

1. CONTRACT TERMS

- 1.1 Unless other terms and conditions are expressly accepted by the Seller by means of a specific written amendment hereto signed by the Seller or a director of the Seller the contract will be on the terms and conditions set out below and overleaf ("the Contract Terms") to the exclusion of any other terms and conditions (except those implied in favour of a seller which are not inconsistent with the Contract Terms) whether or not the same are endorsed upon, delivered with or referred to in any purchase order or other document delivered or sent by the Buyer to the Seller. Any reference overleaf to the Buyer's order, specification or like document will not be deemed to imply that any terms or conditions endorsed upon, delivered with or referred to in such order, specification or like document will have effect to the exclusion or amendment of the Contract Terms
- 1.2 Where a quotation or acknowledgement of order is stated to be issued subject to the terms and conditions of a specified Standard Form of Contract issued by the Joint Contracts Tribunal ("JCT"), or any other similar standard form such JCT or other terms and conditions shall apply to the Contract except to the extent that any provision of such JCT terms and conditions is inconsistent with any provision of the Contract Terms in which event the Contract Terms shall prevail

2. SPECIAL CONDITIONS

Where the Seller undertakes to carry out steelwork erection or other services on site the special conditions set out in the annexure hereto shall form part of the Contract Terms. The contract price is based upon the Buyer (or main Contractor or Employer, if different) providing the services and attendances set out in the annexure

3. QUOTATIONS

- 3.1 Any quotation is given on the basis that no contract will come into existence until the Seller despatches an acknowledgement of order to the Buyer
- 3.2 Except where stated otherwise on a quotation any quotation is valid for a period of 30 days only from its date provided that the Seller has not previously withdrawn it

4. DELIVERY

- 4.1 The Seller will endeavour to deliver the goods to be supplied under the contract ("the Goods" which expression includes any of them or any part of them) and/or supply the services to be performed under the contract ("the Works" which expression includes any of them or any part of them and goods or materials upon or in connection with which work is to be carried out and any of them are hereinafter referred to as "the Buyer's Goods") within the time agreed and if no time is agreed within a reasonable time, but in no circumstances will the Seller be liable for loss or damage of any kind whatsoever caused directly or indirectly by any delay in the delivery of the Goods and/or the performance of the Works, nor unless such delay exceeds 180 days will any delay entitle the Buyer to terminate or rescind the contract
- 4.2 The Seller may make delivery by instalments
- 4.3 Unless expressly stated otherwise delivery of the Goods and the Buyer's Goods will be made ex the Seller's works and the contract price is calculated on that basis. The Seller shall be entitled to charge for and be paid all delivery and insurance costs in addition to the price for the Goods and/or Works
- 4.4 No claim for damage or shortages will be considered unless the Seller is advised in writing within 7 days of delivery. In the absence of such advice the Buyer will be deemed to have accepted the Goods and/or Works. No claim for non-delivery will be considered unless the Seller is advised in writing within 21 days of the date of the Seller's invoice. Any claim for damage shortages or non-delivery shall also be notified to the carriers by the Buyer in the manner and within the appropriate time limit prescribed by the carriers' terms and conditions
- 4.5 In the event of failure by the Buyer to give the appropriate notice or notices as specified in Clause 4.4, the Buyer's claim will be deemed to have been waived and will be absolutely barred
- 4.6 The Seller will endeavour to supply the exact quantity of Goods ordered but the Seller may supply up to 10% more or less than the exact quantity ordered. A pro rata charge or allowance at the contract price will be made to cover any variation

5. BLANKET ORDERS

The following provisions will apply where the Seller supplies the Goods and/or the Works under a blanket order received from the Buyer:-

- 5.1 if the order is a scheduled order where the maximum quantity of Goods and/or Works required and the approximate dates (including the terminal date) on which the requirements will be called off are specified, the whole order will be treated as a single contract upon the Contract Terms
- 5.2 if the order is a non-scheduled order where the maximum quantity of Goods and/or Works required or where the appropriate call off dates are not specified, each call off will be deemed to conclude a separate contract upon the Contract Terms
- 5.3 if the order is a non-scheduled order where the appropriate call off dates are not specified, the Seller may require the Buyer to accept delivery of the maximum quantity of Goods required and/or performance of the maximum required Works within twelve months of the date of the contract

