

# Terms and Conditions

## 1. INTERPRETATION

### 1.1 In these Conditions:

“**Buyer**” means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller.

“**Goods**” means the Goods (including any instalment of the Goods or any parts for them) which the Seller is to supply in accordance with these conditions.

“**Seller**” means the company shown as seller on the reverse side of this document.

“**Conditions**” means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.

“**Contract**” means the contract for the purchase and sale of the Goods.

“**Writing**” includes telex, cable, facsimile transmission and comparable means of communication.

**1.2** Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

**1.3** The headings in these Conditions are for convenience only and shall not affect their interpretation.

## 2. BASIS OF THE SALE

**2.1** The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted, or purported to be accepted, or any such order is made or purported to be made, by the Buyer.

**2.2** No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.

**2.3** The Seller’s employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

**2.4** Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyer’s own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

**2.5** Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, or other document or information issued by the Seller shall be subject to correction without any liability on the part of the seller.

## ORDERS AND SPECIFICATIONS

**3.1** No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller's authorised representative.

**3.2** The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

**3.3** The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).

**3.4** If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, Copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification. The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements, or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

**3.6** No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and material used), damages, charges and expenses incurred by the Seller as a result of cancellation.

**3.7** Where Goods other than the Seller's standard products are made by the Seller to the Buyer's order, the Goods may vary in accordance with normal tolerances from dimensions specified by the Buyer in the order and the Buyer shall not be entitled to make any claim against the Seller in respect of any such variations.

**3.8** Notwithstanding that a sample of the Goods be exhibited to and inspected by the Buyer, such sample is so exhibited or inspected solely to enable the Buyer to judge for itself the quality of the bulk, and not so as to constitute a sale by sample. The Buyer shall take the Goods at its own risk as to their corresponding with the said sample, and subject to the normal variation between the bulk and sample accepted by the trade.

**3.9** Without prejudice to the generality of the foregoing any particular purpose for which the Buyer proposes to use the Goods shall be deemed not to be known by or have been made known to the Seller specifically recorded in a schedule signed by one of the Seller's directors. The Buyer hereby acknowledges that any purpose stated in such schedule shall be deemed to have been specified by the Buyer.

## 4. PRICE

**4.1** The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the order. Where the Goods are supplied for export from the United Kingdom, the Seller's published export price list shall apply. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.

**4.2** The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, material or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

**4.3** Except as otherwise stated under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in Writing between the Buyer and the Seller, all prices are given by the Seller on an ex works the Seller basis, and where the seller agrees to deliver the Goods otherwise that at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.

**4.4** The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.

**4.5** The cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods, but full credit will be given to the Buyer provided they are returned undamaged to the Seller before the due payment date.

## 5. TERMS OF PAYMENT

**5.1** Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.

**5.2** The Buyer shall pay the price of the Goods within 30 days of the date of the Seller's invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract.

**5.3** If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:

**5.3.1.** cancel the Contract or suspend any further deliveries to the Buyer;

**5.3.2.** demand payment of all outstanding balances whether or not due and/or cancel any outstanding orders from the Buyer;

**5.3.3.** appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and

**5.3.4.** charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of four (4) per cent per annum above Barclays Bank plc base rate from time to time, until payment in full is made.

**5.4** In the case of export orders, payment shall be in pounds sterling unless otherwise agreed in writing signed by the Seller's authorised representative.

## **6. EXPORT TERMS**

**6.1** In these Conditions "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

**6.2** Where Goods are supplied for export from the United Kingdom, the provisions of this clause 6 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.

**6.3** The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon.

**6.4** Unless otherwise agreed in Writing between the Buyer and the Seller, the Goods shall be delivered FOB the air or sea port of shipment and the Seller shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

**6.5** The Buyer shall be responsible for arranging for Inspection of the Goods at the Seller's premises before shipment. The Seller shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

**6.6** The Buyer undertakes not to offer the Goods for resale in any other country notified by the Seller to the Buyer at or before the time the Buyer's order is accepted, or to sell the Goods to any person if the Buyer knows or has reason to believe that that person intends to resell the Goods in any such country.

## **7. INSOLVENCY OF BUYER**

**7.1** This clause applies if:

**7.1.1.** the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or

**7.1.2.** an encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

**7.1.3.** the Buyer ceases, or threatens to cease, to carry on business; or

**7.1.4.** the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

**7.2** If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary and if any of the Goods have been delivered the Seller may sell the Goods at the best price readily available and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

## **8. RISK**

**8.1** Risk of damage to or loss of the Goods shall pass to the Buyer:

**8.1.1.** in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or

**8.1.2.** in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

**8.2** The Buyer shall insure the Goods from the date of their delivery to him until their title has passed to him and the Seller shall be entitled to call for details of the insurance policy.

