

# HUSCO INTERNATIONAL PARTNERS LLP

## CONDITIONS OF SALE

### DEFINITIONS

1. In these Conditions:-

- (a) "the Buyer" means the purchaser of the Goods from the Seller.
- (b) "Conditions" means the terms and conditions set out in this document as amended from time to time in accordance with Condition 6.
- (c) "Contract" means the contract between the Seller and the Buyer of the sale and purchase of the Goods in accordance with these Conditions.
- (d) "Goods" means the articles equipment or goods (including any instalment of the goods) to which this document relates.
- (e) "Order" means the Buyer's order for the Goods, as set out in the Buyer's order form, the Buyer's written acceptance of the Seller's quotation, or overleaf, as the case may be.
- (f) "the Seller" means HUSCO International Partners LLP.
- (g) "Serial Production Order" means an Order for Goods which consists of a series or schedule of Orders to be fulfilled over a period of time.

### GENERAL

2. All Orders are accepted and all contracts are made subject to the following Conditions provided that any special conditions in any Order acknowledgement signed on behalf of the Seller by a duly authorised representative and/or the terms of any separate document provided in writing by the Seller to the Buyer signed on behalf of the Seller by a duly authorised representative which, in either case is expressly stated to supplement or amend

any part of these Conditions shall prevail to the extent that they are inconsistent with these Conditions.

- 3. If these Conditions (whether special or general) shall be at variance or inconsistent with any printed conditions attached to or contained in the Buyer's order, any other document submitted by the Buyer or any term implied by trade, custom, practice, or course of dealing then these Conditions shall prevail and be effective.
- 4. A quotation of the Seller does not constitute an offer by the Seller to sell or supply the Goods and every acceptance of any quotation of the Seller and every Order by the Buyer in response to any quotation of the Seller shall be deemed an offer by the Buyer to the Seller and will not be binding on the Seller until the Seller has given its written acknowledgment of its acceptance of such Order at which point the Contract shall come into existence.
- 5. The Buyer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Seller which is not set out in these Conditions.
- 6. No variation of a term of the Contract (unless specifically authorised by these Conditions) shall bind the Seller unless such variance is made in writing and signed on behalf of the Seller by a duly authorised representative.
- 7. Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to 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.
- 8. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance or offer, invoice or other document or information issued by the Seller shall subject to correction without any liability on the part of the Seller.

## **ORDER SPECIFICATIONS**

- 9.
- (a) The Buyer acknowledges that it shall be in the normal course of the Contract that the Seller shall require a lead time of between six and ten months between the acceptance of an Order and delivery of the relevant Goods.
  - (b) Where the Seller agrees to a lead time of less than six months the Seller reserves the right to charge special handling and manufacturing charges in addition to any price given in any quotation or Order acknowledgement. The Seller will use reasonable endeavours to advise the Buyer before any additional charges are incurred.
  - (c) Every Order shall specify the total number of units required.
  - (d) Each Order within a Serial Production Order that is accepted by the Seller shall constitute a separate Contract and failure by the Seller to deliver any one or more of the Orders in accordance with these Conditions or any claim by the Buyer in respect of any one or more Order shall not entitle the Buyer to cancel any other Orders or to treat the Serial Production Order as a whole as repudiated.
  - (e) The Seller will not accept Serial Production Orders where a period in excess of 12 months separates the first scheduled delivery date from the last.

## **CANCELLATION**

10. Save as specified in Condition 11, no Order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and

expenses incurred by the Seller as the result of cancellation such indemnification to be made within 45 days of the date of the Seller's invoices.