Without limiting the generality of any of the other Contract Terms the Seller will not be under any liability to the Buyer if at the time of any call off by the Buyer the Seller is unable for whatever reason to supply Goods and/or perform Works in accordance with the Buyer's requirements

6. GUARANTEE AND EXCLUSION CLAUSES AND INDEMNITY

- 6.1 Where the Seller is not the manufacturer of the Goods or does not personally perform the Works the Seller will endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to the Seller

- 6.2 In respect of Goods manufactured or Works personally performed by the Seller itself the Seller will free of charge within a period of 6 months from the date of despatch of the Goods or the date of the invoice for the Works as appropriate repair or at its option replace any Goods or issue a credit note to the value of the relevant Goods and reperform or at its option remedy any Works or issue a credit note to the value of the relevant Works which are proved to the reasonable satisfaction of the Seller to be defective in material or workmanship provided that this obligation will not apply where:-

- 6.2.1 the Goods or the Buyer's Goods have been altered in any way whatsoever or have been subjected to misuse or unauthorised repair; or
- 6.2.2 the Goods or the Buyer's Goods have been improperly installed or connected (unless the Seller carried out such installation and connection); or
- 6.2.3 the Buyer has failed to observe any maintenance requirements relating to the Goods or the Buyer's Goods; or
- 6.2.4 the Buyer has failed to notify the Seller of any defect or suspected defect within 14 days of the same coming to or when the same ought reasonably have come to the knowledge of the Buyer; or
- 6.2.5 the Buyer is in breach of this or any other contract made with the Seller

Goods must be returned carriage paid to the Seller. Any Goods replaced will belong to the Seller. Any repaired or replacement Goods and Works reformed or remedied by the Seller will be guaranteed on these terms for the unexpired portion of the 6 month period

- 6.3 Save as provided in clauses 6.1 and 6.2 the Seller will be under no liability under the contract for any personal injury, death, loss or damage of any kind whatsoever (other than death or personal injury resulting from the Seller's negligence) whether consequential or otherwise including but not limited to loss of profits and the Seller hereby excludes all conditions, warranties and stipulations express or implied, statutory, customary or otherwise which but for such exclusion would or might subsist in favour of the Buyer except that such exclusion will not apply to:-

- 6.3.1 any implied condition that the Seller has or will have the right to sell the Goods when the property is to pass; or
- 6.3.2 when the Buyer deals as a consumer (as defined in section 12 of the Unfair Contract Terms Act 1977), any implied term relating to the conformity of the Goods with their description or sample or as to their quality or fitness for a particular purpose

- 6.4 In no circumstances will the Seller or its employees, agents or sub-contractors be liable for any loss or damage of any kind whatsoever (other than death or personal injury resulting from the Seller's negligence) whether consequential or otherwise caused directly or indirectly by the negligence or other tortious act or breach of statutory duty on the part of the Seller or on the part of any of its employees, agents or sub-contractors in connection with or arising out of the manufacture or supply of the Goods and/or supply of the Works or in connection with any statement given or made (or advice not given or made) by or on behalf of the Seller

- 6.5 The Buyer will indemnify and keep the Seller indemnified against all costs, claims, demands, losses and liabilities suffered or incurred by the Seller in connection with the carrying out of Work off the Seller's premises save as arising from any default of the Seller
- 6.6 The Buyer shall indemnify the Seller against all costs, claims, demands, losses and liabilities suffered or incurred by the Seller arising out of or in connection with the Goods or Services except to the extent that liability is specifically assumed by the Seller under the Contract Terms

7. BUYER'S GOODS

- 7.1 All goods received by the Seller shall at all times remain at the Buyer's entire risk whilst in the possession of the Seller
- 7.2 It is the Buyer's responsibility to ensure that the Buyer's Goods are tested or inspected and are suitable for use by the Seller in the performance of the Works

