

PROGRESS DATA SOLUTIONS TERMS AND CONDITIONS OF SALE OR INSTALLATION

1 INTERPRETATION

1.1 In these conditions, the following words and expressions shall have the meanings ascribed to them below save where the same is inconsistent with the context.

- "Agents" means a person firm or company nominated in writing by the Seller to act on its behalf
- "Buyer" means to persons(s) firm or company whose order for the Goods is accepted by the Seller or who accepts a quotation of the Seller made to the Buyer for the price of the goods which remains open for acceptance.
- "Goods" means the goods (including any instalments of the goods or any parts for the price of which the Seller is to supply to the Buyer and which are supplied in accordance with these conditions.
- "Seller" means Belgravin Ltd, Belgravin House, Campus Road, Listerhills Science Park, Bradford, West Yorkshire BD7 1HR.
- "Conditions" means the 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 as more particularly detailed in clause 2.2.
- "Contract" means the Contract between the Buyer and the Seller for the purchase and sale of the Goods.
- "Installation Works" means installation of the Goods by the Installer.
- "Installer" means the Seller's person, firm or company to whom the Seller has sub-contracted in whole or in part the installation of the Goods.
- "Price" means the price of the Goods to be paid by the Buyer to the Seller and the cost of installation (where appropriate).
- "Site" means the place where the installation (where applicable) of the Goods is to take place.
- "Writing" includes letter, telex, facsimile transmissions and comparable means of communication.

- 1.2 Any reference in these Conditions to any provision of the statute or a statutory instrument 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.
- 1.4 Male includes female and singular includes plural and vice versa.
- 1.5 Any confirmation to be given by the Seller hereunder must be authorised in writing by a director of the Seller.

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 in these conditions.
- 2.2 Unless other terms and conditions are expressly accepted by the Seller by means of a specific written amendment hereto signed by a director of the Seller, the Contract will be in these Conditions to the exclusion of any other terms and conditions (except those implied in favour of a Seller which are not inconsistent with these Conditions) whether or not the same are endorsed upon delivered, written or referred to any purchase order or other document delivered or sent by the Buyer to the Seller or which the Buyer purports to apply under any purchase order confirmation of order or similar document.
- 2.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by a director of 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 made.
- 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 description, storage, application or use of the Goods which is not confirmed in Writing by a director of 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 omission in any sale literature, quotation, price list, acceptance of offer, invoice, these Conditions or other document or information issued by the Seller to the Buyer shall be subject to correction without any liability on the part of the Seller.

3 GENERAL

These Conditions shall be deemed to be incorporated in the Contract and in the case of any inconsistency with any order letter or form of Contract sent by the Buyer to the Seller or any other communication between the Buyer and Seller whatever may be their respective dates, the provisions of these Contracts shall prevail unless otherwise agreed by the Seller in writing. Any concession made by the Seller to the Buyer shall not affect the Seller's strict rights under the Contract.

4 QUOTATIONS

- 4.1 Any quotation is given by the Seller on the basis that no Contract will come into existence until the Seller despatches an order acknowledgement to the Buyer.
- 4.2 Any quotation is valid for a period of 60 days only from its date provided that the Seller has not previously withdrawn it.

5 ORDERS

- 5.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until the Seller despatches an order acknowledgement or it is otherwise confirmed in writing by a director of the Seller.
- 5.2 The Buyer shall be responsible to the Seller for ensuring accuracy of the details of any order (including any applicable specifications) submitted by the Buyer and agrees that he has satisfied himself that the order matches his requirements and agrees that he has satisfied himself that the order matches his requirements and that it is fit for and/or adequate for his purpose, and that he shall give the Seller any information required in respect of the Goods within a sufficient period to enable the Seller to perform the Contract. The Seller's knowledge of the Buyer's requirements shall be limited to the details set out in the order.
- 5.3 The quantity, quality and description of and any specification for the Goods shall be as set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).
- 5.4 No order which has been accepted by the Seller may be cancelled by the Buyer except with the prior agreement in writing of a director of the Seller and on terms that the Buyer shall indemnify the Seller in full and pay the Seller forthwith upon written demand being made all losses (including loss of profit), costs including the cost of all labour and materials used, damages, charges and expenses incurred by the Seller as a result of cancellation.
- 5.5 The Seller reserves the right to refuse an order submitted by the Buyer, the delay execution thereof or to request payment in part or in full prior to the execution thereof or to cancel any contract entered into with the Buyer prior to commencement of delivery to the Buyer (and installation where applicable) if the Seller's normal enquiries indicate that the Buyer's credit may not be sufficient to meet the needs of the contract. The Buyer will if requested by the Seller take all reasonable steps to satisfy the Seller prior to the execution of the Contract as to its creditworthiness such as the provision of trade and bank references or of a guarantee of payment by a third party acceptable to the Seller.

