

## 2 SIMPLE LIMITED - STANDARD CONDITIONS OF SUPPLY AND SALE OF GOODS

### 1. INTERPRETATION

In these Conditions (save where the context is inconsistent therewith):-

1.1 the following words and phrases shall have the following meanings:-

- "the Buyer" means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller.
- "the Conditions" means the standard terms and conditions of sale set out in this document including any special terms and conditions agreed in writing between the Buyer and the Seller.
- "the Contract" means the contract for the purchase and sale of the Goods which shall be subject to the Conditions and shall be made when the order is accepted by the Seller.
- "the Delivery Note" means the quantity description and other information in relation to the Goods to be supplied.
- "the Goods" means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions.
- "Sale or Return" means where the Goods are supplied to the Buyer on a sale or return basis (i.e. a trial period during which the Goods can be returned and during which time there is no obligation upon the Buyer to purchase the Goods.
- "the Seller" means 2 Simple Limited a company registered in England and Wales with registration number 03843465 whose principal place of business is at: Enterprise House, 2 The Crest, Hendon, London NW4 2HN.
- "in writing" includes facsimile transmission or electronic communication or any other comparable means of written communication
- 1.2 references to persons include bodies corporate and unincorporated associations and partnerships and words importing the singular include the plural and vice versa and words importing a gender include every gender.
- 1.3 references to a statutory provision shall be construed as including reference to:-
- 1.3.1 statutory modification consolidation or re-enactment of that statutory provision for the time being in force;
- 1.3.2 all statutory instruments or orders made pursuant to that statutory provision;
- 1.3.3 any statutory provisions of which that statutory provision is a consolidation or modification.
- 1.4 headings are for ease of reference only and shall not affect the construction of any provision hereof.
- 1.5 obligations assumed by more than one party shall be joint and several.

### 2. BASIS OF THE SALE

- 2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with the Delivery Note subject in any case to these Conditions which shall govern the Contract
- 2.2 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller and before the order is accepted by the Seller.
- 2.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing SO THAT in entering into the Contract the Buyer acknowledges that it does not rely on and waives any claim for breach of any such representations which are not so confirmed.
- 2.4 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage application or use of the Goods which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.5 Any typographical clerical or other error or omission in the Delivery Note or any quotation price list acceptance of offer invoice or other document literature or information issued by the Seller shall be subject to correction without any liability on the part of the Seller

### **3. ORDERS AND SPECIFICATIONS**

- 3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller and no Contract entered into unless and until confirmed in writing (Delivery Note) by the Seller's authorised representative.
- 3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of the order and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- 3.3 The quantity quality and description of any specification for the Goods shall be those set out in the Delivery Note PROVIDED THAT all descriptions and illustrations contained in the Seller's catalogues price lists and advertisements or otherwise communicated to the Buyer (other than in written quotation) are intended merely to present a general idea of the Goods described therein and nothing contained in any of them shall form any part of the Contract.
- 3.4 Notwithstanding that a sample of the Goods may have been exhibited to and inspected by the Buyer it is hereby agreed that such sample was so exhibited and inspected solely to enable the Buyer to judge for himself the quality of the bulk and not so as to constitute a sale by sample SO THAT the Buyer shall take the Goods at his own risk as to their corresponding with the said sample or as to their quality or sufficiency for any purpose.
- 3.5 The Goods are not tested and sold as fit for any particular purpose and any term of warranty or condition express implied or statutory to the contrary is excluded to the fullest extent allowed in law.
- 3.6 The Seller reserves the right to make any changes in the specification of the Goods which are required for the Goods to conform with any applicable safety or other statutory requirements PROVIDED THAT such reservation does not in any way infer that the Seller is providing any warranty to the Buyer as to the Goods conformity with such safety or other statutory requirements.
- 3.7 No order may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit) costs (including the cost of all labour and material used) damages charges and expenses incurred by the Seller as a result of cancellation and against any claims or actions arising out of such cancellation.
- 3.8 Stock items returned by agreement with the Seller will be subject to a re-stocking charge.