8. HEALTH AND SAFETY AND PROPER USE

- 8.1 To the best belief of the Seller, Goods comply with any relevant requirements of the Health and Safety at Work Act 1974 ("the Act") but whilst all care is taken to ensure that the Goods are safe there are certain inherent dangers in the use of certain of the Goods, details of which are provided in notes prepared by the Seller and the Buyer's attention is drawn to these notes which are available on request
- 8.2 The acceptance of the Buyer's order may be conditional upon the issue by the Buyer to the Seller of a written undertaking to take such steps as may be specified in the undertaking sufficient to ensure so far as reasonably practicable that the Goods or the Buyer's Goods will be safe and without risk to health when properly used, stored or handled
- 8.3 The Buyer shall ensure that Goods are used handled and stored in accordance with the Seller's notes and any other instructions supplied with the Goods and shall notify the Seller forthwith if it has reason to believe that the Goods may be unsafe or a risk to health in any respect
- 8.4 The Buyer will indemnify the Seller and keep the Seller indemnified against claims by third parties and all fines and penalties for which the Seller is liable pursuant to the Act or otherwise to the extent that such liability would not have arisen save for any failure of the Buyer to comply with its obligations hereunder

9. RISK

Notwithstanding any other Contract Term, risk in the Goods shall pass to the Buyer when the Goods are delivered to the Buyer or its agent, or where Goods are delivered ex the Seller's Works, when the Buyer is notified that the Goods are available for collection or (where the Seller is carrying out Works on site) to the site, whichever is the earlier

10. PROPERTY IN THE GOODS

10.1. In this clause the following expressions have the following meanings:-

"The New Goods" means goods produced by the Buyer converting, incorporating or mixing the Goods with other goods prior to the property in the Goods passing to the Buyer and includes any of them and any part of them. "The Supplied Goods" means the Goods and the New Goods and includes any of them and any part of them

10.2 The property (both legal and equitable) in the Goods shall not pass to the Buyer until

10.2.1 the purchase price of the Goods has been paid in full; and

10.2.2 payment to the Seller of any sum which is at the date of the contract or may thereafter become due or owing from the Buyer to the Seller

10.3 The Buyer may convert or incorporate the Goods into or mix the Goods with other goods to produce the New Goods prior to the property in the Goods passing to the Buyer but in such event the property in the New Goods (whether the other goods into which the Goods have been converted or incorporated or with which the Goods have been mixed belong to the Buyer or not) shall be and remain with the Seller immediately upon such conversion, incorporation or mixture until

10.3.1 the purchase price of the Goods has been paid in full; and

10.3.2 payment to the Seller of any sum which is at the date of the contract or may thereafter become due or owing from the Buyer to the Seller

10.4 Until property in the Supplied Goods has passed to the Buyer or until delivery of the Supplied Goods to a third party pursuant to the permission given below, the Buyer will hold the Supplied Goods in a fiduciary capacity, will not obliterate any identifying mark on the Supplied Goods or their packaging and (save where the Goods are being converted or incorporated into or mixed with other goods to create New Goods) will keep the Supplied Goods separate from any other goods

10.5 Prior to the property in the Supplied Goods passing to the Buyer the Seller permits the Buyer to deliver the Supplied Goods to a third party pursuant to a bona fide and arm's-length agreement to sell the Supplied Goods but such liberty will cease forthwith upon notice from the Seller or upon the termination of the contract

10.6 The Buyer's liberty to convert or incorporate the Goods into or mix the Goods with other goods and the Buyer's liberty to deliver the Supplied Goods to a third party shall cease forthwith upon notice from the Seller or upon the termination of the contract

10.7 Where the Seller is unable to determine whether any goods are the Goods the Buyer shall be deemed to have converted incorporated mixed or sold all goods of the kind sold by the Seller to the Buyer in the order in which they were invoiced to the Buyer and any new goods so created shall be deemed to have been delivered to the Buyer's customers in the order in which they were created