6 PRICE OF THE GOODS AND INSTALLATION WORKS (when applicable)

- 6.1 The Price shall be the Seller's quoted price at the date of the order by the Seller. All prices quoted are valid for 60 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.
- 6.2 Unless the Contract specifies Installation Works and except as otherwise stated under the terms of any quotation of the Seller, or unless otherwise agreed in Writing between the Buyer and the Seller, all prices are given by the Seller on an ex-works basis.
- 6.3 Unless expressly stated otherwise the price is exclusive of any applicable value added tax payable on the Goods, with the Buyer shall be additionally liable to pay to the Seller at the rate and in the manner prescribed by law from time to time.
- 6.4 The Buyer agrees to pay for any loss sustained or any costs incurred by the Seller through the Buyer's instructions otherwise than contained in the Contract or lack of instructions or through failure to delay in taking delivery or through any act or default on the part of the Buyer, its servants, Agents or employees.
- 6.5 The Seller (or installer where applicable) is unable to gain access to the Site or otherwise through default of the Buyer or the acts or omissions of the Buyer, its servants or agents or any third party not under the Seller's direct control any additional costs sustained thereof shall be invoiced by the Seller to the Buyer and paid by the Buyer in accordance with the terms of clause 7 herein and the Seller shall be entitled to such additional time as may be necessary to complete the contract.

7 TERMS OF PAYMENT

- 7.1 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 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 the manner prescribed by law from time to time.
- 7.2 Subject to any special terms agreed in Writing between the Buyer and the Seller, the Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled as set out in the Seller's quotation, but without any other deduction) by the end of the month following the month ending which delivery of the Goods (with or without installation) has taken place and that delivery may not actually have taken place and that 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. Receipts for payment will only be issued on request.
- 7.3 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:-
- 7.3.1 terminate the Contract in accordance with clause 14.2 or suspend any further deliveries to the Buyer.
- 7.3.2 appropriate any payment made by the Buyer for other goods or goods supplied under any other Contract between the Buyer and Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer).
- 7.3.3 charge the Buyer interest (with or without notice) on the amount unpaid calculated on a daily basis at the rate of 3% per annum applying until payment is made in full and
- 7.3.4 recover the goods as provided in clause 10.4 hereof.

8 DELIVERY (and installation works where applicable)

- 8.1 Delivery of the goods shall be deemed to take place either by the Seller delivering the Goods to such place as is agreed by the Seller to the Buyer collecting the Goods at the Seller's premises or immediately upon the Seller notifying the Buyer that the Goods are ready for collection.
- 8.2 Any dates quoted for delivery (and installation where applicable) of the Goods are approximate only unless previously agreed by the Seller in Writing. The Goods may be delivered (and installed where applicable) by the Seller (or installer where applicable) in advance of the quoted delivery date upon giving notice to the Buyer.
- 8.3 Where the Goods are to be delivered (and installed where applicable) in instalments, each delivery (and installation where applicable) shall constitute a separate contract and failure by the Seller (or installer where applicable) to deliver (or install where applicable) 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 instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