### **4. PRICE OF THE GOODS**

- 4.1 The price of the Goods shall be the price quoted to the Buyer by the Seller in or at the time of the order and stated on the Delivery Note but subject to the provisions of Clause 4.2 below.
- 4.2 The Seller reserves the right by giving notice in writing to the Buyer at any time before delivery to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as without limitation any foreign exchange fluctuation currency regulation alteration of duties significant increase in the cost of labour materials or other costs of manufacture) or any change in delivery dates quantities or specifications for the Goods which is requested by the Buyer or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 4.3 Except as otherwise stated under the terms of any quotation or in any price list of the Seller and unless otherwise agreed in writing between the Buyer and the Seller all prices are given by the Seller on an ex works basis and the Buyer shall be liable to pay the Seller's charges for transport packaging and insurance for delivery of the Goods to the Buyer's premises or such premises as requested by the Buyer.
- 4.4 The price for the Goods is exclusive of any applicable value added tax which the Buyer shall be additionally liable to pay to the Seller.

### **5. TERMS OF PAYMENT**

- 5.1 Subject to any special terms agreed in writing between the Buyer and the Seller the Seller shall be entitled to invoice the Buyer for the price of the Goods upon despatch of the Goods to the Buyer

- 5.2 The Buyer shall be deemed to have accepted the Goods:
- 5.2.1 on the approval of or payment for the Goods by the Buyer; or
  - 5.2.2 if the Buyer does any act in relation to the Goods which is inconsistent with the ownership of the Seller; or
  - 5.2.3 where the Goods have been supplied to the Buyer on a Sale or Return basis
  - 5.2.4 on the approval of or payment for the Goods by the Buyer; or
    - 5.2.4.1 on the approval of or payment for the Goods by the Buyer; or
    - 5.2.4.2 where the Buyer failed to return the Goods before the expiry of any approval period as stated on the Delivery Note (or on any extension thereof as approved by the Seller in writing)
- 5.3 In the event that the Goods are supplied to the Buyer on a Sale and Return basis the Buyer shall pay the full price of the Goods no later than 30 days of the expiry of the approval period (or any extension thereof as agreed by the Seller in writing) where the Goods have been accepted by the Buyer in accordance with Condition 5.2 above.
- 5.4 In the circumstances where the Goods are not sold on a Sale and Return basis the Buyer shall pay the full price of the Goods within 30 days of the date of the Seller's invoice.
- 5.5 Payments under these Conditions shall be made without any withholding, deduction or set off, and the Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 5.6 If the Buyer fails to make any payment on the due date then without prejudice to any other right or remedy available to the Seller the Seller shall be entitled to:
- 5.6.1 cancel the Contract or suspend any further deliveries to the Buyer without prejudice to the generality of the foregoing where the Goods are to be supplied by instalments the failure of the Buyer to pay any instalment in due time shall entitle the Seller to treat such failure as a repudiation of the Contract in its entirety by the Buyer and to recover damages for such breach of the Contract;
  - 5.6.2 immediate payment of all payments outstanding in respect of the Goods supplied under the Contract and all other goods under any other contract notwithstanding the fact that the date for payment may not yet have fallen due;
  - 5.6.3 appropriate any payment made by the Buyer for such of the Goods (or goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
  - 5.6.4 receive from the Buyer a sum equivalent to any bank charges legal costs or other costs charges or expenses incurred by the Seller arising from the late payment or recovery of sums due from the Buyer
- 5.7 In addition to any right of lien to which it may be by law entitled the Seller shall be entitled to a general lien on all property of the Buyer in the possession of the Seller for all sums whether or not liquidated or qualified due from the Buyer to the Seller PROVIDED THAT the Seller shall not be liable for loss of or damage to the Buyer's property in the Seller's possession either as a result of the exercise by the Seller of its lien or otherwise.

## 6. DELIVERY

- 6.1 Delivery of the Goods shall be made to the Buyer at the Seller's address. The risk in the Goods shall pass to the Buyer upon such delivery taking place in accordance with Clause 7.1.2 below.
- 6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused SO THAT time for delivery shall not be of the essence unless previously agreed by the Seller in writing and the Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 6.3 Where the Goods are to be delivered in instalments each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more

of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

- 6.4 Should the Seller be prevented from or hindered in delivering the Goods or any part thereof by reason of war, riot, explosion, fire, flood, strike, lock-out, shortage of materials or labour or any cause beyond the Seller's control the time for delivery shall be extended by a period equal to that during which the cause preventing or hindering delivery exists.
- 6.5 Should the Seller be prevented from delivering part of the Goods by reason of any of the causes specified in 6.4 above the Seller shall deliver and the Buyer shall take and pay for such part of the Goods as the Seller shall be able to deliver in accordance with the Contract.
- 6.6 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of the Seller's fault) then without prejudice to any other right or remedy available to the Seller the Seller may:
- 6.6.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
- 6.6.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) charge the Buyer for any shortfall below the price under the Contract.
- 6.7 The Seller may at its option cancel or suspend (or suspend and later cancel) all further deliveries under the Contract in the event of default by the Buyer in making any payment due hereunder or under any other contract between the Seller and the Buyer or in the event that the Buyer being a natural person shall die.
- 6.8 The Seller shall be entitled to deliver the Goods in one or more consignments unless otherwise expressly agreed.

