

Global Energy Systems Limited

TERMS AND CONDITIONS OF SALE OF GOODS AND SERVICES – COMMERCIAL CONTRACTS

DEFINITIONS

In these Conditions, the following definitions apply:

"the Supplier" shall mean Global Energy Systems Limited;

"the Customer" means the person who accepts a quotation or offer of the Supplier for the Sale of Goods and/or the Supplier of Services, or whose order for the Goods and/or services is accepted by the Supplier;

"the Contract" shall mean the contract between the Supplier and the Customer for the supply of goods and/or services in accordance with these Conditions;

"Commencement Date" means the commencement date of this agreement as set out in the Quotation / Accepted Order;

"these Conditions" means the standard terms and conditions of sale set out in this document (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Customer and the Supplier;

"the Delivery Date" means the date on which the Goods and/or Services are to be delivered as stipulated in the Customer's Order and accepted by the Supplier;

"Business Day" shall mean all day other than a Saturday, Sunday or bank holiday. Business Hours are 8:30 to 17:00 Hrs.

"Month" means a calendar month;

"the Goods" means the goods (including any installment of the goods or any parts for them) which the Supplier is to supply in accordance with these Conditions;

"the Services" shall mean the services (including any installment of the services or any parts for them) which the Supplier is to supply in accordance with these Conditions;

"Intellectual Property" means any patent, copyright, database right, moral right, design right, registered design, trade mark, service mark, domain name, metatag, utility model, unregistered design or, where relevant, any application for any such right, or other industrial or intellectual property right subsisting anywhere in the world and any intellectual property rights in know-how, documentation, and techniques associated with the Deliverables or Materials.

"writing" includes any communications effected by letter, telex, facsimile transmission, electronic mail or any comparable means.

1. APPLICATION OF CONDITIONS

- a) The Supplier shall supply and the Customer shall purchase the Goods and Services in accordance with the Supplier's Quotation / Order Acceptance which are subject to these Conditions.
- b) These Conditions shall be 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 Customer.
- c) These Conditions shall also apply when a Reseller Agreement is in place.

2. BASIS OF SALE AND SERVICE

- a) The Supplier's employees or agents are not authorised to make any representations concerning the Goods and Services unless confirmed by the Supplier in writing. In entering into the Contract the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- b) No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and the Supplier.
- c) Sales literature, price lists and other documents issued by the Supplier in relation to the Goods and Services are subject to alteration without notice and do not constitute offers to sell the Goods which are capable of acceptance. An order placed by the Customer may not be withdrawn cancelled or altered prior to acceptance by the Supplier and no contract for the sale of the Goods and Services shall be binding on the Supplier unless the Supplier has issued a quotation which is expressed to be an offer to sell the goods and services or has accepted an order placed by the Customer by whichever is the earlier of:-
 - i) The Supplier's written Order Acceptance; or
 - ii) Delivery of the Goods; or
 - iii) The Supplier's invoice.
- d) Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to

correction without any liability on the part of the Supplier.

3. THE GOODS

- a) No order submitted by the Customer shall be deemed to be accepted by the Supplier unless and until confirmed in writing by the Supplier's Order Acceptance.
- b) The specification for the Goods shall be those set out in the Supplier's sales documentation unless varied expressly in the Customer's order (if accepted by the Supplier). The Goods will only be supplied in the minimum units (or multiples) stated in the Supplier's price list or in multiples of the sales order as specified. Orders received for quantities other than these will be adjusted accordingly, illustrations, photographs or descriptions whether in catalogues, brochures, price lists or other documents issued by the Supplier are intended as a guide only and shall not be binding on the Supplier.
- c) The Supplier 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 or regulatory requirements or, where the Goods are to be supplied to the Supplier's specification, which do not materially affect their quality or performance.
- d) No order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in writing of the Supplier on the terms that the Customer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of cancellation.