**8.3** If the Buyer shall not insure the Goods or shall fail to supply details of its policy on demand to the Seller then the Buyer shall reimburse the Seller for the cost of any insurance which the Seller may reasonably arrange in respect of any of the Goods during the whole or any part of the period from the date of the Seller's delivery of the Goods until the date of payment to the Seller of the price.

## **9. TITLE RETENTION**

**9.1** Until the purchase price of the Goods comprised in this or any contract between the Seller and the Buyer and all other sums whatsoever which are or shall become outstanding from the Buyer to the Seller shall have been paid or satisfied in full (and if by cheque, then only upon clearance):

**9.1.1.** The property in the Goods remains vested in the Seller (notwithstanding the delivery of the same and the passing of the risk therein).

**9.1.2.** The Buyer shall store the Goods in such a way that they can be readily identified as being the Seller's property.

**9.1.3.** The Buyer shall on request inform the Seller of the precise location of each item of the Goods identified where applicable by its serial number, by supplying the Seller at the Buyer's expense within seven days of the Seller's request with a written schedule of the said locations.

**9.1.4.** The Buyer may sell the Goods in the normal course of its business and may pass good title to its customer being a bona fide purchaser for value without notice of the Seller's rights on the following conditions:

**9.1.4.1.** The Seller shall be entitled, immediately as a result of its ownership of the Goods, to the beneficial ownership of the proceeds of such sale which the Buyer shall accordingly hold as fiduciary for the Seller;

**9.1.4.2.** The Buyer shall account to the Seller on demand with the said proceeds of sale provided that no such demand shall be made by the Seller in the absence of its having reasonable cause to believe that the Buyer might default in making payment for the Goods on the terms contained herein;

**9.1.4.3.** The Seller shall be entitled to make a claim directly against the Buyer's customer for any particular monies unpaid by such customer provided that no such claim shall be made by the Seller in the absence of its having reasonable cause to believe that the Buyer might default in making payment for the Goods on the terms contained herein;

**9.1.4.4.** The Seller may at any time revoke the Buyer's said power of sale in the circumstances set out in Clause 5.4 and Clause 7 of these Conditions;

**9.1.4.5.** The Buyer shall notify the Seller without delay of any attachment of the Goods or actions by third parties which might infringe our title to the Goods.

**9.1.5.** Upon determination of the Buyer's power of sale the Seller shall be entitled by itself its servants or agents to enter upon any of the Buyer's premises for the purpose of removing and repossessing such Goods or their proceeds of sale and the Seller shall be entitled to claim from the Buyer the costs and expenses incurred by the Seller in and ancillary to the process of such removal and repossession.

**9.1.6.** Until title in the Goods has passed to the Buyer, the Buyer shall not purport to be the owner of the Goods and shall not show the Goods as stock in the Buyer's accounts.

**9.2** Nothing in these Conditions shall:

**9.2.1.** Entitle the Buyer to return the Goods or to delay payment thereof; or

**9.2.2 .** Constitute or be deemed to have constituted the Buyer as the Seller's agent; or

**9.2.3.** Render the Seller liable to any third party for any unauthorised representation or warranty made or given by the Buyer to such third party in relation to the Goods; or

**9.2.4.** Prevent the Seller from maintaining an action for the price notwithstanding that the property in the Goods may not have passed to the buyer.

## 10. LIEN

The Seller retains a general lien of the Buyer's equipment or materials in its possession for any unpaid balance the Buyer may owe to the Seller. The Seller shall be entitled to sell such equipment or materials in the event that payment is not made in full within 28 days of notice given to the Buyer by the Seller of its exercise of the lien. The proceeds of sale may be taken by the Seller for reimbursement of the expense of exercise of the lien and the sale, and payment of the said balance and the Seller shall account for any surplus.

## 11. DELIVERY

**11.1** Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place.

**11.2** Any dates quoted for delivery are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

**11.3** Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalment shall not entitle the Buyer to treat the Contract as a whole as repudiated.