- 8.4 The Seller shall not be liable for any loss or damage of any kind whatsoever caused directly or indirectly by any delay in delivery of the Goods or for any installation work in involved delay in completion of the work) due to circumstances beyond the Seller's control.
- 8.5 If the Buyer fails to take delivery (or fails to allow installation where applicable) of the Goods or fails to give the Seller (or installer where applicable) adequate delivery instructions (or fails to give adequate installation instructions where applicable) at the time stated for delivery (and installation where applicable) (otherwise than by reason of the Seller's fault) then (without prejudice to any other right or remedy available to the Seller) the Seller shall be entitled to a 6.5.1 store the Goods until actual delivery and charge the Buyer for the costs (including insurance) of storage or
- 8.5.2 sell the Goods at the best price readily obtainable and (after deducting all storage and selling expenses) account to the Buyer for the excess over the price under the Contract or (if the Buyer so elects) shall be entitled to the price under the Contract together with the interest thereon as provided in clause 7.3.3 hereof.
- 8.6 The Seller (or installer where applicable) shall have the right to make delivery (or install the goods where applicable) by instalments of such quantities and at such intervals as it may decide, and any express provision as to instalments in the Contract shall be in addition to and not in derogation of this right.
- 8.7 No claims for claims or shortages will be considered unless the Seller is advised in writing within 7 days of delivery (and installation where applicable). In the absence of such advice the buyer will be deemed to have accepted the Goods (and installation of them where applicable) will be considered unless the Seller is advised in writing within 21 days of the agreed date of delivery or installation (as the case maybe). Any claim for damage, shortages, (or non-delivery or non-installation where applicable) shall also be notified to the carriers (if any) by the Buyer in the manner and within the appropriate time limit prescribed by the carriers terms and conditions.
- 8.8 In the event of failure to give the appropriate notice or notices as specified in clause 8.7 the buyers claim will be deemed to have waived and will be absolutely barred.

9 RETURNS

Goods supplied in accordance with the Contract cannot be returned without the Seller's prior written consent.

10. RISK AND PROPERTY

- 10.1 Risk of damage to or loss of the Goods shall pass to the Buyer.
- 10.11 In the case of Goods to be collected from the Seller's premises at the time when the Seller notifies the Buyer that the Goods are available for collection or
- 10.12 in the case of Goods to be delivered and (installed where applicable) to the Buyer at the time of actual delivery or
- 10.13 if the Buyer is to take delivery of the Goods and/or fails to allow installation where applicable the time when the Seller has tendered delivery of the Goods.
- 10.2 Notwithstanding delivery (and installation where applicable) and the passing of risk in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price and all other amounts payable together with any interest for which payment is then due.
- 10.3 Until such time as the property in the Goods passes to the Buyer the Seller shall hold the Goods as the Seller fiduciary agent and bailee and shall keep the Goods separate from those of the Buyer and third parties and properly stored protected and insured and identified as the Seller's property. Until that time the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business but shall account to the Seller for the proceeds of sale or otherwise of the Goods whether or not such sale or other disposal proceeds are made and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and in the case of tangible proceeds properly stored protected and insured.
- 10.4 Until such time as the property in the Goods passes to the Buyer (and provided the goods are still in existence and have not been resold) the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and if the Goods have been installed require the Buyer to pay the costs of removing the Goods including the cost of replacing any items damaged as a result of removal and if the Buyer fails to do so forthwith to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods. -The Buyer shall not be entitled to pledge or in any way charge to any of security of any indebtedness any of the Goods which remain the property of the Seller but if the Buyer does so all monies owing by the Seller to the Buyer shall be deemed to be secured by any right of remedy of the Seller forthwith become due and payable.

11. WARRANTIES AND LIABILITY

- 11.1 The Contract shall not constitute a sale or supply by description or sample
- 11.2 The Seller provides in these Conditions the Seller (or installer where applicable) will be under no liability under the Contract for any personal injury, death loss or damage of any whatsoever other than death or personal injury resulting from the Sellers (or installer where applicable) negligence whether consequential or otherwise including but not limited to loss of profits and the Seller hereby excludes all conditions warranties and stipulations expressed or implied statutory customary or otherwise which but for such exclusion would or might subsist in favour of the Buyer except in so far as they may apply to an implied condition that the Seller was or will have the right to sell the Goods when the property is to pass.
- 11.3 In no circumstances will the Seller (or installer where applicable) or its employees agents or subcontractors be liable for any loss or damage of any and whatsoever other than death or personal injury resulting from the sellers (or installer where applicable) negligence whether consequential or otherwise including but not limited to loss of profits and or other tortious act or breach of statutory duty on the part of the Seller (or installer where applicable) or on the part of any of its employees agents or subcontractors in connection with or arising out of the manufacture supply or installation of the Goods or in connection with any statement given or made (or advice not given or made) by or on behalf of the Seller.
- 11.4 Subject to the conditions set out in clause 11.5 the Seller warrants that the Goods will comply with the specifications as set out in the Seller's quotation or the Buyer's order as accepted as referred to in clause 2.1 thereof at the time of delivery (and installation where appropriate).
- 11.5 The warranties set out in clause 11.4 are given by the Seller subject to the following conditions
- 11.5.1 the Seller (or installer where applicable) shall be under no liability in respect of any defect in the Goods in so far as it arises from any drawing or specification (including installation specifications where provided) supplied by the Buyer.
- 11.5.2 the Seller (or installer where applicable) shall be under no liability in respect of any defect arising from wear and tear or willful damage negligence abnormal working conditions failure to follow the Seller's instructions or technical manual (whether oral or in writing) misuse or alteration or repair of the goods without the Seller's approval.
- 11.5.3 the Seller (or installer where applicable) shall be under no liability under the above warranties (or any other warranty condition or guarantee) if the price has not been paid by the due date for payment.
- 11.5.4 the above warranties do not extend to parts materials or equipment not manufactured by the Seller in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller.
- 11.5.5 the seller shall be under no liability under the above warranty in respect of any defect in the Goods due to or arising out of the acts, omission negligence or default of the Buyer or his servants or agents in particular but without limitations any failure by the Buyer to comply with any recommendations of the seller as to storage and handling of the Goods.