11. Serial Production Orders may be cancelled in their entirety by the Buyer by giving written notice to the Seller specifying the date upon which such cancellation shall take effect ("the Cancellation Date").
12. Where a Serial Production Order is cancelled pursuant to Condition 11, the Buyer shall be responsible for:
- (a) the cost of the finished Goods for all outstanding Orders included in the Serial Production Order (whether or not such Goods have been finished), where notice of cancellation is received by the Seller within twelve (12) weeks of the Cancellation Date;
  - (b) the cost of work in progress (being the cost of labour incurred and materials ordered by the Seller up to the Cancellation Date) where notice of cancellation is received by the Seller within twenty (20) weeks of the Cancellation Date; and
  - (c) the cost of materials purchased or ordered by the Seller in respect of the Serial Production Order prior to the Cancellation Date, where notice of cancellation is received by the Seller within twenty-six (26) weeks of the Cancellation Date.

## **DELIVERY SCHEDULES**

13. The delivery dates in respect of Serial Production Orders shall be agreed either at the time the first Contract is made or, subsequent to the formation of the first Contract, by agreement between the Seller and the Buyer provided that where the Seller and the Buyer are unable to reach an agreement within 30 days from the commencement of such negotiation, the Seller shall be entitled to terminate all Contracts comprising the Serial Production Order or any one thereof without any liability whatsoever to the Buyer and the Buyer shall indemnify the Seller in respect of all expenses and/or liabilities incurred

by the Seller in connection with the termination of such Contracts or any instalment thereof.

14. It is the practice of the Seller to consider requests by the Buyer for re-scheduling of an agreed delivery date for any Order where such request is made more than 90 days in advance of an agreed delivery date but the Seller shall be under no obligation to agree to such request.

## **PRICE**

15. Any quotation of the Seller is made on the basis of the number of units specified by the Seller therein. Without prejudice to Condition 4 above:-

(a) Where the Buyer orders fewer units than were originally specified in the Seller's quotation or fails to accept delivery of that number of units, the Seller shall without prejudice to any other rights or remedies available to it have the right to increase the charge per unit as appropriate and invoice the Buyer accordingly; and

(b) Where the Buyer orders more units than were originally specified in the Seller's quotation, the Buyer shall have no right to insist on any reduction in the total price or charge per unit.

16. (a) Except in respect of any acknowledgement of Order where the price is expressly stated to be fixed for a specified delivery period, the Seller reserves the right to alter the contract price in respect of the Goods by reference to the price ruling at the date of the delivery of the Goods by additional sums as may from time to time be necessary to cover increases in the costs to the Seller of materials and/or labour and/or transport and/or fluctuations in exchange rates (or any other factor affecting the cost of production or delivery) which may occur between the date of the Contract and the date of delivery.

(b) Where in an acknowledgement of Order a price is expressly stated to be fixed for a specific delivery period and for any reason (except where the same is due to the default of the Seller) a supply is made under the Order after the end of such period, the Seller reserves the right in respect of such supply to charge the price ruling at the date of despatch of the Goods in the same manner as mentioned in Condition 16 (a) above.

(c) Where the Buyer requests an amendment to an Order which is agreed by the Seller, the Seller shall be entitled at its absolute discretion to increase the price of the Goods to reflect any additional work to be undertaken, any additional stock and materials to be used or any other increase in the costs of Goods resulting from such amendment.

17. Except as otherwise stated under the terms of any quotation or acknowledgment of Order, all prices are given by the Seller on an ex-works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises the Buyer shall be liable to pay the Seller's charges for transport, freight, shipping, storage, handling, demurrage, packaging, insurance or other similar charge.

18. The Seller shall be entitled at its absolute discretion to increase any charges to the Buyer of the type described in Condition 17 above where the applicable rates increase after the date of the acknowledgement of Order, notwithstanding whether the charges were included at a lower rate in an Order or acknowledgment of Order.

19.

(a) Unless otherwise expressly stated all prices are exclusive of value added tax which (if applicable) shall be payable by the Buyer and applied in accordance with the legislation in force at the time of invoice.

(b) All prices are exclusive of any duties or taxes payable in any country in respect of the sale or any agreed delivery of Goods, for which the Buyer shall be additionally liable.

