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**1. DEFINITIONS**

- 1.1. The following definitions shall be used for the purpose of interpreting the ORDER and all documents referred to therein and relating thereto.
- 1.2. PURCHASER shall mean Sterling Thermal Technology Limited.
- 1.3. PURCHASER'S REPRESENTATIVE means the person notified as such within the ORDER.
- 1.4. GOODS shall mean the articles and materials and documentation and services or any part thereof to be supplied by the SELLER as described in the ORDER.
- 1.5. ORDER shall mean the Purchase Order document issued by the PURCHASER for the GOODS including these conditions and all other documents referred to in the ORDER.
- 1.6. SELLER means the person firm or company to whom the ORDER is addressed.
- 1.7. SELLER'S REPRESENTATIVE means the person appointed as such by the SELLER pursuant to Clause 5.
- 1.8. FREE ISSUE MATERIAL means items equipment or material supplied to the SELLER by or on behalf of the PURCHASER for incorporation into the GOODS.
- 1.9. DILIGENCE means the exercise of the degree of skill expertise care and foresight which would normally be expected of a skilled and experienced SELLER engaged in undertakings of a similar type scale and circumstance to those required by the ORDER in accordance with best industry and professional standards and practices current from time to time.

**2. COMPLETE AGREEMENT**

- 2.1. The ORDER constitutes the entire agreement between the SELLER and the PURCHASER with regard to the GOODS and by acting on the ORDER the SELLER agrees to supply the GOODS in accordance with the ORDER.
- 2.2. Any other conditions to which the SELLER'S quotation or acceptance of the ORDER are subject are expressly excluded.

**3. ACKNOWLEDGEMENT**

- 3.1. Acknowledgement of the ORDER must be made by return of post and within the period allowed in the ORDER. Such acknowledgement shall be SELLER'S unconditional acceptance of the ORDER and no qualifications or application of SELLER'S own terms shall be valid unless agreed in writing by the PURCHASER. In the event of non acceptance of the ORDER in accordance with the above requirements the PURCHASER reserves the right to reject all commercial obligation to the SELLER appertaining to any action undertaken by the SELLER in connection with the ORDER.

**4. PURCHASER'S REPRESENTATIVE**

- 4.1. The PURCHASER'S REPRESENTATIVE shall be the sole authority acting on behalf of the PURCHASER under the ORDER and shall be responsible for issuing to and receiving from the SELLER all notices information instructions and decisions.
- 4.2. The SELLER shall be responsible for verifying that all instructions emanate from a person fully authorised to act on behalf of the PURCHASER. The SELLER shall note that only written instructions from the PURCHASER'S REPRESENTATIVE shall be considered to be a commitment on behalf of the PURCHASER.

**5. SELLER'S REPRESENTATIVE**

- 5.1. The SELLER'S REPRESENTATIVE shall have full authority to represent and commit the SELLER in all matters concerning the performance of the ORDER. Such authority shall include the power to agree on the SELLER'S behalf all notices information instructions and decisions. Any communication or notice given to the SELLER'S REPRESENTATIVE shall be considered as given to the SELLER.

