Laws”). Purchaser shall not (i) make Products or Services available in any country in contravention of any Export Laws, or any other law, and (ii) not make Products or Services available in a country for which an export license or other governmental approval is required without first obtaining all necessary licenses or other approvals.

## **12. General Terms**

12.1. Force Majeure – Hillstone shall not be liable for any delay or failure to meet its obligations under this Agreement due to unforeseen circumstances or to causes beyond Hillstone’s control. In the event of any such delay, performance of the affected obligation shall be suspended for a period of time equal to the time of such delay save that in the event that the delay continues for more than two (2) months, Hillstone may elect to terminate this Agreement with immediate effect without incurring any liability.

12.2. No waiver – The waiver by either party of any default by the other party shall not waive subsequent defaults by such other party of the same or different kind.

12.3. Severability – If any of the provisions, either in part or in full, of this Agreement is held by a court or other tribunal of competent jurisdiction to be unenforceable or invalid, such provision shall be enforced to the maximum extent possible or permissible and this Agreement will be adjusted, if possible, so as to give maximum effect to the original intent and economic effect of the parties with respect to the unenforceable provision and the remaining portions of this Agreement shall remain in full force and effect.

12.3. No assignment – Customer may not assign this Agreement nor any Order related thereto and Customer may not delegate its duties under the Agreement without Hillstone’s prior written consent. Hillstone may assign the Agreement without Customer’s consent.

12.4. Modification – No modification to this Agreement shall be binding unless in writing and signed by an authorized representative of each party