

1.1 Definitions

1.1.1 In these Conditions of Sale:

"Company" means Anord Control Systems Limited as well as any of its direct or indirect subsidiaries;

"Contract" means the agreement between the Company and the Purchaser for the supply of Products and/or Plant and/or performance of Work as set out in the Contract Documents;

"Contract Price" means the sum named in the Contract as the contract price;

"Credit Limit" means any amount as the Company may notify to the Purchaser from time to time as being the maximum amount that the Company will permit to be due (or potentially due) from the Purchaser to the Company at any time;

"Defect" means all of, or part of a Product or Work which is defective as a result of failure by the Company to supply the Product or carry out the Work in accordance with its obligations under the Contract;

"Euribor" means the rate per annum at which Ulster Bank Ireland Limited can raise deposits from prime banks in the Euro Interbank Market in Euro currency;

"Liability" means all liability of whatsoever nature including but without implying limitation whether by reason or in consequence of any breach of contract or of statutory duty or tortious or negligent act or omission and the words "liable" and "liability" shall be construed accordingly;

"Acceptance of Purchase Order" means the form of acknowledgement of a Purchase Order (as produced and completed by the Company for the Purchaser);

"Purchase Order" means the purchase order (if any) issued by the Purchaser to the Company;

"Products" means all products and/or Plant and/or performance of Work that the Company is to provide under the Contract;

"Plant" means any plant, equipment or machinery provided to the Purchaser by the Company under the Contract;

"Proposal" means the Company's proposal to the Purchaser in the form of a quotation or tender to supply Products and/or Plant and/or to perform Work including all documents and drawings referred to or attached thereto.

"Purchaser" means the person, firm or company to whom the Acceptance of Purchase Order is issued;

"Purchaser's Agents" means the Purchaser's agents, servants, consultants and advisers

1.2 General

1.2.1 These conditions are only intended to be used with customers acting in the course of business. However, should a Purchaser be held to be acting as a "consumer" nothing in these conditions shall exclude or limit any statutory rights of that Purchaser which may not be excluded or limited due to their "consumer" status.

1.2.2 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Products and/or Plant and Works shall have no effect unless expressly agreed in writing. The Purchaser acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

1.2.3 The Company reserves the right to revise and amend these conditions from time to time.

1.2.4 Each order or acceptance of a quotation for Products and/or Plant or Works by the Purchaser from the Company shall be deemed to be an offer by the Purchaser to buy Products and/or Plant and Works subject to these conditions.

1.2.5 No Purchase Order placed by the Purchaser shall be deemed to be accepted by the Company until a written Acceptance of Purchase Order is issued by the Company or (if earlier) the Company delivers the Products and/or Plant and Works to the Purchaser and/ or commences the Works for the Purchaser.

1.2.6 Any Acceptance of Purchase Order for Products and/or Plant or Works which is stipulated by the Company to be subject to the payment of a deposit shall not be accepted by the Company until the said deposit is received in cleared funds from the Purchaser.

1.2.7 The copper content of the Company's equipment is priced per tonne at an LME rate determined at the time of tender

1.3 Communications

1.3.1 Any notice given under or pursuant to the Contract may be sent by hand or by registered post or by the recorded delivery service or transmitted by email or facsimile or other means of telecommunication which provides verifiable evidence of delivery and

results in the receipt of a written communication in permanent form.

1.4 Assignment & Third Party Rights

1.4.1 The parties to this Contract do not intend that any term whatsoever of this Contract be enforceable by any person that is not a party to it.

1.4.2 It is agreed that the Company shall not, in any circumstance whatsoever, be liable for any claim whatsoever made by any third party for loss of profits, loss of use, loss of expectation, loss of business, loss of goodwill or consequential, indirect loss or damage or any other loss that may arise.

1.4.3 The Seller shall be entitled to assign, licence, subcontract or otherwise transfer any of its duties or responsibilities or any benefit of this Contract or any part of it to any third party without the prior written consent of the Purchaser.

1.4.4 The Purchaser shall not be entitled to assign, licence, subcontract or otherwise transfer any of its duties or responsibilities or any benefit of this Contract or any part of it without the prior written consent of the Seller. Unless otherwise stated in the consent, any assignment, licence, subcontracting or other transfer by the Purchaser, with or without the required consent, will not relieve the Purchaser of its duties or obligations under the Contract or its responsibility for non-performance or default by its assignee, licensee, subcontractor or transferee.