11.6 Any claim by the Buyer which is based on any defects in the quality or condition of the Goods or their failure to correspond with the specifications shall (whether or not delivery and installation where applicable) is refused by the Buyer and whether or not the defect or failure was apparent on reasonable inspection be notified to the Seller as soon as the defect becomes apparent to the Buyer and in any event within 24 hours of the defect becoming apparent to the Buyer (or within 24 hours of the Seller having the defect notified to the Buyer if earlier) providing that the defect became apparent within the period specified in clause 11.2.2 the delivery (or installation where applicable) is not refused and the Buyer does not notify the Seller accordingly the Buyer shall not be entitled to reject the Goods (and/or the installation where applicable) and the Seller shall have no liability for such defect or failure and the Buyer shall be bound to pay the Price if the Goods have been delivered (and installed where applicable) in accordance with the contract.

11.7 Where any valid claim in respect of any Goods which is based on any defect in the quality or condition of the Goods (or their installation where applicable) or their failure to comply with the specification set out in the Seller's (or installer's where applicable) quotation or the Buyer's order (as applicable by reference to clause 2.1) is notified to the Seller in accordance with these Conditions the Seller shall be entitled to replace the Goods (or the part in question) and/or re-install the goods where applicable) free of charge or at the Seller's sole discretion refund to the Buyer the price of the goods (and/or costs of installation where applicable) (or a proportionate part of the price) but the Seller shall have no further liability to the Buyer.

11.8 The Seller (or installer where applicable) shall not be liable to the Buyer or be deemed to be in breach of the contract by reason of any delay in performing or any failure to perform any of the Seller's (or installer's where applicable) obligations in relation to the Goods (and/or installation where applicable) if the delay or failure was due to any cause beyond the Seller's (or installer's where applicable) reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond the Seller's reasonable control.

- 11.8.1 act of God (including explosion, flood, pestilence or other natural causes)
- 11.8.2 war or threat of war sabotage, insurrection, civil disturbance or requisition.
- 11.8.3 acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority.
- 11.8.4 import or export regulations or embargoes.
- 11.8.5 strikes, lock outs or other industrial action or trade disputes (whether involving employees of the Seller or of a third party).
- 11.8.6 difficulties in obtaining raw materials, labour, fuel, parts of machinery.
- 11.8.7 power failure or breakdown in machinery.
- 11.8.8 severe weather conditions.

11.9 For the avoidance of doubt the maximum liability of the supplier for any loss or damage of whatever nature shall be limited to and in no circumstances shall exceed the price.

12. SPECIFICATION AND DESIGN

Where the Goods are manufactured in accordance with information or drawings supplied by the Buyer or to his design or specification or where standard Goods of the Seller are altered in accordance with the Buyer's instructions the Seller's liability shall be limited to that of the Seller.

12.1 No guarantee or warranty is given by the Seller as to the practicability, efficiency, safety or otherwise of the Goods (this being without prejudice to any other of these Conditions).

12.2 The Buyer will indemnify and keep the Seller indemnified against all liability incurred by the Seller as a result of

12.2.1 such Goods infringing any intellectual property right including without prejudice to the Seller, the application of the following provisions: registered designs and copyright or the provision of any statute, statutory instrument or regulation.