**6. QUANTITY AND QUALITY**

- 6.1. The GOODS shall be supplied strictly in accordance with the specification and other special requirements stipulated in the ORDER. No deviation therefrom is permitted without the express agreement of the PURCHASER in writing.
- 6.2. The design construction and quality of the GOODS shall comply in all respects with all relevant requirements of any applicable United Kingdom or European Community regulation ordinance directive or other generally binding instruments which apply to the manufacture and where appropriate the subsequent operation of the GOODS including all applicable regulations rulings orders and standards in respect of health and safety.
- 6.3. The goods shall be of merchantable quality fit and safe for use and for the particular purpose intended and shall conform with the quantity quality specification and with the particulars stated in the ORDER.
- 6.4. All materials used in the manufacture of the GOODS are to be new and of best quality. No welding filling plugging or other repairs of defective parts of the GOODS shall be permitted without the written permission of the PURCHASER.
- 6.5. In the event that parts of the GOODS have not been completely described or specified in the ORDER then such parts shall be in accordance with internationally recognised codes and standards which may be applicable.
- 6.6. The SELLER shall submit drawings specifications procedures and other documents to the PURCHASER for review or approval in such quantities as the PURCHASER may require. No such review or approval shall relieve the SELLER from any of its obligations under the ORDER.
- 6.7. The SELLER shall be responsible for any errors or omissions in any drawings specifications or other information supplied by the SELLER and the cost of any remedial work necessitated by reason of such errors or omissions.
- 6.8. The SELLER'S calculations shall be complete and prove that the design is adequate for the intended purpose.
- 6.9. Unless agreed otherwise by PURCHASER the SELLER shall have implemented and shall maintain a Quality System in accordance with BS EN ISO 9000 Series for the duration of the ORDER. Details of the system shall be made available to the PURCHASER at any reasonable time on demand.
- 6.10. The SELLER shall assign sufficient and suitably qualified personnel to control the system. If the PURCHASER considers that the control exercised by the SELLER is inadequate for any reason the SELLER shall employ for the duration of the ORDER and at the SELLER'S cost an independent Quality Specialist and / or sufficient and suitably qualified personnel approved by the PURCHASER'S Quality Manager.

**7. VARIATIONS**

- 7.1. The SELLER shall not alter any of the GOODS except as directed in writing by the PURCHASER but the PURCHASER shall have the right from time to time during the execution of the ORDER by notice in writing to direct the SELLER to add to or omit from or otherwise vary the GOODS and the SELLER shall carry out such variations and be bound by the same conditions so far as applicable as though the said variations were stated in the ORDER. If such variation causes an increase or decrease in the ORDER price or any alteration in the delivery time then an equitable adjustment will be made any increase or decrease in the ORDER price being ascertained and determined at the same level of pricing as that contained in the ORDER.
- 7.2. Any claim by the SELLER for an adjustment must be submitted within seven days from the date of the event

giving rise to the claim and in default shall not be allowed.

- 7.3. If in the opinion of the SELLER any such direction is likely to prevent the SELLER from fulfilling any of the obligations under the ORDER he shall so notify the PURCHASER and the PURCHASER shall decide whether or not the same shall be carried out and shall confirm his instructions in writing and modify the said obligations to such an extent as may be justified. Until the PURCHASER so confirms his instructions they shall be deemed not to have been given.
- 7.4. The SELLER shall not suspend performance of the ORDER while the PURCHASER and the SELLER are in the process of making any modifications or related adjustments and if confirmed in writing by the PURCHASER the SELLER shall comply with and perform such modification in accordance with the terms of the ORDER during such time.

**8. DELIVERY**

- 8.1. Adherence to the delivery dates specified within the ORDER is essential. Failure by the SELLER to complete delivery of the GOODS within the time or times specified or within a reasonable time if no time is specified herein shall relieve the PURCHASER if it so chooses and without prejudice to any of its other rights or remedies of any obligation to accept or pay for the GOODS.
- 8.2. The SELLER shall furnish such programmes of manufacture and delivery as the PURCHASER may reasonably require and the SELLER shall give immediate notice to the PURCHASER if such programmes are or are likely to be delayed.
- 8.3. Delivery shall not occur prior to the satisfactory conclusion of any Final Tests required under the terms of the ORDER and the grant of an unconditional Inspection Release Note by the PURCHASER.
- 8.4. No part of the GOODS shall be delivered or shipped without the prior authorisation of the PURCHASER and in accordance with the PURCHASER'S instructions. Any such part ready for delivery before the PURCHASER has authorised delivery shall be stored by the SELLER at the SELLER'S risk and expense.
- 8.5. Upon delivery the SELLER shall send to the PURCHASER an advice note showing the PURCHASER'S ORDER number identity number the number of packages delivered and a description of their contents.
- 8.6. Unless otherwise varied in the ORDER the PURCHASER shall be entitled to retain liquidated damages for late delivery of the whole of the GOODS or part thereof at the ascertained rate of 2 per cent of the total ORDER price per week or part thereof that delivery is delayed up to a maximum of 10 per cent of the total ORDER price. This provision for the PURCHASER to retain ascertained and liquidated damages shall not prejudice the PURCHASER'S right to take further action for damages for failure by the SELLER to deliver the GOODS within or at the end of the period provided for above.
- 8.7. Delivery by the SELLER shall of itself constitute an acceptance of the terms and conditions of the ORDER where acceptance has not previously been communicated to the PURCHASER.