1.5 VAT

1.5.1 Prices exclude VAT unless otherwise stated in the Acceptance of Purchase Order. The Purchaser shall pay to the Company any VAT arising on the supply of the Products and/or Plant and/or Work.

1.6 Currency

1.6.1 The prices stated in this offer are quoted in Euro unless otherwise expressly stated in the Acceptance of Purchase Order.

2. Formation of Contract

2.1 All quotations and tenders are made and all Purchase Orders are accepted by the Company subject to these Conditions of Sale. Acceptance of a Purchase Order by the Company is conditional on the Purchaser's agreement to these Conditions of Sale. The Purchaser's instruction to proceed with the supply of Products and/or Plant by the Company shall constitute acceptance of these Conditions of Sale.

2.2 No modified or other conditions will be applicable unless they are expressly agreed in



writing and signed by an authorised officer of the Company. Failure of the Company to object to any conditions or contractual terms contained in any Purchase Order or other communication from the Purchaser shall neither be construed as a waiver of the applicability of these Conditions of Sale nor an acceptance of such other conditions or contractual terms.

2.3 Unless previously withdrawn, a Proposal is capable of acceptance only within the period stated therein or, when no period is so stated, within thirty (30) days after its date of issue. All Proposals are subject to change by the Company at any time before acceptance by the Purchaser and upon notice to the Purchaser.

2.4 The acceptance of any Proposal must be accompanied by sufficient information to enable the Company to issue an Acceptance of Purchase Order and to proceed with the order forthwith, otherwise the Company shall be at liberty to amend the Proposal process to cover any increase in cost which has taken place after acceptance.

3. Entire Agreement

3.1 The Contract is a complete statement of the parties' agreement and supersedes all prior written or oral communications between the Company and the Purchaser unless included within the Contract or by written notice from the Company.

3.2 The Company shall not be obliged or liable to the Purchaser in respect of any damages, expenses or losses suffered by the Purchaser under or in connection with the Contract, except as expressly provided for in the Contract.

3.3 Any term or condition contained within the Purchaser's Purchase Order may not be relied upon to form part of the Contract unless expressly provided for in the Contract by the Company in the form of a written notice.

3.4 In the event of any discrepancy or conflict between the terms and conditions of the Contract, they shall be interpreted in the following order of priority:

- 3.4.1 Acceptance of Purchase Order
- 3.4.2 Proposal
- 3.4.3 Conditions of Sale; and
- 3.4.4 All other documents that form part of the Contract (the "Contract Documents").

3.5 In the event of any discrepancy or conflict identified at clause 3.4 above, the Company will issue an instruction resolving the discrepant items and the Contract will be deemed to have been amended accordingly as if such amendment had been express, in writing and

signed by the authorised representatives of each party.

4. Applicable Law

4.1 The parties agree that unless otherwise agreed in writing, the Contract shall in all respects be governed by and construed in accordance with the laws of Ireland and the Irish Court shall have exclusive jurisdiction over any matter arising in the case of a dispute or proceedings issued by or against the Company.

4.2 The Purchaser warrants to comply with all legal requirements issues by any competent legal authority.

5. Parties' Obligations

5.1 The Company shall provide and the Purchaser shall accept and pay for the Products and/or Plant and Works specified in the Contract Documents under the terms and conditions of the Contract.

6. Delivery

6.1. The Contract Price excludes all costs and expenses associated with delivery and offloading unless and to the extent that the contrary is expressly stated in the Contract.

6.2 Delivery shall be made by the Company in accordance with the delivery details set out in the Acceptance of Purchase Order or Contract. If no delivery address is specified or agreed in writing, delivery of Products and/or Plant shall take place at the Company's place of business.

6.3 The delivery dates are approximate only and not guaranteed. The Company shall not be liable for any delays howsoever caused, nor can the delivery dates be made of the essence by any written notice or communication. Reasonable endeavours will be made to meet them but the Company shall not be liable for any failure to do so and any consequent right of the Purchaser to repudiate the Contract is expressly excluded.