## **7. RISK AND PROPERTY**

- 7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
- 7.1.1 of Goods at the Seller's premises (or such premises as directed by the Seller) at the time when the Seller notifies the Buyer in writing that the Goods are available for collection; or
- 7.1.2 at the time of delivery or if the Buyer wrongfully fails to take delivery of the Goods the time when the Seller has tendered delivery of the Goods.
- 7.2 The Seller shall not be liable for any loss of any kind to the Buyer arising from any damage to the Goods occurring after the risk has passed to the Buyer however caused nor shall any liability of the Buyer to the Seller be diminished or extinguished by reason of such loss.
- 7.3 The property 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 of the Goods and all other sums due from the Buyer to the Seller for which payment is then due SO THAT the Seller shall be entitled to all rights of access to the Buyer's premises to enforce its rights hereunder.
- 7.4 Until such time as the property in the Goods passes to the Buyer the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee and shall keep the Goods separate from those of the Buyer and third parties anproperly stored protected and insured and clearly identified as the Seller's property SO THAT until that time the Buyer shall only be entitled to resell or use the Goods in the ordinary course of its business provided that it accounts to the Seller for the proceeds of sale or otherwise of the Goods whether tangible or intangible including insurance proceeds and shall keep all such proceeds separate from any moneys or property of the Buyer and third parties and in the case of tangible proceeds properly stored protected and insured.
- 7.5 The Buyer shall where reselling the Goods before payment has been made in full to the Seller, keep all proceeds of sale in a separate escrow account and entirely separate from any other monies of the Buyer, and only use the funds in that escrow account to pay the Seller for the Goods or as the Seller may direct from time to time.
- 7.6 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 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.

- 7.7 The Buyer 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 Seller but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable .
- 7.8 The Goods are sold subject to the rights of any person whether in respect of any patent trademark registered design copyright confidential disclosure or otherwise howsoever to prevent or restrict the sale or the use of the Goods in any part of the world and the Buyer will in this respect accept such title to the Goods as the Seller may have.

## **8. WARRANTIES AND LIABILITY**

- 8.1 Subject to the conditions set out below the Seller warrants that the Goods will correspond with the Delivery Note at the time of delivery.
- 8.2 The above warranty is given by the Seller subject to the following conditions:
- 8.2.1 the Seller shall be under no liability in respect of any defect in or unsuitability for the intended purpose of the Goods arising from the specification or any other instruction supplied by the Buyer;
- 8.2.2 the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's specification or instructions (whether oral or in writing) misuse or alteration or repair of the Goods without the Seller's approval;
- 8.2.3 the Seller shall be under no liability under the above warranty (or any other warranty condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;
- 8.2.4 the Seller shall be under no liability unless in the case of any damage to or defect in the Goods which would have been apparent on reasonable visual inspection, the Buyer notifies the Seller of the same in writing within 14 days after the date of delivery thereof or, in the case of any damage to defects in the Goods which would not have been apparent on reasonable visual inspection, the Buyer notifies the Seller of the same in writing 14 days after the defect becomes apparent to the Buyer and if no such notification as aforesaid is given the Buyer shall not be entitled to reject the Goods concerned and shall be obliged to pay the price in full.
- 8.3 Subject as expressly provided in the Conditions and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties conditions terms and liabilities express or implied by statute or common law are excluded to the fullest extent permitted by law
- 8.4 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with the Delivery Note shall (whether or not delivery is refused by the Buyer) be notified in writing to the Seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure PROVIDED THAT if delivery is not refused and the Buyer does not so notify the Seller the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure and the Buyer shall be bound to pay the price for the Goods as if they had been delivered in accordance with the Contract.
- 8.5 Where any claim by the Buyer in respect of any of the Goods which is based on any alleged defect in the quality or condition of the Goods or their failure to meet the Delivery Note is notified to the Seller in accordance with these Conditions the Seller shall be entitled to either:-
- 8.5.1 the return of the Goods to the Seller's premises (if practical) for inspection by it or its representative; or