4. THE SERVICES

- a) With effect from the Commencement Date the Supplier shall, in consideration of the Fees being paid in accordance with the Terms of Payment will provide the services expressly identified in the Supplier's Quotation / Order Acceptance or otherwise agreed under this agreement.
- b) The Supplier will use reasonable care and skill to perform the services identified in the Supplier's Quotation / Order Acceptance or otherwise agreed under this agreement.
- c) The Supplier shall use all reasonable endeavours to complete its obligations under the Schedule, but time will not be of the essence in the performance of these obligations.
- d) The Supplier's Quotation for the Services are an estimation of the charges to be levied which may be subject to change and are in no way a fixed fee.

5. PRICE

- a) The price of the Goods and Services shall be the price listed in the Supplier's Quotation / Order Acceptance current at the date of acceptance of the Customer's order or such other price as may be agreed in writing by the Supplier and the Customer.
- b) Where the Supplier has quoted a price for the Goods other than in accordance with the Supplier's published price list the price quoted shall be valid for 30 days only or such time as the Supplier has specified in the Supplier's Quotation / Order Acceptance.
- c) The Supplier reserves the right, by giving notice to the Customer at any time before delivery, to increase the price of the Goods and Services to reflect any increase in the cost to the Supplier which is due to any factor beyond the control of the Supplier (such as, without limitation, any foreign exchange fluctuation currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods and services which are requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions.
- d) Except as otherwise stated under the terms of any Supplier's Quotation / Order Acceptance or in any price list of the Supplier, and unless otherwise agreed in writing between the Customer and the Supplier, all prices are exclusive of the Supplier's charges for packaging and transport.
- e) The price is exclusive of any applicable value added tax excise, sales or taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Goods and Services, which the Customer shall be additionally liable to pay to the Supplier.
- f) The price is exclusive of any applicable charges for insurance which are imposed or charged by any competent fiscal authority in respect of the Goods and Services or are deemed necessary by either the Supplier or the Customer or both parties, which the Customer shall be additionally liable to pay to the Supplier.

6. PAYMENT

- a) All payments required to be made pursuant to these Conditions by either party shall be made in full before work begins to the value of the relevant invoice, without any set-off, withholding or deduction except such amount

(if any) of tax as that party is required to deduct or withhold by law, unless expressly agreed otherwise in writing by a director of the Supplier.

- b) The time of payment shall be of the essence of these terms and conditions. If the Customer fails to make any payment on the due date in respect of the price or any other sum due under these terms and conditions then the Supplier shall, without prejudice to any right which the Supplier may have pursuant to any statutory provision in force from time to time, have the right to charge the Customer interest on a daily basis at an annual rate equal to the aggregate of 4% per cent and the base rate of Yorkshire Bank Plc from time to time on any sum due and not paid on the due date. Such interest shall be calculated cumulatively on a daily basis from the payment date specified on the invoice and shall run from day to day and accrue after as well as before any judgement.
- c) All payments shall be made to the Supplier as indicated on the invoice issued by the Supplier.

7. DELIVERY AND PERFORMANCE

- a) Delivery of the Goods shall be made by the Supplier delivering the Goods to the place inside the United Kingdom or Ireland as specified in the Supplier's Quotation / Order Acceptance.
- b) The Delivery Date is approximate only and time for delivery shall not be of the essence unless previously agreed by the Supplier in writing. The Goods may be delivered by the Supplier in advance of the Delivery Date unless specified in an Accepted Order.
- c) If the Customer fails to take delivery of the Goods or any part of them on the Delivery Date and/or fails to provide any instructions, documents, licences, consents or authorisations required to enable the Goods to be delivered on that date, the Supplier shall be entitled upon given written notice to the Customer to store or arrange for the storage of the Goods and then notwithstanding the provision of Condition 9.a of these Conditions risk in the Goods shall pass to the Customer, delivery shall be deemed to have taken place and the Customer shall pay to the Supplier all costs and expenses including storage and insurance charges arising from such failure.
- d) With effect from the Commencement Date the Supplier shall, in consideration of the amount(s) being paid in accordance with the Supplier's Quotation / Order Acceptance will provide the services expressly identified in the schedule or otherwise agreed under this agreement.