12.2.2 any impracticability, inefficiency or lack of safety or other defect in the Goods where such defect is due (whether in whole or in part) to faults or omissions in such information, drawings, design, specification or instructions.

12.3 No variation in the specification or design of any Goods which in the reasonable opinion of the

Seller does not affect the suitability of the Goods for the purpose for which they are supplied by the Seller will constitute a breach of contract or impose upon the Seller any liability whatsoever. The Seller will be under no liability whatsoever to the Buyer in respect of any loss or damage or claim incurred by or made against the Buyer should any Goods supplied by the Seller infringe any intellectual property right including without prejudice to the generality of the foregoing patents, registered design and copyright or the provisions of any statute, statutory instrument or regulation.

12.5 Unless otherwise agreed in writing all patents 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.

12.6 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.

12.7 It is a condition of sale that no nameplate or transfer affixed by the Seller to the Goods shall be removed or covered up without prior written consent of the Seller.

13. LIEN

13.1 All Goods in the custody or control of the Seller are subject to a lien upon them for the general balance of account for the time being owing by the Buyer or by any of its Subsidiary or Associated Companies (as defined by section 736 of the Companies Act 1985) to the Seller or to any of its Subsidiary or Associated Companies of any kind whatsoever and in respect of any matter whatsoever whether or not any of the said Subsidiary and Associated Companies is a party to the Contract and all of the said Goods may be sold by the Seller in its absolute discretion as to the time and place and whether or not the Seller is to be bound by the terms of such sale if the amount due is not paid within 14 days of the notice being given to the Buyer stating the intention to sell then the proceeds of the sale shall be credited against such balance of account.

13.2 The Seller shall have the right to sell such Goods, notwithstanding the same are the subject of any intellectual property rights including (but without limitation) any patents, copyrights, registered designs, trade marks or trade names produced or incorporated and Design or Trademark whether registered or unregistered. The Buyer shall remain liable for the performance of all its obligations hereunder including (but without limitation) payments of all charges notwithstanding that it is not or ceases to be the owner of the Goods whether before or after processing.

14. TERMINATION

- 14.1 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) or has been placed in receivership or into administration for the purpose only of reconstruction or amalgamation or has a 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 of the Buyer.
- 14.2 The Contract will terminate immediately upon service of written notice of termination by the Seller on the Buyer on the happening of any one of the following, namely, that the Buyer has suffered or allowed at an execution either legal or equitable to be levied on his/its property or obtained against him/its or has failed to observe or perform any of its obligations or duties under the Contract or any Contract between Seller and the Buyer or is unable to pay its debts under the meaning of Section 123 of the Insolvency Act 1986 or the Buyer has ceased to trade.
- 14.3 The Seller's rights contained in clause 10 (but not the Buyer's rights) shall continue beyond the discharge of the parties' primary obligations under the Contract consequent to termination. Save as otherwise provided herein the Contract may not be terminated or cancelled except by agreement in writing of both Parties upon the payment to the Seller for such amounts as may be necessary to indemnify the Company against all loss resulting therefrom.
- 14.5 The termination of the Contract however arising will be without prejudice to the rights and duties of either party accrued prior to termination.

15. EXPORT TERMS

- 15.1 Where the Goods are supplied for export from the United Kingdom the provisions of the clause 15 (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.
- 15.2 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods in the country of destination and for the payment of any duties thereon.
- 15.3 The Buyer shall satisfy itself that the Goods do, and the Seller shall accept no liability in the event that the Goods do not, conform with the laws and regulations of the country to which they are being exported.
- 15.4 Unless otherwise agreed in Writing between the Buyer and the Seller the Goods shall be delivered F.O.B. the Airport or Sea Port of Shipment and the Seller shall be under no obligation to give notice under Section32(3) of the Sale of Goods Act 1979.

16. REPRESENTATIONS

This is the entire agreement between the parties in respect of the subject matter hereof. No date, description, information, warranty, condition or recommendation contained in any catalogue, price list, advertisement, communication or made verbally by any of the Agents or employees of the Seller shall form part of this Contract.