## **DELIVERY**

20. Unless otherwise stated in the Seller's acknowledgement of Order the Seller will deliver the Goods on an ex-work basis.
21. The Seller shall be entitled to make delivery of the Goods in instalments.
22. The Seller shall use reasonable endeavours to comply with any date or period for delivery of the Goods or any part of them as set out in an acknowledgement of Order or in a Serial Production Order but any such date or period shall be approximate only and shall not be of the essence of the Contract.
23. If the Seller is prevented from delivering any Goods at the time provided for delivery by reason of any cause outside its reasonable control (including but, not so as to limit the generality of the foregoing fire, explosion, plant breakdown, interference by labour strikes or lockouts or non-availability of transport or materials) then the period for delivery shall be extended by the duration of the occurrence and the Buyer shall have no right to terminate the Contract by reason of such delay and the Seller shall not be liable for any loss incurred as a result of such delay.
24. If the Buyer fails to take or accept delivery of Goods within three Business Days of the Seller notifying the Buyer that the Goods are ready for collection, then:
  - (a) the Seller shall store the Goods until delivery takes place, and charge the Buyer for all related costs and expenses (including insurance); and
  - (b) If 10 Business Days after the day of attempted delivery or on which the Seller notified the Buyer that the Goods were ready for collection the Buyer has not taken or accepted delivery of them, the Seller may resell or otherwise dispose of part or all of the Goods and charge the Buyer for all related costs and expenses.

## **PACKING**

25. Unless otherwise stated in writing in accordance with these conditions, the Goods will be boxed or crated as the Seller may determine. Where the Seller has agreed to make delivery other than on an ex-works basis, the Seller may charge extra charges for packing as it shall in its absolute discretion deem necessary proper for normal handling, including without limitation waterproofing, special packaging for international shipments or returnable containers.

## **RISK AND PROPERTY**

26. The risk in the Goods shall pass to the Buyer on completion of delivery which shall be deemed to have taken place:
  - (a) In the case of Goods to be delivered at the Seller's premises, on the completion of the loading of the Goods or, failing collection by the Buyer on the date falling 3 days from the time when the Seller notifies the Buyer that the Goods are available for collection; or
  - (b) In the case of Goods to be delivered otherwise than at the Seller's premises, at the time of arrival at the relevant delivery location.
27. Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, title to the Goods shall not pass to the Buyer until the Seller has received cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer.
28. Until such time as the title to 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 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 do so as principal and not as the Seller's agent (and title to the Goods shall pass from the Seller to the Buyer immediately before the time at which such resale occurs) and shall account to the Seller for the proceeds of

sales 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, property stored, protected and insured.

29. Until such time as the title to the Goods passes to the Buyer, (and provided that 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.

30. 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.

### **TERMS OF PAYMENT**

31. The Buyer shall pay the price of the Goods without regard to any equity, set-off or counterclaim within 30 days of the date of the Seller's invoice. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

32. Where delivery is made in instalments, the Seller shall be entitled to invoice the Buyer separately for each instalment.

33. 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:

(a) Cancel any Contracts or suspend any further deliveries to the Buyer;

(b) appropriate any payment from the Buyer to such of the Goods (or the Goods supplied

under any other Contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and

(c) charge the Buyer interest (both before and after any judgement) on the amount unpaid, on a daily basis at the rate of 4 per cent annum above Barclays Bank PLC's base rate from time to time, until payment is made in full.

### **WARRANTIES AND CLAIMS**

34. The Buyer should satisfy itself by tests or otherwise of the fitness for its purpose and satisfactory quality of the Goods.

35. The Seller warrants that on delivery and for a period of 12 months from delivery, the Goods will be free from material defects in material and workmanship.

36. If the Goods delivered do not by reason of faulty material or workmanship comply with Condition 35 above, then the Seller undertakes at the option of the Seller to repair or replace such Goods or the defective part or parts thereof. This undertaking by the Seller is subject to and conditional upon the following provisions:-

(a) Claims shall be made in writing as soon as such faults are reasonably capable of discovery but in any event within twelve months of delivery of the Goods.