8. NON DELIVERY OF GOODS AND SERVICES

- a) Delivery of Goods to the Carrier shall be deemed as delivery to the Customer.
- b) Any claim for late or non-delivery of Goods brought about by a failure of the Carrier's fault may be assigned to the Carrier by the Supplier or the Customer.
- c) The Customer must be adequately insured against any losses caused by late or non-delivery of Goods or Services.
- d) Any insurance monies received by the Customer as a consequence of any late or non-delivery of Goods or Services shall be deducted from any claim against the Supplier.
- e) If the Supplier fails to deliver the Goods or Services on the Delivery Date other than for reasons outside the Supplier's reasonable control or the Customer's or its Carrier's fault:-
 - i) If the Supplier delivers the Goods and Services at any time thereafter the Supplier shall have no liability of such late delivery beyond replacing the Goods or Services within a reasonable time;
 - ii) if the Customer gives written notice to the Supplier within 28 business days after the Delivery Date and the Supplier fails to deliver the Goods and Services within 28 Business Days after receiving such notice the Customer may cancel the order and the Supplier's liability shall be limited to the excess (if any) of the cost of the Customer (in the cheapest available market) of similar goods to those not delivered over the price of the Goods not delivered.

9. RISK AND RETENTION OF TITLE

- a) Risk of damage to or loss of the Goods shall pass to the Customer:
 - i) in the case of Goods to be delivered at the Supplier's premises, the time when the Supplier notifies the Customer that the Goods are available for collection;
 - ii) in the case of Goods to be delivered otherwise than at the Supplier's premises, the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods.
- b) Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, legal and beneficial title of the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods.
- c) Sub-clause 9.b notwithstanding, legal and beneficial title of the Goods shall not pass to the Customer until the

Supplier has received in cash or cleared funds payment in full of the price of the Goods and any other goods supplied by the Supplier and the Customer has repaid all moneys owed to the Supplier, regardless of how such indebtedness arose.

- d) Until payment has been made to the Supplier in accordance with these Conditions and title in the Goods has passed to the Customer, the Customer shall be in possession of the Goods as bailee for the Supplier and the Customer shall store the Goods separately and in an appropriate environment, shall ensure that they are identifiable as being supplied by the Supplier and shall insure the Goods against all reasonable risks.
- e) In the event that the Customer sells or transfers the Goods to a third party before legal and beneficial title has passed to him under these Conditions, the proceeds of the sub-sale or transfer (or such proportion as is due to the Supplier) shall be held by the Customer on behalf of the Supplier. The Customer shall ensure that such moneys are held separately from, and are in no way mixed with, any other moneys or funds, and that all moneys held on the Supplier's behalf are identified as such.
- f) The Supplier may, in accordance with the provisions of the Companies Act 2006, register any charge created by these Conditions.
- g) The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the goods which remain the property of the Supplier, but if the Customer does so all money owing by the Customer to the Supplier shall (without prejudice to any other right or remedy of the Supplier) forthwith become due and payable.
- h) The Supplier reserves the right to repossess any Goods in which the Supplier retains title without notice. The Customer irrevocably authorises the Supplier to enter the Customer's premises during normal business hours for the purpose of repossessing the Goods in which the Supplier retains title and inspecting the Goods to ensure compliance with the storage and identification requirements of sub-clause 9.d .
- i) The Customer's right to possession of the Goods in which the Supplier maintains legal and beneficial title shall terminate if;
 - i) The Customer commits or permits any material breach of his obligations under these Conditions;
 - ii) The Customer enters into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with his creditors;
 - iii) The Customer is or becomes the subject of a bankruptcy order or takes advantage of any other statutory provision for the relief of insolvent debtors;
 - iv) The Customer convenes any meeting of its creditors, enters into voluntary or compulsory liquidation, has a receiver, manager, administrator or administrative receiver appointed in respect of its assets or undertaking or any part thereof, any documents are filed with the court for the appointment of an administrator in respect of the Customer, notice of intention to appoint an administrator is given by the Customer or any of its directors or by a qualifying floating charge-holder (as defined in paragraph 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer.