**9. PROPERTY AND RISK**

- 9.1. Property in the GOODS or in the materials allocated for the manufacture of the GOODS shall pass to the PURCHASER :-
- 9.1.1. when materials are first allocated for manufacture of the GOODS or
- 9.1.2. when payment or partial payment is made prior to delivery at which time such GOODS shall be clearly identified as the property of the PURCHASER or
- 9.1.3. when the GOODS are off-loaded in good condition at the point of delivery shown in the ORDER or

9.1.4. at the PURCHASER'S sole option on the date upon which the ORDER shall for any reason terminate.

- 9.2. In any event risk will pass at the said point of delivery although the SELLER shall still be liable for damage that may occur due to inadequate packing or protection or failure by the SELLER to provide adequate instructions for handling or unpacking the GOODS.
- 9.3. The above provisions shall not prejudice the PURCHASER'S right of rejection of the GOODS due to the failure of the SELLER to comply with the requirements of the ORDER.

**10. TOOLING**

- 10.1. All patterns, dies, moulds or other tooling supplied by the PURCHASER or prepared or obtained by the SUPPLIER for and at the sole cost of the PURCHASER shall be and remain the property of the PURCHASER. The SUPPLIER shall maintain all such items in good order and condition and insure them against all risks whilst in his custody and on completion of the ORDER or as otherwise directed by the PURCHASER shall return them to the PURCHASER in good order and condition. Should the SUPPLIER fail so to return them the PURCHASER may either withhold payment until they are returned or withhold such part of the payment due as may be required to replace them or to restore them to good order and condition. The SUPPLIER shall not use such items, nor shall he authorise or knowingly permit them to be used by anyone else for, or in connection with, any purpose other than the supply of the GOODS to the PURCHASER unless such use is expressly authorised by the PURCHASER, previously and in writing.

**11. FREE ISSUE ITEMS**

- 11.1. FREE ISSUE MATERIALS provided by the PURCHASER and to all work done thereon shall remain the property of the PURCHASER but on delivery to the SELLER shall be and remain at the sole risk of the SELLER until the delivery of the GOODS and any surplus FREE ISSUE MATERIALS to the PURCHASER in accordance with the ORDER.
- 11.2. All FREE ISSUE MATERIAL or equipment shall be deemed to be in good condition upon receipt by or on behalf of the SELLER and to be suitable for the work specified.
- 11.3. The PURCHASER requires notification by the SELLER in writing of any damage or deficiency upon receipt. Such notice to be received by the PURCHASER within 7 days of delivery of the FREE ISSUE MATERIAL.
- 11.4. The SELLER shall clearly identify and mark as "The Property of Sterling Thermal Technology Limited" separately store protect and maintain in good order and condition and keep comprehensive records of all FREE ISSUE MATERIAL.
- 11.5. The SELLER shall replace at SELLER'S cost and without any effect on the planned delivery schedule any material scrapped in excess of any scrap allowance given.
- 11.6. The SELLER shall use all FREE ISSUE MATERIAL economically and solely for the purpose of the ORDER.
- 11.7. Damage to or loss or waste of any FREE ISSUE MATERIAL arising from a failure of the SELLER to use DILIGENCE shall be made good at the expense of the SELLER by use of materials of at least the same quality.
- 11.8. All surplus FREE ISSUE MATERIAL shall be kept separate by the SELLER and reported to the PURCHASER for instructions as to disposal.
- 11.9. The SELLER shall within 14 days of the receipt of the ORDER provide evidence to the PURCHASER that the SELLER maintains an acceptable policy of Material Loss and Damage Insurance which shall provide cover for FREE ISSUE MATERIAL to a minimum value of £250000 or such other value as may be stated in the ORDER. Such policy shall remain in force for the duration of the works detailed in the ORDER.