(b) The Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification provided by the Buyer.

(c) The Seller will not be liable for any failure of Goods if the same shall be caused by fair wear and tear or abnormal operating conditions or unsuitable storage conditions or abuse or improper use or operation beyond rated capacity or by the application of any use of treatment of any unsuitable or improper nature or the attachment of parts originating from sources not approved by

the Seller or by any alteration or repair by parties other than Seller.

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- (d) The Goods must not have been modified other than by the Seller or with the prior written approval of the Seller.
- (e) Goods in respect of which any claim is made under this Condition shall be returned to the Seller carriage paid for inspection, or (if return is not practicable) alternatively the Seller may inspect the Goods or procure the same to be inspected in situ. If the Buyer requires replacement Goods, the Seller will (where the Buyer has deducted the amount paid for the relevant Goods from any subsequent payment to the Seller in respect of other Goods ordered) charge the full price for such replacement Goods. In the event that the Buyer's claim shall be upheld, the Seller undertakes to reimburse the Buyer with the costs of any such carriage and to credit the Buyer with any charge made for the replacement Goods but if the Buyer's claim shall not be upheld then the Seller reserves the right to charge the Buyer for all or part of the labour, travelling, carriage and other costs involved, and there will be no credit of any charge made for the replacement Goods.
- (f) Subject to Condition 37 (b) below, the undertaking of the Seller to repair or replace shall be the absolute limit of the Seller's liability on any ground whatsoever to the Buyer in respect of any such claim. Such undertaking is in substitution for any condition or warranty (except as to title) implied by statute, common law or otherwise in respect of the Goods and under no circumstance shall the Seller be under any liability to the Buyer whether for loss of profit or for any indirect or consequential loss howsoever arising.

(a) No claim for short delivery of Goods or damage to Goods in transit can be entertained unless either (where this is possible) a receipt is given to the carrier detailing the shortage or damage at the time of delivery or alternatively notification of the shortage or damage is made to the Seller within three days from the delivery date of the Goods by the carrier.

(b) No claim for non-delivery of Goods can be entertained unless the Seller is notified within seven days from the date of its invoice.

38. The terms implied by Sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

#### **LIMITATION OF LIABILITY**

39.

(a) Subject to the provisions of paragraph (b) of this Condition, it is expressly stipulated that in the event of any claim on any ground being made by the Buyer against the Seller in respect of Goods or any matter arising from or in relation to the Contract relating thereto any liability of the Seller shall be limited (in respect of each claim or series of connected claims) to the price paid for the Goods and under no circumstance shall the Seller be under any liability to the Buyer for loss of profit or for any indirect or consequential loss howsoever arising (including, but not limited to, employee costs, damage to equipment, costs of substitute products, liability to a third party or lost profits resulting from the sale, use of or inability to use the Goods, the Goods' incorporation into or becoming a component of any other product) whether based on breach of warranty or other contractual claim, tort, breach of statutory duty or otherwise.

(b) Notwithstanding any provision herein contained, nothing in these Conditions shall operate or be construed as operating to exclude or restrict any liability of the Seller for

death or personal injury resulting from the negligence of the Seller, fraud or fraudulent misrepresentation, breach of the terms implied by Section 12 of the Sale of Goods Act 1979 or defective products under the Consumer Protection Act 1987.

## **MODIFICATIONS**

40. In accordance with the Seller's established policy of constant improvement it reserves the right to amend materials, manufacturing processes, specifications or designs at any time without notice to the Buyer. Such changes made by the Seller shall not affect the validity of the Contract in any way.

## **INTELLECTUAL PROPERTY RIGHTS**

41. Where the Goods are manufactured to designs, drawings or specifications of the Buyer the Buyer will indemnify the Seller and its successors, assigns and customers against any damages, claims, costs, charges, expenses or liability of whatever nature arising from any infringement or alleged infringement or any third party's patents, copyrights, trademarks, design rights, registered designs or other intellectual property rights in respect of the use of such designs, drawings or specifications by the Seller or the Buyer.