10. ASSIGNMENT

- a) The Supplier may assign the Contract or any part of it to any person, firm or company.
- b) The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Supplier.

11. DEFECTIVE GOODS

- a) If on delivery any of the Goods are defective in any material respect and either the Customer lawfully refuses delivery of the defective Goods or, if they are signed for on delivery "condition and contents unknown" the Customer gives written notice of such defect to the Supplier within three business days of such delivery, the Supplier shall at its option:-
 - i) replace the defective Goods within 90 days, or lesser time as agreed by the Supplier, of receiving the Customer's notice; or
 - ii) repair the defective Goods within 90 days, or lesser time as agreed by the Supplier, of receiving the Customer's notice; or
 - iii) refund to the Customer the price for the goods which are defective;
 but the Supplier shall have no further liability to the Customer in respect thereof and the Customer may not reject the

Goods if delivery is not refused or notice given by the Customer as aforesaid.

- b) No Goods may be returned to the Supplier without the prior agreement in writing of the Supplier. Subject thereto any Goods returned which the Supplier is satisfied were supplied subject to defects of quality or condition d) which would not be apparent on inspection shall either be replaced free of charge or, at the Supplier's sole discretion the Supplier shall refund or credit to the Customer the price of such defective Goods but the Supplier shall have no further liability to the Customer.
- c) The Supplier shall be under no liability in respect of any defect arising from fair wear and tear, or any willful damage, negligence, subjection to normal conditions, failure to follow the Supplier's instructions (whether oral or in writing), misuse or alteration of the Goods without the Supplier's approval, or any other act or omission on the part of the Customer, its employees or agents or any third party.
- d) Goods, other than defective Goods returned under Conditions 11.a or 11.b, returned by the Customer and accepted by the Supplier may be credited to the Customer at the Supplier's sole discretion and without any obligation on the part of the Supplier.
- e) Subject as expressly provided in these Conditions, and except where the Goods are sold under a consumer sale, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- f) The Customer shall be responsible to ensure that, except to the extent that instructions as to the use or sale of the Goods are contained in the packaging or labeling of the Goods, any use or sale of the Goods by the Customer is in compliance with all applicable statutory handling and sale of the Goods by the Customer is carried out in accordance with directions given by the Supplier or any competent governmental or regulatory authority and the Customer will indemnify the Supplier against any liability loss or damage which the Supplier might suffer as a result of the Customer's failure to comply with this condition.

12. CUSTOMER'S DEFAULT

- a) If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to:-
 - i.) cancel the order or suspend any further deliveries of Goods and Services to the Customer; and
 - ii.) appropriate any payment made by the Customer to such of the Goods and Services (or the goods supplied under any other contract between the Customer and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer); and/or
 - iii.) terminate the Agreement as specified in Term 13 below.
- b) This condition applies if:-
 - i.) the Customer fails to perform or observe any of its obligations hereunder or is otherwise in breach of the Contract; or
 - ii.) the Customer becomes subject to an administration order or makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation; or
 - iii.) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or
 - iv.) the Customer ceases, or threatens to cease, to carry on business; or
 - v.) the Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.
- c) If Condition 13.b applies then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer, 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.