8.5.2 the opportunity for it or its representatives to inspect the Goods at the Buyer's premises

For the purpose of validating the claim SO THAT if the claim is validated the Seller shall be entitled to replace the Goods free of charge or at the Seller's sole discretion refund to the Buyer the price of the Goods (or a proportionate part of the price) but the Seller shall have no further liability to the Buyer

8.6 Except in respect of death of personal injury caused by the Seller's negligence the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty condition or other term or any duty at common law or under the express terms of the Contract for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise) costs expenses or other claims for consequential compensation whatsoever (whether caused by the negligence of the Seller its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in the Conditions

8.7 The Seller 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 obligations in relation to the Goods if the delay or failure was due to any cause beyond the Seller's reasonable control PROVIDED THAT without prejudice to the generality of the foregoing the following shall be regarded as causes beyond the Seller's reasonable control:-

8.7.1 Act of God explosion flood tempest fire or accident;

8.7.2 war or threat of war sabotage insurrection civil disturbance or requisition;

8.7.3 act restriction regulations bye-laws prohibitions or measures of any kind on the part of the governmental parliamentary or local authority;

8.7.4 import or export regulations or embargoes;

8.7.5 strikes, lockouts or other industrial actions or trade disputes (whether involving employees of the Seller or a third party);

8.7.6 difficulties in obtaining raw materials labour fuel parts or machinery;

8.7.7 power failure or breakdown in machinery

8.8 Subject to the foregoing provisions of this Clause 8 the Seller's liability (if any) whether in contract tort or otherwise for any breach of the Contract or any duty owed to the Buyer in connection herewith shall be limited to the price of the Goods

## 9. USE OF GOODS

9.1 The Buyer shall not remove any plaque or other label affixed to the Goods referring any user thereof to the Seller's instructions and/or recommendations for use.

9.2 In the event that either the Buyer or its purchaser being a person intending to use any part of the Goods at work requires any information as to the use for which such Goods were designed and have been tested and about any conditions necessary to ensure that when put to that use they will be safe and without risk to health for the purposes of satisfying its obligations under any statute for the time being in force relating to health and safety at work the Seller shall provide such information subject to reimbursements of its out-of-pocket expenses incurred in furnishing such information.

9.3 The Buyer shall indemnify the Seller against all actions suits claims demands losses charges costs and expenses which the Seller may suffer or incur in connection with any claim by any third party alleging facts which if established would indicate a breach of the undertaking representations and warranties on the part of the Buyer contained in this Clause 9 or which if established would indicate a breach by any purchaser from the Buyer of any undertaking which the Buyer is required in this Condition 9 to exact from such purchaser.

9.4 The Buyer acknowledges and agrees that the content and design of the Goods are protected by copyright, trademarks, patents, design rights, registered design rights or other proprietary rights and laws ("IP Rights"). As such the Buyer warrants that it will not copy any part of the Goods or use the Goods in any way that would infringe the Seller's IP Rights and shall indemnify the Seller and keep the Seller fully and

effectively indemnified against any and all losses, claims, damages, costs, charges, expenses, liabilities, demands, proceedings and actions which the Seller may sustain or incur or which may be brought or established against it by any person and which in any case arise out of or in relation to or by reason of the infringement of the Seller's IP Rights.

- 9.5 The Seller grants to the Buyer a personal, non-transferable and exclusive right and licence (the terms of which are set out separately to the Buyer) to use the Goods provided that the Buyer does do not, and do not allow, any third party to copy, modify, create a derivative work of, reverse engineer, reverse assemble or otherwise attempt to discover source code, sale, assign, sub-licence, grant of security interest in or otherwise transfer any right in the Goods. The Buyer agrees that it will not to modify the Goods in any manner or form, or to use modified versions of the Goods, including (without limitation) for the purpose of obtaining a commercial advantage of the Seller