10.8 10.8.1 The Seller may at any time after payment for the Goods has become due take possession of the Supplied Goods (which for the avoidance of doubt will include the right to stop the Goods in transit) and remove them and the Buyer shall be deemed to have granted irrevocable authority to the Seller to enter upon the Buyer's premises or other premises where the Supplied Goods may be by its employees or agents to take possession of the Supplied Goods and (if necessary) to dismantle the Supplied Goods from anything to which they are attached

10.8.2 If prior to the expiry of 7 days from the date when the Seller has taken possession of the Supplied Goods the Buyer pays all sums then due or owing to the Seller together with the costs of taking possession of the Supplied Goods, the Seller will re-deliver the Supplied Goods to the Buyer at the Buyer's expense. If within the 7 day period the Buyer fails to pay all sums then due or owing to the Seller, the Seller may sell the Supplied Goods and shall pay to the Buyer the balance of any sums received upon the sales of the Supplied Goods after deducting all sums due or owing from the Buyer to the Seller and the costs of taking possession of and selling the Supplied Goods save that if the sums so received by the Seller do not exceed all sums due or owing from the Buyer to the Seller and the costs of taking possession of and selling the Supplied Goods the Buyer will pay to the Seller any shortfall

10.9 If the Buyer sells the Supplied Goods before the property in them passes to the Buyer, the Buyer will promptly account to the Seller for the proceeds of any such sale and, prior to paying such proceeds to the Seller, the Buyer will hold the same in a fiduciary capacity keeping the same separate from its other moneys. On receiving such proceeds the Seller will return to the Buyer any sum received in excess of the total of all sums due or owing from the Buyer to the Seller at the date of receipt by the Seller of such proceeds of sale

10.10 The Seller will have the right to maintain an action against the Buyer for the price of the Goods notwithstanding that property in the Goods has not passed

10.11 Nothing in the contract will constitute the Buyer the agent of the Seller in respect of any sale of the Supplied Goods by the Buyer so as to confer upon a third party rights against the Seller

10.12 For the avoidance of doubt, the Supplied Goods shall be at the Buyer's risk

11. PRICE

11.1 Unless expressly stated otherwise the contract price is based on the costs of materials, metal surcharges, labour, sub-contracts, transport, taxes, duties and currency exchange rates ruling at the date of the quotation. The Seller reserves the right to amend the contract price to take account of any variations in these costs or the imposition of any new taxes or duties occurring from whatever cause before delivery of the Goods and/or performance of the Works

11.2 Unless otherwise agreed in writing any costs incurred for expedited delivery or any overtime (being work outside of the Seller's normal working hours or at weekends or on public or statutory holidays) worked at the Buyer's request shall be charged to the Buyer in addition to the contract price

11.3 Any goods, services or other matters requested by the Buyer but not specified in the Seller's quotation or Acknowledgement of Order may be supplied by the Seller at its absolute discretion and the cost thereof will be charged to the Buyer in addition to the contract price

11.4 Unless expressly stated otherwise all prices are exclusive of V.A.T. which shall be charged at the rate and in the manner prescribed by law from time to time

11.5 Unless expressly stated otherwise the contract price includes any main contractor's discount

11.6 In the event that the Buyer does not enter into the contract proposed by the Seller the Buyer shall pay all the Seller's costs of the preparation of working drawings and other documentation requested by the Buyer or relating to the quotation

12. PAYMENT

12.1 12.1.1 Where no account has been agreed by the Seller the Goods will not be delivered and/or the Works will not be performed until the Seller is paid the amount shown on the pro-forma invoice relating to the Goods and/or the Works

12.1.2 Where an account has been agreed the Seller may in its absolute discretion set and alter the Buyer's credit limit and the Seller reserves the right not to deliver the Goods and/or perform the Works if the price thereof increases the amount owed by the Buyer to the Seller beyond the Buyer's credit limit

12.1.3 Where an account has been agreed and the price of the Goods and/or the Works together with all other indebtedness of the Buyer to the Seller does not exceed the Buyer's credit limit the price will become payable upon delivery and payment will be made by the Buyer by the end of the month following the month of issue of the Seller's invoice