**12. INVOICING**

- 12.1. All invoices shall be submitted in duplicate and shall clearly show the PURCHASER'S ORDER number.
- 12.2. Payment shall be made at the prices stated in the ORDER which shall be deemed to include all taxes (excluding Value Added Tax) and duties of every kind.
- 12.3. The SELLER shall have no right to charge interest or any other additional sum on any account outstanding with the PURCHASER.
- 12.4. Invoices shall not be submitted for partial completion of the ORDER unless otherwise detailed in the ORDER.
- 12.5. Unless otherwise detailed in the ORDER no invoice is to be dated or submitted by the SELLER :-
  - 12.5.1. prior to the date of despatch of the GOODS from the SELLER'S premises or
  - 12.5.2. in the case where items are to remain in the SELLER'S possession prior to the date upon which they are ready for use in connection with the ORDER or the agreed delivery date whichever is the later.
- 12.6. Any amounts otherwise payable hereunder may be withheld and or set off by the PURCHASER in whole or in part by reason of any actual or anticipated claims damages or expenses properly maintainable by the PURCHASER against the SELLER howsoever arising and shall be from monies due under the ORDER.
- 12.7. Neither the presentation nor payment nor non-payment of an individual invoice shall constitute a settlement of a dispute an accord of satisfaction a remedy of account stated or otherwise waive or affect the rights of the PURCHASER hereunder.

**13. TERMS OF PAYMENT**

- 13.1. Payment shall fall due 45 days from the end of the month of :-
  - 13.1.1. despatch of the GOODS as ordered or
  - 13.1.2. receipt of an invoice accepted by the PURCHASER as correct or
  - 13.1.3. receipt of all documentation called for in the ORDER.
 whichever shall occur later subject to conformance of the GOODS with the ORDER.

**14. EXPEDITING**

- 14.1. The PURCHASER reserves the right to expedite the progress of the SELLER and the SELLER'S sub-contractors or vendors in the satisfaction of this ORDER. Expediting shall take the form of contacts by telephone telefax E-mail letter and personal visits and shall be conducted by the PURCHASER the PURCHASER'S REPRESENTATIVE and or the PURCHASER'S expediting contractor.
- 14.2. The SELLER shall ensure that full and up to date information on the SELLER'S progress with the necessary documentation, design, procurement, fabrication, assembly, testing and delivery is available on demand.
- 14.3. Failure to provide the necessary information shall be deemed to be default and shall entitle the PURCHASER to cancel the ORDER.

**15. IN PROCESS INSPECTION**

- 15.1. The PURCHASER shall indicate specific schedule and inspection requirements in line with the SELLER'S manufacture and delivery programmes. Notwithstanding such requirements the SELLER shall afford free access to its works and/or the works of its sub-contractors at all reasonable times to the representatives of the PURCHASER the PURCHASER'S customer or any nominated inspection authority for the purposes of inspection or expediting.
- 15.2. Inspection shall not relieve the SELLER from its guarantee or its responsibility to manufacture and supply the GOODS in compliance with the ORDER nor shall the right to waive inspection during manufacture and prior to delivery prejudice the PURCHASER'S right to reject the GOODS after delivery.

**16. FINAL INSPECTION**

- 16.1. The GOODS will be inspected by the PURCHASER and/or PURCHASER'S REPRESENTATIVE and/or PURCHASER'S customer at the point of delivery defined in the ORDER.
- 16.2. If the GOODS are found to be defective, or do not comply with the ORDER the PURCHASER shall in writing notify the SELLER that the GOODS are defective or do not so comply and specify in the notice the nature of the defect or non compliance. The notice shall also specify that :-
  - 16.2.1. the PURCHASER requires the SELLER to take immediate action to remedy the defect and what access arrangements if any the PURCHASER shall make to enable the SELLER to do so; or
  - 16.2.2. the PURCHASER does not require the SELLER to remedy the defect or such non compliance but shall in respect of the defect or failure to comply issue a notice of termination for default in accordance with the clause headed SELLER'S DEFAULT and subject to the rights and remedies set out in that Clause.
- 16.3. No notice given in accordance with the above shall relieve the SELLER of its continuing obligations or liabilities under the ORDER nor does it affect any statutory or common law rights of the PURCHASER or the SELLER.
- 16.4. Any approvals acceptances or expressions of satisfaction given or made by the PURCHASER in respect of any part of the GOODS whether or not under any provision of the ORDER or whether they are pursuant to legal or regulatory obligations in addition to or outside the ORDER shall not diminish the SELLER'S contractual responsibilities and liabilities. Such PURCHASER approvals acceptances or expressions of satisfaction shall not cause the PURCHASER to assume any responsibilities or liabilities in regard of the matter for which any approvals acceptances or expressions of satisfaction have been given or made.