## 10. INSOLVENCY OF BUYER

- 10.1 This Condition applies if:
- 10.1.1 the Buyer calls any meeting of its creditors or makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) shall present a petition or have a petition presented by creditors against it for its winding up or goes into liquidation (otherwise that for the purposes of amalgamation or reconstruction); or
  - 10.1.2 an encumbrancer takes possession or a receiver or administrative receiver is appointed over the whole or any part of the property or assets of the Buyer; or
  - 10.1.3 the Buyer shall be deemed unable to pay its debts; or
  - 10.1.4 the Buyer ceases or threatens to cease to carry on business; or
  - 10.1.5 the Buyer commits an irremediable breach of the Conditions; or
  - 10.1.6 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer in writing accordingly
- 10.2 If this clause applies then without prejudice to any other right or remedy available to the Seller the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without incurring any liability to the Buyer and if the Goods have been delivered but not paid for the price for the Goods shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 10.3 If any of the events listed in Clause 10.1 above occurs the Seller shall, as an option of claiming that Goods delivered but not yet paid becoming payable, be entitled to enter upon the Buyer's premises (or such premises were the Goods are stored) and repossess such Goods that remain unpaid and all costs paid or payable of such pre possession to be paid by the Buyer.

## 11. EXPORT TERMS

- 11.1 In these Conditions 'Incoterms' means the International Rules for the Interpretation of Trade Terms of the International Chamber of Commerce as are in force at the date when the Contract is made PROVIDED THAT unless the context otherwise requires any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions but if there is any conflict between the provisions of Incoterms and these Conditions the latter shall prevail.
- 11.2 Where the Goods are supplied for export from the United Kingdom the provisions of this Condition 11 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.
- 11.3 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon.
- 11.4 Unless otherwise agreed in writing between the Buyer and the Seller the Goods shall be delivered in accordance with Condition 6 above and the Seller shall be under no

obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

- 11.5 Payment of all amounts due to the Seller shall be made in accordance with the terms for payment as set out in Condition 5 above.
- 11.6 The Buyer undertakes not to offer the Goods for resale in any country other than the country notified by the Seller to the Buyer in writing at or before the time the order is placed or to sell the Goods to any person if the Buyer knows or has reason to believe that such a person intends to resell the Goods in any country other than the one so notified.

## **12. GENERAL**

- 12.1 Any notice required or permitted to be given by either party to the other under the Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified in writing pursuant to this provision to the party giving the notice.
- 12.2 No waiver by the 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 of the Conditions.
- 12.3 If any provision of the Conditions and/or the Contract is held by any competent authority to be invalid or unenforceable in whole or in part but would be valid and enforceable if part of the wording were deleted the said provision shall be deemed to apply with such modifications as may be necessary to make it valid and enforceable and any such modification such not affect the validity of the other provisions of these Conditions and/or the Contract and the remainder of the provision in question shall not be affected hereby.
- 12.4 Any dispute or difference arising out of or in connection with this Agreement shall be referred to the arbitration of a sole arbitrator to be appointed in accordance with Section 16(3) of the Arbitration Act 1996 ("the Act") the seat of such arbitration being hereby designated as London England.
- 12.5 In the event of failure of the parties to make the appointment pursuant to Section 16(3) of the Act the appointment shall be made by the President for the time being of the Chartered Institute of Arbitrators.
- 12.6 The arbitration will be regarded as commenced for the purposes set out in Section 14(1) of the Act when one party sends to the other notice in accordance with Clause 12.2 of this Agreement
- 12.7 The Arbitrator shall decide the dispute in accordance with the substantive laws of England and Wales

## **13. PROPER LAW**

The Contract shall be governed by and interpreted in accordance with English Law and the Seller and the Buyer both submit to the jurisdiction of the High Court of Justice in England and Wales.

## **14. ASSIGNMENT**

- 14.1 The Buyer shall not assign any benefit under the Contract without the consent in writing of the Seller which shall not be unreasonably withheld but may if given be on such terms as to guarantee or indemnity or otherwise as the Seller thinks fit.
- 14.2 The Seller shall be entitled to assign any benefit under the Contract by giving notice to the Seller.

## **15. THIRD PARTY RIGHTS**

Nothing in this Agreement shall create any rights for third parties under the Contracts (Rights of Third Parties) Act 1999. No variation to this Agreement and no supplemental or ancillary agreement to this Agreement shall create any such rights unless expressly so stated in any such agreement by the Parties. This does not affect any right or remedy of a third party which exists or is available apart from that Act.

## **16. EXCLUSION OF OTHER CONDITIONS**

No other conditions or terms (whether contained in any document issued by the Buyer or in any written or oral communication between the parties) shall apply to the Contract nor shall the Conditions be varied without the Seller's written agreement.