42. The Seller shall retain all rights, title and interest in and to any and all patents, copyrights, trademarks, design rights, registered designs and other intellectual property and proprietary rights in and the goodwill associated to the Goods, as well as any associated developments the Seller creates, realises or reduces to practice during the Seller's fulfillment of the Order or otherwise.

43. Except as otherwise expressly provided, no license, transfer or assignment of intellectual property or proprietary rights shall occur as a result of any Contract.

44. Any nameplates, logos, branding or other form of identification which the Seller has affixed to or marked upon any of the

Goods may not be removed by the Buyer without the Seller's prior written consent.

45. Where any equipment used to manufacture the Goods, whether owned by the Buyer or the Seller, has sufficient capacity to manufacture items other than the Goods, the Seller shall be entitled to use such capacity as the Seller in its absolute discretion thinks fit.

## **TECHNICAL DOCUMENTS**

46.

- (a) All weights, measurements, dimensions, illustrations, drawings, catalogues, brochures, specifications or other technical characteristics, data or descriptive matter included in any sales promotional material are only approximate and are included solely for the Buyer's guidance. Such particulars are not meant as descriptions of the Goods and shall not form part of the Contract unless expressly agreed otherwise in writing.
- (b) All the Seller's standard plans drawings and specifications provided by the Seller shall remain at all times the property of the Seller and may not be reproduced in whole or in part without the Seller's prior written consent.

## **BREACH**

47. If the Buyer :-

- (a) makes default or commits any breach of any of its obligations (including as to payment of price) to the Seller here under; or
- (b) suspends or threatens to suspend payment of its debts or is unable to pay its debts as they fall due or is involved in any legal proceedings in which its solvency is in question, or
- (c) has any distress or execution or similar process levied or enforced upon its property or assets; or
- (d) is a company and any meeting is convened or resolution is passed or petition is presented (otherwise than for reconstruction or amalgamation) to wind it up or an

emcumbrancer takes possession of or a receiver or administrative receiver is appointed of all or any part of its assets or undertaking or a petition is presented for the making of an administration order in relation to it or it calls a meeting of or it enters into any composition or arrangement with its creditors or applies for an interim order under the insolvency Act 1986; or

- (e) being an individual dies or being a partnership or firm is dissolved or in either case a bankruptcy petition is issued or bankruptcy order is made against it or it negotiates for or enters into a composition or arrangement with or assignment for the benefit of its creditors; or
- (f) ceases or threatens to cease trade; or
- (g) if anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the Buyer; or
- (h) if the Seller learns of circumstances which are in reasonable judgement of the Seller likely adversely to affect the ability of the Buyer to perform its obligations hereunder (including without limitation of the foregoing the obligation to pay for Goods in accordance with the terms of the contract);

then in any such case the Seller shall immediately become entitled by notice to the Buyer (without prejudice to its other claims and rights under the contract) to suspend further performance of the contract for such time not exceeding six months as it shall in its absolute discretion think fit or (whether or not notice of such suspension shall have been given) to forthwith terminate the Contract with immediate effect and if the Goods have been delivered but not paid for the price and all other monies payable in respect of the Goods shall become immediately due and payable.