**17. GUARANTEE**

- 17.1. The SELLER warrants to the PURCHASER that all equipment materials and work covered by the ORDER will be free from all liens charges and defects in title and will conform with the specification drawings and other descriptions supplied or adopted by the PURCHASER and will be new fit and sufficient for the purposes for which they are intended as evidenced in the ORDER and in the drawings and specifications referred to therein of good materials design and workmanship free from defects and will fulfil satisfactorily the operating conditions and levels of performance specified herein.
- 17.2. At the request of the PURCHASER and at the PURCHASER'S option the SELLER shall promptly at no cost to the PURCHASER either repair or replace (including pre-payment of all packing and transportation costs) any equipment materials or work covered by the ORDER which within twelve (12) months after being accepted in writing by the PURCHASER'S customer but not later than eighteen (18) months after the date of delivery of all the GOODS or other such period as may be stated in the ORDER shall in normal use and service and under proper operation fail to conform with the foregoing guarantees of the SELLER.

**18. SPARE PARTS**

- 18.1. The SELLER shall ensure that spare component parts or identical replacements shall be available to the PURCHASER for a period of not less than 5 years from the date of the ORDER and that prior to any parts ceasing to be available 6 months notice will be given to the PURCHASER in writing.
- 18.2. The SELLER shall provide certificates with any spare parts which may be ordered by the PURCHASER stating that they conform to the requirements of the ORDER.