17. ADDITIONAL TERMS AND CONDITIONS WHERE THE CONTRACT PROVIDE FOR INSTALLATION WORKS

- 17.1 The following conditions shall apply in addition to the preceding conditions where the Contract provides for Installation Works.
- 17.1.1 shall be the sole responsibility of the Buyer to ensure that the floors and foundations upon which the Goods are to be carried are of sufficient strength but are suitable surfaces (and comply with tolerances required by the installer) and are of adequate strength to support the Installation Works and the maximum loads to be imposed on the Installation Works.
- 17.1.2 The Buyer shall at his own cost and prior to the date for commencement of the Installation Works prepare the floors or surfaces on which the Installation Works are to be installed in accordance with the requirements specified in the Seller's quotation. In the event that the Buyer fails to comply with his obligations under this clause on discovery the installer may at its discretion refuse to commence or continue with the Installation Works until such time as the failure has been rectified. Without prejudice to any other remedy that the Seller (or installer where applicable) may have herein or otherwise any additional costs or expenses which the Seller (or installer where applicable) may reasonably incur due to such floors or surfaces not being in accordance with any requirements given by them to the Buyer shall be invoiced by the Seller (or installer where applicable) to the Buyer and paid by the Buyer in accordance with the terms of clause 7 herein. Notwithstanding anything contained herein or otherwise to the contrary neither the Seller nor the installer shall have any responsibility for the proper working order of the Goods if the floors or surfaces on which the Works are installed are not in accordance with the requirements specified in the Seller's quotation.
- 17.1.3 Neither the Seller nor the installer will be or be responsible for any Installation Works which involve alterations to the structure (including the floors) or the foundation of any building on the Site unless included in the specifications or otherwise agreed between the Seller and the Buyer.
- 17.2.1 To ensure the safe custody of and to minimise deterioration of the Goods and the installer's plant and equipment whilst on site the Buyer will at his expense protect the same and provide for the provision of covered and secure waterproof storage accommodation.
- 17.2.2 If for any reason beyond the control of the Seller (or installer where applicable) the carrying out of the Installation Work is suspended or delayed or hindered the Seller reserves the right to claim an interim payment or payments on account of the total price and may render an interim invoice or invoices accordingly. Any payment scheme previously agreed between the Buyer and the Seller or Installer shall be amended accordingly.
- 17.2.3 The Buyer will immediately prior to the date for the commencement of the Installation Works ensure that the site for the Installation Works is fit for the purpose for which the Goods are being installed and is cleared and free from obstruction and that electricity services of the required voltage are at hand and functioning and comply with current legislation and the Buyer will further ensure (unless the parties otherwise agree in writing) that the Seller (or installer where applicable) is enabled to carry out the Installation Works as one uninterrupted operation to be completed during the Seller's (or installer's where applicable) normal working hours.

17.3 The Buyer at its own expense shall be responsible (other than for statutory obligations placed solely on the Seller) for obtaining all consents, permissions, easements and licenses necessary for the carrying out of the Works in accordance with the terms hereof and for conforming with all Statutes, Orders, Regulations and By-laws made hereunder applicable at any time to the Works and shall indemnify and keep indemnified the Seller (or installer where applicable) against all actions, proceedings, costs, charges, claims of demands arising out of or in connection with any breach of this clause. The Seller (or installer where applicable) shall (so far as reasonably able) provide such information with respect to the Works as the Buyer may request in respect of any application for such consent, permission, easement or license as aforesaid. Notwithstanding it shall be the Buyer's sole responsibility to insure and protect the Goods against any loss, deterioration or damage of any kind from the time of the completion of the installation works.

18. GENERAL

- 18.1 Any writing 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 the same or any other provision of business or such other address as may at the relevant time have been notified pursuant to this clause to the party giving the notice and shall be deemed to have been given on the next working day following despatch in the case of notices sent by telex or facsimile or 3 days after posting in the case of postal service.
- 18.2 No waiver by Seller of any breach of the Contract by the buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 18.3 If any provision of the Conditions is held by any Court or Tribunal 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.
- 18.4 Any dispute arising under or in connection with these Conditions or the sale of the Goods shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of the Institute of Arbitrators.
- 18.5 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.
- 18.6 Any provision of term hereof which is declared void or unenforceable in whole or in part by any competent authority or court shall to the extent of such invalidity or unenforceability be deemed severable and this Agreement shall continue to be valid as to the other provisions hereof.