12.2 Interest at an annual rate of 5% above National Westminster Bank plc Base Rate from time to time will accrue daily and be calculated on a daily basis on overdue accounts from the date of invoice until payment

12.3 Notwithstanding any Contract Term allowing the Buyer credit, payment shall become due and payable to the Seller immediately upon the termination of the contract

12.4 Where the Buyer makes default under the contract or any other contract with the Seller or an associated company of the Seller in payment on the due date of any sum due to the Seller or such other associated company, the Seller without liability may postpone any delivery of the Goods and/or performance of the Works or may cancel the contract or any other contract between the Seller and the Buyer but without prejudice to any right or remedy which the Seller may have against the Buyer in respect of such default

12.5 The Seller will be entitled to payment for all instalments of Goods delivered to the Buyer and/or Works part supplied whether under a blanket order or otherwise

12.6 The Seller shall at any time be entitled to appropriate any payment made by the Buyer in respect of any goods or services in settlement of such invoices or accounts in respect of such goods or services as the Seller may in its absolute discretion think fit notwithstanding any purported appropriation to the contrary by the Buyer

13. PACKING

13.1 The price for Goods includes the cost of packing and the Seller reserves to its absolute discretion the materials, means and method in packing the Goods or other items provided that the Company shall pack to normal accepted commercial standards for the purpose of transportation to the Buyer. Special packing requirements requested by the Buyer shall be charged extra

13.2 All packaging marked "returnable" will be invoiced to the Buyer unless returned to the Seller's works in good condition carriage paid within 8 weeks of delivery of the items

14. TESTING AND INSPECTION

All testing and inspection shall be carried out at the Seller's works. If the Buyer requires any testing or inspection other than that specifically included on the Seller's quotation and confirmed on the Seller's Acknowledgement of Order all costs in connection therewith including the fees of any independent inspecting engineer shall be borne by the Buyer and will be added to and form part of the price for the Goods and/or Work

15. LIEN

The Seller will (without prejudice to any other remedy available to it) have in respect of all unpaid debts due from the Buyer a general lien on all property of the Buyer in the possession of the Seller for whatever purpose and whether worked upon or not and be entitled on the expiration of not less than 14 days notice in writing to the Buyer to dispose of such property and to apply the proceeds towards the satisfaction of such debts including any storage costs and costs suffered or incurred in making such disposal. The Buyer authorises the Seller to do such acts and execute such documents as may be reasonably necessary or desirable to enable the Seller to dispose of such property

16. CANCELLATION

- 16.1 If the Buyer cancels, extends or delays or purports to cancel, extend or delay the contract or part thereof, or fails to take delivery of any Goods and/or accept supply of any Works at the time agreed (if any) or if no time is agreed within a reasonable time or where the Buyer is to provide materials information or services and fails to provide the same to the Seller so as to enable the Seller to proceed without interruption, then the Buyer will be liable (without prejudice to any other rights of the Seller to claim damages) to indemnify and keep indemnified the Seller against any resulting loss, damage or expense incurred by the Seller in connection with the supply or non-supply of the Goods and/or Works including to cost of any services, material, plant or tools used or intended to be used therefore and the cost of labour (which shall be charged at the Seller's day-work rates specified overleaf, if any) and other overheads including a percentage in respect of profit. Where the Buyer requests alterations to the contract or part thereof it shall be in the Seller's absolute discretion whether or not to accommodate the Buyer
- 16.2 If the Seller is unable (whether temporarily or permanently) to procure any services or goods necessary to enable it to supply the Goods and/or Works or if the supply of the Goods and/or Works is prevented or hindered by reason of any cause beyond the Seller's reasonable control which for the avoidance of doubt and without prejudice to the generality of the foregoing shall include governmental action, war, riot, civil commotion, fire, flood, epidemic, labour disputes including labour disputes involving the work force or any part thereof of the Seller, restraints or delays affecting shipping or carriers, currency restrictions and Act of God, the Seller may cancel or suspend performance of the contract by notice in writing to the Buyer so far as it relates to Goods and/or Works not then supplied or work not then done and such cancellation or suspension shall not give rise to any claims by the Buyer provided that the Buyer shall remain liable to pay for Goods delivered and/or Works supplied prior to the date of such cancellation or suspension