13. TERMINATION

- a) Without affecting any other right or remedy available to it, the Supplier may terminate this agreement with immediate effect by giving 28 days written notice to the Customer if:
 - i) the Customer fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 28 days after being notified in writing to make such payment;
 - ii) the Customer commits a material breach of any term of this agreement which breach is irremediable or if such breach is remediable fails to remedy that breach within a period of 28 days after being notified in writing to do so;

- iii) the Customer repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
 - iv) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or being a company or limited liability partnership is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 **OR** being an individual is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 **OR** being a partnership has any partner to whom any of the foregoing apply;
 - v) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
 - vi) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer or the solvent reconstruction of the Customer;
 - vii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Customer;
 - viii) the holder of a qualifying floating charge over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver;
 - ix) a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the Customer;
 - x) the Customer (being an individual) is the subject of a bankruptcy petition or order;
 - xi) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Customer's assets and such attachment or process is not discharged within 14 days;
 - xii) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clauses 13(a)(i) to 13(a)(xi) inclusive;
 - xiii) the Customer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
 - xiv) there is a change of control of the Customer within the meaning of section 1124 of the Corporation Tax Act 2010).
- b) For the purposes of clause 13(a)(ii), **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from any Agreements governed by these Terms.
- c) Without affecting any other right or remedy available to it the Supplier may terminate any agreements subject to these Terms on giving not less than 2 months' written notice to the Customer.

14. LIABILITY

- a) Except in respect of death or personal injury caused by the Supplier's negligence, the Supplier will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under express terms of this contract, be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the Supplier's employees or agents or otherwise) which arise out of or in connection with the supply of the Goods and Services.
- b) The Customer shall indemnify the Supplier against all damages, costs, claims and expenses suffered by arising from loss or damage to any equipment (including that of third parties) caused by the Customer, or its agent or employees.
- c) Where the Customer consists of two or more persons such expression throughout shall mean and include such two or more persons and each or any of them. All obligations on the part of such a Customer shall be joint and several obligations of such persons.
- d) The Supplier shall not be liable to the Customer or be deemed to be in breach of these terms and conditions by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations if the delay or failure was due to any cause beyond the Supplier's reasonable control.
- e) Subject to term 15(b) below the Supplier shall not, under any circumstances whatever be liable to the Customer or

any third party, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any:

- i) loss of profit; or
 - ii) loss of goodwill; or
 - iii) loss of business; or
 - iv) loss of business opportunity; or
 - v) loss of anticipated saving; or
 - vi) loss of or damage to property; or
 - vii) special, indirect or consequential damage or loss suffered by the Customer that arises under or in connection with these Conditions.
- f) Where piping and wiring is not fully installed by the Supplier, the Supplier accepts liability only for the portion of pipe or wire runs supplied and installed by the Supplier.
 - g) Where compliance certificates are issued by a third party and are presented to the Supplier as a basis for commissioning, the Supplier accepts no responsibility for the provenance of these certificates.
 - h) Where the Supplier commissions a system it will certify the system's function on the date of commissioning only and does not accept liability for subsequent fault or failure of any works or materials not completed or supplied by the Supplier.
 - i) Where the performance of the system as indicated in the proposal is contingent upon other works; such as improved insulation or upgrading of heat delivery systems, the Supplier accepts no liability relating to the performance of the system unless these works have been carried out.
 - j) The Customer's only remedy in respect of any defective, lost or damaged goods is their replacement free of charge or a credit note or refund for the full invoiced price to you as specified in 15.a.
 - k) The Supplier's maximum liability in respect of any order is our sale price to the Customer in respect of those goods or services.
 - l) The Supplier is not liable for any delay in, or non-performance of, the Supplier's obligations which is caused by circumstances beyond our reasonable control (which includes failure of the supply chain to meet delivery requirements). In such circumstances the Supplier may delay or cancel delivery.
 - m) The Supplier is not under any liability whatsoever in respect of damage to drainpipes or cables or other surfaces buried under the site or otherwise concealed or any other consequential loss resulting from such damage caused by the Supplier or the Supplier's subcontractor unless it is directly concerning the Supplier's responsibilities defined in the Scope of Work.
 - n) Where goods are sold on all claims on the Supplier will be void unless a Reseller Agreement exists between the Supplier and The Customer.