- 18.3. The supply of spare parts for the GOODS for a period of not less than 5 years from the date of the ORDER shall be the subject of a separate agreement concerning price between the PURCHASER and the SELLER.
- 19. TECHNICAL ASSISTANCE**
- 19.1. If the SELLER is required either by the terms of the ORDER or by a subsequent requirement of the PURCHASER or the PURCHASER'S customer to provide technical assistance during the supply period or subsequently then the SELLER undertakes to provide such assistance. The terms under which technical assistance is supplied shall be established under a separate agreement excepting only any matters which arise during the warranty period and which remain outstanding.
- 20. CONFLICT IN SPECIFICATION**
- 20.1. Anything that may be called for in the specifications and not shown on the drawings or shown on the drawings and not called for in the specifications shall be of like effect as if called for and shown in both. In the event the SELLER discovers any ambiguities or discrepancies in or between any specifications drawings or other documents as part of the ORDER the SELLER shall immediately submit the matter to the PURCHASER for the PURCHASER'S absolute determination and shall comply with the determination of the PURCHASER in such matter.
- 21. INDEMNITY**
- 21.1. The SELLER shall indemnify and hold harmless the PURCHASER from the following :-
- 21.1.1. Any loss damage and expense including all legal fees incurred or sustained by the PURCHASER by reason of the failure of the GOODS to conform to the terms of the ORDER.
- 21.1.2. Claims in respect of death or injury howsoever caused to any of the employees of the SELLER its agents or sub-contractors while upon the premises of the PURCHASER or those of the PURCHASER'S customer.
- 21.1.3. Any liens charges and encumbrances arising from defects in property of the GOODS.
- 21.1.4. Any and all liens attachments or similar claims by sub-vendors or any other persons.
- 21.1.5. Any action claim demand costs charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any patent registered design copyright trade mark trade name or other intellectual property rights foreign or domestic by the use or sale of the GOODS and against all costs and damages which the PURCHASER may incur in any action for such infringement or for which the PURCHASER may become liable in any such action.
- 22. CONSEQUENTIAL LOSS**
- 22.1. Neither the SELLER nor the PURCHASER shall be liable to the other in contract or in tort for any consequential or incidental loss howsoever arising. Consequential loss shall include but not be limited to loss of use loss of production loss of profits and loss of business opportunity.
- 23. SELLER'S DEFAULT**
- 23.1. Should it appear to the PURCHASER that :-
- 23.1.1. the ORDER is not being executed by the SELLER in accordance with or as specified in the ORDER or
- 23.1.2. the SELLER has not made sufficient progress to ensure the delivery of the GOODS by the time stated in the ORDER or that such time has already expired or
- 23.1.3. the SELLER has failed refused or neglected to carry out the reasonable instruction of the PURCHASER in connection with the ORDER with due DILIGENCE and expedition.
- 23.2. Then without prejudice to any rights it may have the PURCHASER may serve a notice or call upon the SELLER to remedy the default within seven (7) days and if the default is not so remedied the PURCHASER may cancel the ORDER in whole or in part or may complete the GOODS itself or with the assistance of third parties or take the GOODS in whole or in part out of the SELLER'S hands and place the ORDER in whole or in part elsewhere for completion and in such event the PURCHASER shall be entitled to retain any balance which may be due from it to the SELLER under the ORDER and apply the same or so much thereof as is necessary in payment of the extra costs and damages incurred by the PURCHASER arising out of or in connection with such cancellation. If the extra costs and damages incurred by the PURCHASER referred to herein shall exceed the balance due from the PURCHASER to the SELLER the SELLER shall pay such excess forthwith upon presentation of the PURCHASER'S invoice.
- 23.3. In such event the SELLER shall permit or procure the PURCHASER immediate entry onto the premises of the SELLER or its sub-contractors for the purpose of removing or otherwise dealing with the GOODS.
- 24. INSOLVENCY**
- 24.1. If the SELLER becomes insolvent or (being a Company) makes an arrangement with its creditors or has a Receiver appointed or commences to be wound up (other than for the purposes or amalgamation or reconstruction) the PURCHASER may without prejudice to any other of his rights :-
- 24.1.1. terminate the ORDER forthwith by notice to the SELLER or any person in whom the ORDER may have become vested with no cost to the PURCHASER or
- 24.1.2. pay for work performed to date of insolvency with title and possession passing to the PURCHASER for materials purchased or
- 24.1.3. give such Receiver Manager Liquidator or other person the option of carrying out the ORDER subject to his providing a guarantee from a guarantor acceptable to the PURCHASER for the due and faithful performance of the ORDER up to an amount to be agreed.
- 25. TERMINATION**
- 25.1. The PURCHASER may terminate the ORDER in whole or in part by written notice to the SELLER at any time without assigning any reason.
- 25.2. In such event the total purchase price shall be equitably adjusted provided that such adjustment shall not exceed the total ORDER price nor allow any amount for anticipated profit for performance not rendered or for consequential loss or damage or for GOODS ordered but not delivered which are part of the SELLER'S standard stock and provided that the SELLER'S written claim for adjustment is received within 30 days of the effective date of termination.
- 25.3. The PURCHASER shall have no liability for payment of any other compensation except as expressly stated herein. This provision shall not be deemed to limit or otherwise affect the PURCHASER'S rights to cancel the ORDER under any other clause.
- 25.4. Upon receipt of the termination notice the SELLER shall stop work to the extent specified in the notice and take such other action as may be necessary or as the PURCHASER may direct for the transfer protection preservation of property and contractual rights which are related to the termination and shall use its best endeavour to minimise the cost of termination to the PURCHASER.

**26. FORCE MAJEURE**

- 26.1. A delay in or failure of performance of either party hereto shall not constitute default hereunder nor give rise to any claim for damage if and to the extent such delay or failure is caused by force majeure and which by the exercise of reasonable DILIGENCE said party is unable to prevent.
- 26.2. The party affected by such force majeure shall make every effort to minimise the effects thereof and in so doing shall keep the other party fully advised.
- 26.3. For the purposes of the ORDER force majeure shall include but not necessarily be limited to :-
- 26.3.1. riot civil commotion rebellion insurrection or military or usurped power.
  - 26.3.2. ionising radiation or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel radio-active toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
  - 26.3.3. pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.
  - 26.3.4. earthquake flood fire or other natural physical disaster but excluding weather conditions regardless of severity.
  - 26.3.5. Strikes or industrial disputes at a national level.
  - 26.3.6. war invasion or act of foreign enemies (whether war be declared or not).
- 26.4. In the event that force majeure as described above or otherwise should occur the PURCHASER shall retain the right to terminate the ORDER under Clause 25 above but may alternatively by the issue of a written amendment to the ORDER at its sole option in the case of delay extend the time for delivery of the GOODS by the period over which the force majeure occurred or such lesser time as may be appropriate.
- 26.5. When the extended period allowed for delivery has expired then all other conditions shall remain applicable including the PURCHASER'S right to retain Liquidated Damages calculated from the new date set for delivery.