17. STORAGE

If the Buyer fails to take delivery of the Goods and/or redelivery of the Buyer's Goods when they are ready for delivery the Seller may, at its option, either store them itself or have them stored by third parties on such terms as the Seller may in its absolute discretion think fit. In any event the cost of storage will be borne by the Buyer and insofar as the storage is done by the Seller then such cost will be the Seller's storage charges current at the time of storage. The cost together with any additional insurance or double handling charges will be added to and form part of the price for the Goods and/or the Works

18. SPECIFICATION OR DESIGN

- 18.1 Where the Goods are manufactured and/or the Works are performed in accordance with information or drawings supplied by the Buyer or to his design or specification or where standard goods and/or services of the Seller are altered in accordance with the Buyer's instructions:-
- 18.1.1 no guarantee or warranty is given by the Seller as to the practicability, efficiency, safety or otherwise of the Goods and/or the Works (this being without prejudice to any other of the Contract Terms)
- 18.1.2 the Buyer will indemnify and keep the Seller indemnified against all liability incurred by the Seller as a result of:-
- 18.1.2.1 such Goods and/or Works infringing any intellectual property right including without prejudice to the generality of the foregoing patents, registered designs and copyright or the provision of any statute, statutory instrument or regulation
- 18.1.2.2 any impracticability, inefficiency or lack of safety or defect in the Goods and/or Works where such defect is due (whether in whole or in part) to faults or omissions in such information, drawings, design, specification or instructions
- 18.1.2.3 unless the Seller agrees otherwise in writing, all works (including design drawings) and any idea, invention or improvement made by or on behalf of the Seller in pursuance of a commission from the Buyer and all intellectual property rights therein (including any design right in a design created by the Seller in pursuance of the commission) shall belong to the Seller
- 18.2 No variation in the specification or design of any Goods and/or Works which in the reasonable opinion of the Seller does not affect the suitability of the Goods and/or Works for the purpose for which they are supplied by the Seller or is within the normal industrial limits of quality and tolerance will constitute a breach of contract or impose upon the Seller any liability whatsoever
- 18.3 The Seller may at its discretion submit a sample of the Goods and/or Works to the Buyer for approval and the balance of the Buyer's order therefore shall only be commenced upon receipt of the Buyer's written approval of the sample. Any time for delivery under the contract shall be extended by a period equal to the interim period whilst such sample is with the Buyer for approval. Any sample is exhibited and/or inspected by the Buyer 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 Seller does not give any warranty that the Goods shall correspond with any sample and no variation between bulk and sample which is within the normal trade limits will constitute a breach of contract or impose upon the Seller any liability whatsoever
- 18.4 The Seller will be under no liability whatsoever to the Buyer in respect of any loss, damage or claim incurred by or made against the Buyer should any goods and/or services supplied by the Seller infringe any intellectual property right including without prejudice to the generality of the foregoing patents, registered designs and copyright or the provision of any statute, statutory instrument or regulation
- 18.5 Unless otherwise agreed in writing all patterns, drawings, tools or other similar items produced or other property (whether intellectual property or not) owned or created by the Seller will remain the property of the Seller and must not be used or copied by the Buyer
- 18.6 Where it is agreed that ownership in any data, patterns, drawings, tools or other similar items is to pass to the Buyer property shall only pass when such items have been paid for by the Buyer in full

19. PROMOTIONAL MATERIAL

No drawings, descriptive matter, sample, weights, dimensions or shipping specifications issued by the Seller or the manufacturer of the Goods and/or supplier of the Works, nor the descriptions and illustrations contained in the Seller's or manufacturer's or supplier's catalogues, price lists or other promotional material will form part of the contract nor be regarded as a warranty or representation relating to the Goods and/or the Works