## **EXPORT TERMS**

- 48. In these Conditions "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force from time to time. 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 both these Conditions and any special conditions agreed between the Buyer and the Seller, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.
- 49. Where the Goods are supplied for export from the United Kingdom, the provisions of Conditions 50-53 inclusive (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.
- 50. Unless otherwise agreed in writing between the Buyer and the Seller, the Goods shall be delivered by the Seller on an ex-works basis. The Seller shall not under any circumstances be under any obligation to give notice under section 32(3) of the Sale of Goods Act 1979.
- 51. The Buyer shall be responsible for obtaining the necessary import licences, certificates of origin or other requisite documents, and paying all applicable customs duties and taxes in respect of the importation of the Goods into its country and in the event of any failure by the Buyer to do so the Seller shall be entitled to cancel the Contract and the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller pursuant to the Buyer's Order prior to such cancellation;
- 52. Where the Seller agrees in writing to apply for any licences, authorisations or consents required for the export of the Goods the Seller shall be entitled to cancel the Contract in the event that any such licence, authorisations or consent is refused. The Seller shall not be

liable for any loss to the Buyer arising out of such cancellation including (without limitation) loss or profit and other consequential loss.

53. Where the Goods are sold or distributed outside the United Kingdom, the Buyer shall have the sole responsibility for compliance with any and all applicable laws, regulations, rules and orders in all countries outside the United Kingdom in which the Goods are sold or distributed (including, without limitation, compliance with UK and EU and US trade restrictions, sanctions and embargos and any prohibition on re-exporting or transshipping products in violation thereof).

### **GOVERNING LAW**

54. All contracts shall be governed by English law and the Seller and the Buyer submit to the non-exclusive jurisdiction of the English Courts.

### **NOTICES**

55. Any notice required to be given hereunder shall be in writing and may be served either by delivering it by hand or sending it by pre-paid first class letter addressed to the last known place of business of the party upon whom it served. Service by delivery by hand shall be deemed to be effective upon delivery to the relevant address and service by first class post two days after the date of posting.

### **NO WAIVER**

56. Any failure by the Seller to exercise or enforce any rights under these Conditions shall not be deemed to be a waiver of any such rights, nor operate so as to bar the exercise or enforcement thereof at any time thereafter.

### **PREVIOUS CONDITIONS**

57. These Conditions supersede all previous conditions of sale of the Seller.

### **FORCE MAJEURE**

58. The Seller shall not be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond the Seller's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics, natural disasters, extreme adverse weather conditions, default of suppliers or subcontractors, or similar events.

59. In the event of a Force Majeure Event the Seller shall be entitled to a reasonable extension of the time for performing its obligations. If the period of delay or non-performance continues for three (3) months, the Seller may terminate the Contract by giving written notice to the Buyer.

### **CONFIDENTIALITY**

60. All information provided to the Buyer by the Seller, its employees, officers, representatives, advisers or other party acting on the Seller's behalf and all information learned or observed by the Buyer about the Seller or its operations through performance of the Orders and these Conditions is confidential and the Buyer shall not without the prior written consent of the Seller disclose such information to any other party, or use such information for any purpose other than performing its obligations under the Orders and these Conditions.

## **INDEPENDENT CONTRACTOR**

61. The Seller, its agents and other suppliers shall at all times be independent contractors and the Buyer shall make no express or implied representations to the contrary. Nothing in these Conditions is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party being the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

## **WORK BY OTHERS**

62. Unless otherwise agreed in writing, the Seller has no responsibility for the installation or work of any nature relating to the operation or use of the Goods, all which will be performed by Buyer. It is the responsibility of Buyer to apply such accessory and safety devices as may be desirable and/or required by law. The Buyer shall require its employees and workers to use all safety devices, guards and proper safe operating procedures specified in any manuals and instructions provided by the Seller. The Buyer is responsible for complying with all industry safety standards in relation to the operation and maintenance and other use of the Goods.

## **ASSIGNMENT**

63. The Seller may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under these Conditions or any Order and may subcontract or delegate in any manner any or all of its obligations under these Conditions to any third party.

64. The Buyer shall not, without the prior written consent of the Seller, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with

all or any of its rights or obligations under these Conditions or any Order.

## **CONSTRUCTION**

65. The Sub-headings of these Conditions are for ease of reference only and are not to be regarded as part of these Conditions.

66. If at any time one or more of the above conditions becomes in whole or in part invalid illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining Conditions herein shall not in any way be affected or impaired thereby.