**11.4** If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

**11.5** If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

**11.5.1.** store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

**11.5.2.** sell the Goods at the best price readily obtainable and (after deducting all reasonable storage insurance and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

## 12. GUARANTEE

**12.1** The Seller hereby guarantees to the Buyer that:

**12.1.1.** The Seller shall free of charge either repair or, at its option, replace defective Goods where the defects appear under proper use within 6 (six) months from the date of their use or 12(twelve) months from delivery or such other period or periods as may be agreed in writing between the Seller and the Buyer whichever is the first to expire, PROVIDED THAT:

**12.1.1.1.** notice in writing of the defects complained of shall be given to the Seller upon their appearance, and

**12.1.1.2.** such defects shall be found to the Seller's reasonable satisfaction to have arisen solely from the Seller's faulty design, workmanship or materials.

**12.1.2.** For the avoidance of doubt, defects will not be regarded as having arisen solely from the Seller's faulty design, workmanship or materials in any of the following circumstances:

**12.1.2.1.** where such defects arise from any drawing, design or specification supplied by the Buyer; or

**12.1.2.2.** where such defects arise from fair wear and tear, wilful damage, negligence, abnormal conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval; or

**12.1.2.3.** where such defects arise in parts, materials or equipment which have not been manufactured or designed by the Seller but have been purchased at the Buyer's request by the Seller from their designer and manufacturer or from some other third party ("the Third Party Supplier").

**12.1.3.** Any repaired or replaced Goods shall be redelivered to the Buyer free of charge to the original point of delivery but otherwise in accordance with and subject to these Conditions.

**12.1.4.** Alternatively to Condition 12.1.1.the Seller shall be entitled at its absolute discretion to refund the price of the defective Goods in the event that such price shall already have been paid by the Buyer to the Seller, or, if such price has not been paid, to relieve the Buyer of its obligation to pay the sum by the issue of a credit note in favour of the Buyer in the amount of such price.

**12.2** The Buyer agrees to insure itself against loss and damage in the circumstances identified in clause 12.1.2.

**12.3** In respect of all Goods supplied to the Seller by a Third Party Supplier the Seller will pass on to the Buyer (in so far as possible) the benefit of any warranty given to the Seller by such Third Party Supplier and will (on request) supply to the Purchaser details of the terms and conditions of such warranty and copies of any relevant product information sheets, Purchaser details of the terms and conditions of such warranty and copies of any relevant product information sheets, the entire exclusion of the Seller from complying with the same.

**12.4** The Seller's liability under these Conditions shall be to the exclusion of all other liability to the Buyer whether contract tortuous or otherwise from defects in the Goods or for any loss or damage to or caused by the Goods subject to Conditions 12.7, 12.8 and 12.9 all other conditions, warranties, stipulations or other statements whatsoever concerning the Goods, whether express or implied, by statute, at common law or otherwise howsoever, are hereby excluded; in particular (but without limitation of the foregoing) the Seller grants no warranties regarding the fitness for purpose, performance, use, nature or merchantable quality of the Goods, whether express or implied, by statute, at common law or otherwise howsoever.

**12.5** Subject to Clauses 12.7, 12.8 and 12.9 and notwithstanding anything contained in these Conditions (other than Conditions 12.7, 12.8 and 12.9) or the Contract, in no circumstances shall the Seller be liable, in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever, and whatever the cause thereof,

(i) for any loss of profit, business, contracts, revenue or anticipated savings, or (ii) for any special indirect or consequential damage of any nature whatsoever.

**12.6** Subject to Conditions 12.7, 12.8 and 12.9 and notwithstanding anything contained in these Conditions (other than Conditions 12.7, 12.8 and 12.9) or the Contract, the Seller's liability to the Buyer in contract, tort (including negligence or breach of statutory duty) or howsoever arising, shall be limited to the price of the Goods specified in the Contract.

**12.7** If and to the extent that sections 6 and/or 7(3A) of the Unfair Contract Terms Act 1977 apply to the Contract, no provision of the Conditions shall operate or be construed to operate as to exclude or restrict the liability of the Seller for breach of the applicable warranties as to title and quiet possession implied into the terms and conditions of the Contract by section 12(3) of the Sale of Goods Act 1979, or section 2(3) of the Supply of Goods and Services Act 1982, whichever Act applies to the Contract.

**12.8** If and to the extent that section 2(1) of the Unfair Contract Terms Act 1977 applies to the Contract nothing in the Conditions shall operate or be construed to operate so as to exclude or restrict the liability of the Seller for death or personal injury caused by reason of the negligence of the Seller or of its servants, employees or agents.

**12.9** Where the Goods are sold under a consumer sale (as defined by the Sale of goods Act 1979) the statutory rights of the Buyer are not affected by these Conditions.