**27. REMEDIES**

- 27.1. The remedies herein reserved to the PURCHASER shall be cumulative and additional to any other or further remedies provided in Law or Equity. No waiver of a breach of any provision of the ORDER shall constitute a waiver of any other breach of such provisions.

**28. PUBLICITY AND CONFIDENTIALITY**

- 28.1. The SELLER shall not permit any information about or photographs of the GOODS to appear without the written consent of the PURCHASER. The SELLER shall supply to the PURCHASER such photographs of any part of the GOODS as the PURCHASER may require or afford facilities to the PURCHASER to take such photographs for the purposes of indicating progress technical description or publicity. If permission to publish is granted it will automatically exclude any reference to value. Any such permission given is conditional upon this provision being observed.
- 28.2. Where drawings or other information are supplied by the PURCHASER to enable the SELLER to fulfil the ORDER such drawings and other information shall remain the property of the PURCHASER.
- 28.3. Any such drawing or other information shall be regarded by the SELLER as secret and confidential and shall not without the consent in writing of the PURCHASER be published or disclosed to any third party except for the purposes of implementing the ORDER. No cancellation or termination of the ORDER for whatever reason shall effect the validity of the provisions of this clause which shall survive such cancellation or termination.

**29. PACKING AND MARKING**

- 29.1. Apart from any special stipulations on packing marking and shipping under the ORDER the GOODS shall be

packed and marked in such a way as to prevent damage or loss during transport to their defined delivery point.

**30. ASSIGNMENT AND SUB-CONTRACTING**

- 30.1. The SELLER shall not assign sub-contract or transfer the ORDER in whole or in part without the PURCHASER'S written consent. If such consent is given it shall not relieve the SELLER of any obligation under the ORDER and the SELLER will be responsible for all work acts and defaults of any sub-contractor assignee or delegate as if they were the work acts or defaults of the SELLER.

**31. STATUTORY REQUIREMENTS**

- 31.1. The SELLER warrants that the design construction and quality of the GOODS to be supplied under the ORDER comply in all respects with all relevant requirements of any Statute Statutory Rule or Order including but not limited to Health and Safety at Work Act 1974 and any modification thereto and any regulations made pursuant thereto or any other instrument having the force of law which may be applicable at the time the GOODS are supplied.

**32. RESOLUTION OF DISPUTES**

- 32.1. Any dispute between the PURCHASER and the SELLER in connection with or arising out of the ORDER or the GOODS shall initially be referred to the PURCHASER and SELLER REPRESENTATIVES who shall make all reasonable endeavours to resolve the dispute.
- 32.2. Failing resolution the dispute shall then be referred to arbitration in London before a single arbitrator.
- 32.3. If the parties are unable to agree as to the appointment of such arbitrator within thirty days of one party serving notice upon the other calling for the appointment of an arbitrator then such arbitrator shall be appointed on the application of either party to the President for the time being of the Law Society of England and Wales.
- 32.4. The award of the arbitrator shall be final and binding on the parties and judgement upon the award rendered may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of the award and an order of enforcement as the case may be. Without prejudice to the foregoing the parties hereby submit themselves to the jurisdiction of the English courts for the purposes of enforcement of the award.
- 32.5. Service by either party on the other of notice of its wish to refer a dispute or difference to arbitration shall in no event cause any stoppage or delay to the performance of the ORDER.

**33. LAW**

- 33.1. The ORDER shall be construed and take effect in all respects in accordance with English Law excluding those conflict of law rules and choice of law principles which would deem otherwise and shall be deemed to have been made in England and subject to the provisions of Clause 32 both parties agree to submit to the exclusive jurisdiction of the English Courts.