15. LIMITATION OF LIABILITY

- a) The total accumulative liability accepted by the Supplier shall be capped at a maximum of the invoice price of the product times number of products proven to be defective within the warranty period **or** [1 x (the invoice price of the product) x (number of products proven to be defective within the warranty period)].
- b) Nothing contained in these Conditions shall be construed as to limit or exclude the liability of the Supplier for death or personal injury as a result of the Supplier's negligence or that of its employees or agents.

16. MISREPRESENTATION

- a) Nothing contained in these Terms and Conditions shall be construed as to limit or exclude the liability of the Supplier for fraudulent misrepresentation.
- b) The Supplier shall not be liable to the Customer in the case of innocent misrepresentation made by the Supplier, its employees or agents for which the Customer is claiming losses.
- c) The Supplier shall not be liable to the Customer in the case of negligent misrepresentation made by the Supplier, its employees or agents for which the Customer is claiming losses.

17. INTELLECTUAL PROPERTY

- a) The Supplier is the owner of the Intellectual Property in the Goods and Services, unless otherwise expressly acknowledged in writing by the Supplier.
- b) The Customer further acknowledges that the Intellectual Property supplied by the Supplier for the purpose of any Agreement shall remain vested at all times in the Supplier and the Customer agrees that it will not assert

ownership of the Intellectual Property against the Supplier.

- c) Where the Goods are made to the Customer's specification the Customer warrants that the specification does not infringe any Intellectual Property belonging to a third party and indemnifies the Supplier in full against all actions, proceedings, claims and demands, damages, penalties, costs and expenses arising out of any such infringement.

18. CONFIDENTIALITY

- a) The Receiving Party shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the Disclosing Party, its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain.
- b) The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party.
- c) The restrictions set out in condition 18(a) above do not apply to any use or disclosure authorised by the Disclosing Party or required by law; or any information which is already in, or comes into, the public domain otherwise than through the Receiving Party's unauthorised disclosure.
- d) This Term 18 shall survive termination of the Contracts and Agreements between the Supplier and Customer.

19. COMMUNICATIONS

- a) All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or sent by electronic mail:
- i) (in the case of communications to the Supplier) to its registered office or such changed address as shall be notified to the Customer by the Supplier; or
 - ii) (in the case of the communications to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to the Supplier by the Customer.
- b) Communications shall be deemed to have been received:
- i) if sent by pre-paid first class post, two Business Days after posting (exclusive of the day of posting); or
 - ii) if delivered by hand, on the day of delivery; or
 - iii) if sent by fax or electronic mail on a Business Day prior to 4.00 pm, at the time of transmission and otherwise on the next Business Day.

20. FORCE MAJEURE

- a) No Party to the Contract shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, any strike, lockout, or other form of industrial action; shortage of components or raw materials; lack of, interruption to, or failure of any other utility service, or lack of available facilities; non-performance by suppliers or sub-contractors; collapse of buildings, fire, explosion, accident, acts of God, storm, flood, drought, earthquake, epidemic, pandemic, or other natural disaster; terrorist attack, civil commotion or riots, war, civil war, threat of preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off diplomatic relation; nuclear, chemical, or biological contamination, or sonic boom; or any law or action taken by a government or public authority including, but not limited to, imposing an export or import restriction, quota, or prohibition, or failing to grant a necessary licence or consent or any other event that is beyond the control of the Party in question.
- b) In the event that a Party to the Contract cannot perform their obligations hereunder as a result of force majeure for a continuous period of 30 Days, the other Party may at its discretion terminate this Agreement by written notice at the end of that period. In the event of such termination, the Parties shall agree upon a fair and reasonable payment for all Services provided up to the date of termination. Such payment shall take into account any prior contractual commitments entered into in reliance on the performance of the Contract.

21. WAIVER

No waiver by the Supplier of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

22. SEVERANCE

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 provision in question shall not be affected thereby.

23. THIRD PARTY RIGHTS

A person who is not a party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

24. GOVERNING LAW

The provisions of the Order and the rights of the parties hereto shall be governed and construed in all respects according to the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales in respect of any dispute or claim arising out of or in connection with the Contract, its subject matter or formation.