20. RIGHT OF RE-SALE

If the Buyer defaults in accepting delivery of or paying for the Goods, the Seller reserves the right to re-sell the Goods or any of them to a third party without giving notice to the Buyer of the Seller's intention to re-sell

21. SET-OFF

The Buyer will have no right of set-off, statutory or otherwise

22. TERMINATION

- 22.1 The contract will terminate immediately upon the happening of any one or more of the following, namely, that the Buyer has had a bankruptcy order made against him or has made an arrangement or composition with his creditors or otherwise taken the benefit of any Act for the time being in force for the relief of insolvent debtors or (being a body corporate) has had convened a meeting of creditors (whether formal or informal) or has entered into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation or has a receiver, manager, administrator or administrative receiver appointed of its undertaking or any part thereof or a resolution has been passed or a petition presented to any Court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer or any proceedings have been commenced relating to the insolvency or possible insolvency of the Buyer
- 22.2 The contract will terminate immediately upon service of written notice of termination by the Seller on the Buyer on the happening of any one or more of the following, namely, that the Buyer has suffered or allowed any execution whether legal or equitable to be levied on his/its property or obtained against him/it or has failed to observe or perform any of its obligations or duties under the contract or any other contract between the Seller and the Buyer or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or the Buyer has ceased to trade
- 22.3 The Seller's rights contained in the clause headed "Property in the Goods" (but not the Buyer's rights) shall continue beyond the discharge of the parties' primary obligations under the contract consequent upon its termination
- 22.4 The termination of the contract howsoever arising will be without prejudice to the rights and duties of either party accrued prior to termination

23. EXPORT

Where the Goods are to be exported to the Buyer and/or the Works are to be supplied to the Buyer outside the United Kingdom:-

- 23.1 The Uniform Laws on International Sales Act 1967 shall not apply to the contract
- 23.2 Payment will be in Pounds Sterling in England. The Buyer will establish and maintain in favour of the Seller an irrevocable and confirmed letter of credit in English with a U.K. clearing bank payable on drafts drawn at sight upon presentation to the bank by the Seller of a certified copy of the Seller's invoice. Such letter of credit shall be established at least 30 days prior to anticipated shipment date of the Goods and/or supply date of the Works and no goods or raw materials shall be ordered for the purpose of the Contract until such letter of credit has been established. The letter of credit shall cover the full price of the Goods and/or the Works (including applicable taxes) and such letter of credit shall be divisible. All bank charges and other expenses in relation to the letter of credit shall be for the Buyer's account unless expressly stated otherwise
- 23.3 The Goods will be sold ex Sellers Works unless expressly stated otherwise and the Seller will be under no obligation to give the Buyer notice as specified in Section 32(3) of the Sale of Goods Act 1979
- 23.4 It shall be the Buyer's sole responsibility to obtain any necessary import or customs licences or permits and take all necessary steps to expedite necessary customs clearances (including payment of duties and taxes) and failure to do so shall not entitle the Buyer to withhold or delay payment of the Contract Price
- 23.5 Without prejudice to clause 16.1 where the Buyer has a duty to collect the Goods or the Buyer's Goods or nominate a carrier/vessel and fails to do so within 14 days of notification from the Seller that the Goods or Buyer's Goods are ready for collection or shipment then without prejudice to any other of the Seller's rights the Seller may invoice for the Goods and/or Works forthwith and payment shall be due as herein provided

24. GENERAL

- 24.1 The Seller will be entitled to assign sub-contract or sub-let the contract or any part thereof
- 24.2 Failure by the Seller to enforce any of the Contract Terms will not be construed as a waiver of any of its rights hereunder
- 24.3 In relation to all obligations of the Buyer under the contract, the time of performance is of the essence
- 24.4 The legal construction of these clauses shall not be affected by their headings which are for convenience of reference only
- 24.5 Any notice to be given or served on the Seller hereunder shall be in writing and sent to the address of the Seller stated overleaf or its registered office by registered post

25. ENGLISH LAW

The formation, interpretation and operation of the contract will be subject to English Law and the Buyer submits himself to the non-exclusive jurisdiction of the English Courts