**12.10** The Seller shall not be under any liability for any failure to perform any of its obligations under the order due to Force Majeure. Following notification by the Seller to the Purchaser of such cause, the Seller shall be allowed a reasonable extension of time for the performance of its obligations. For the purpose of this Condition, "Force Majeure" means:

- Act of God, explosion, flood, tempest, fire or accident;
- War or threat of war, sabotage, insurrection, civil disturbance or requisition;
- Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- Import or export regulations or embargoes;
- Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
- Difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- Power failure or breakdown in machinery.

**12.11** The Buyer accepts as reasonable that the Seller's total liability for any Goods which are defective shall be as set out in these Conditions: in fixing that limit the Buyer and the Seller have had regard to the source specification and Contract price of the Goods, their nature, the use they will receive, and the resources available to each party including servicing, facilities and insurance cover, to meet any liability.

## 13. HEALTH AND SAFETY

The Buyer's attention is drawn to the provisions of Section 6 of the Health and safety at Work Act 1974. The Seller will make available on written request such information on the Goods as is in the Seller's possession to ensure that as far as is reasonably practicable they are reasonably safe and without risk to health when properly used.

## 14. CONFIDENTIALITY

The Seller shall use all reasonable endeavours to keep confidential all information relating to the Buyer's business to the extent that the Seller safeguards information relating to its own business for so long as and to the extent that such information is and remains unpublished and is not known to the Seller at the time of disclosure by the Buyer or is not thereafter lawfully obtained by the Seller from a third party.

## 15. PROTECTION OF TO SELLER'S "KNOW HOW"

**15.1** The Buyer, subject as hereinafter provided, shall be responsible for keeping and procuring to be kept secret and confidential all information (hereinafter referred to as "Know-How") supplied by the Seller of a secret or confidential nature provided that the Seller shall first have given notice in writing to the Buyer of the secret or confidential nature of such information before so supplying it.

**15.2** The obligations under the Paragraph shall cease within six months of the publication by the Seller or any third party of information comprising or being part of the Know-How to the extent of such publication, or of agreement by the Seller that such information or part thereof is in the public domain.

## 16. INTELLECTUAL PROPERTY

**16.1** The copyright subsisting or which subsequently subsists in all documents, drawings, specifications, designs, programmes or any other material prepared by the Seller whether readable by humans or by machines shall belong to the Seller absolutely and they shall not be reproduced or disclosed or used in their original or translated form by the Buyer without the Seller's written consent for any purpose other than that for which they were furnished.

**16.2** The Seller accepts no responsibility for the accuracy of drawings, patterns or specifications supplied by the Buyer. The Buyer shall indemnify the Seller against all claims whatsoever for damages and cost and against all liability in respect of any infringement of patent or other intellectual property rights resulting from compliance with the Buyer's instructions express or implied and the Buyer will indemnify the Seller against any liability in respect thereof and shall pay all costs and expenses which may be incurred by the Seller in reference to any such claim. The indemnity shall extend to any amount paid on a lawyer's advice in respect of any such claim.

## 17. INDEMNITY

**17.1** If any claim is made against the Buyer that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other intellectual

property rights of any other person, then (except where clause 12.1.2.3.applies) the Seller shall indemnify the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:

**17.1.1.** the Seller is given full control of any proceedings or negotiations in connection with any such claim;

**17.1.2.** the Buyer shall give the Seller all reasonable assistance for the purpose of any such proceedings or negotiations;

**17.1.3.** except pursuant to a final award, the Buyer shall not pay or accept and such claim, or compromise any such proceedings without the consent of the Seller (which shall not be unreasonably withheld);

**17.1.4.** the Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnify shall not apply to the extent that the Buyer recovers any sums under such policy or cover (which the Buyer shall use its best endeavours to do);

**17.1.5.** the Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and cost (if any) awarded in favour of the Buyer which are payable by or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by any other party in respect of such claim; and

**17.1.6.** without prejudice to any duty of the Buyer at common law, the Seller shall be entitled to require the Buyer to take such steps as the Seller reasonably requires to mitigate or reduce any such loss, damages, costs or expenses for which the Seller is liable to indemnify the Buyer under this clause.

## 18. GENERAL

**18.1** The Seller reserves the right to sub-contract the fulfilment of the Contract (including any installation) or any part thereof.

**18.2** The Buyer shall not assign any rights under this agreement without the prior consent in writing of one of the Seller's directors.

**18.3** Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

**18.4** No waiver by the Seller of any breach of the Contract by the Buyer shall be construed as a waiver of any subsequent breach of the same or any other provision.

**18.5** If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby.

**18.6** The Contract shall be governed by the laws of England and the parties shall submit to the sole jurisdiction of the English courts.