6.4 The Company may, at its option and in its sole discretion, deliver the Products and/or Plant in one or more instalments. If the the Products and/or Plant (including any ancillary services) are delivered/completed in instalments, the Company shall be entitled to invoice for each installment as and when each installment is delivered/completed notwithstanding non-delivery/non-completion of other installments or other default by the Company.

6.5 The Company reserves the right to deliver Products and/or Plant or the Works before the acknowledged delivery date. The Company shall not however be obliged to accept

any request by the Purchaser for a variation to the acknowledged delivery date.

6.6 Unless otherwise stated, the Contract Price excludes import duties, taxes and all costs and expenses associated with delivery and offloading. The Company shall seek to obtain any necessary export/import licence to effect the delivery of the Products and/or Plant (including any ancillary services) but shall be under no obligation or liability in respect of any delay or failure in obtaining any such licence.

6.7 Unless agreed otherwise in the Contract, the Company will only be required to deliver Products and/or Plants during the Company's normal working hours.

6.8 Any liability of the Company for non-delivery of the Products and/or Plant (including any ancillary services) shall be limited to either (at the Company's option) replacing the Products and/or Plant (including any ancillary services) within a reasonable time or issuing a credit note at the pro rata at the Contract rate against any invoice raised for such Products and/or Plant (including any ancillary services).

7. Non-Delivery

7.1 If for any reason the Purchaser will not accept delivery of any Products and/or Plant when they are ready for delivery, or the Company is unable to deliver the Products and/or Plant on time because the Purchaser has not provided appropriate instructions, drawings, documents, licences or authorisations then the following will apply:

- 7.1.1 the Products and/or Plant will be deemed to have been delivered ;
- 7.1.2 risk in the Products and/or Plant will pass to the Purchaser (including for loss or damage caused by the Company's negligence); and
- 7.1.3 the Company may store Products and/or Plant until the date of actual delivery whereupon the Purchaser will be liable for all related costs and expenses (including, without limitation, storage and insurance).

7.2 The Company will not be liable for any direct, indirect or consequential loss, including, but not limited to loss of profits, loss of business, depletion of goodwill and like loss, costs, damages, charges or expenses cause directly or indirectly by any delay in the delivery of Products and/or Plant (even if cause by the Company's negligence).

7.3 The Purchaser is not entitled to reject Products and/or Plant by reason of short or incomplete delivery.



8. Suspension of Delivery or Performance of the Works

8.1 The Company shall be entitled to suspend delivery to the Purchaser of any Products and/or Plant (including any ancillary services) or further performance of the Works if the Purchaser has or will exceed the Purchaser's Credit Limit. The Company will recommence delivery of the Products and/or Plant (including any ancillary services) or the performance of the Work only when the Purchaser reduces the sums outstanding to the Company sufficiently so as to enable the Company to continue delivery and/ or performance without the Purchaser's Credit Limit being exceeded.

8.2 The Company also reserve the right to suspend delivery to the Purchaser of any Products and/or Plant (including any ancillary services) or further performance of the Work if the Purchaser has failed to make payment by the day after the final date for payment of any sums outstanding to the Company

8.3 Where a Suspension of Delivery or Performance of the Works arises, the Purchaser has no right to terminate or rescind the Contract. Where the Products and/or Plant (including any ancillary services) are to be delivered in instalments, failure by the Company to deliver any one or more of the instalments in accordance with the conditions of the Acceptance of Purchase Order shall not entitle the Purchaser to treat the Contract as a whole repudiated or to refuse to accept subsequent instalments.

9. Loss or Damage in transit and other Non-Compliance

9.1 Where the Company is expressly stated in the Contract to be responsible for delivery the Company may, at the Company's option, repair or replace free of charge Products and/or Plant (including any ancillary services) lost or damaged in transit prior to offloading; provided that the Company is given written notification of such loss or damage within five (5) days of delivery

9.2 Where the Company is expressly stated in the Contract to be responsible for delivery the Company may, at the Company's option, repair or replace free of charge Products and/or Plant (including any ancillary services) lost or damaged during offloading; provided that the Company is given written notification of such loss or damage within five (5) days of delivery

9.3 Where the Company is expressly stated in the Contract to be responsible for delivery, the Purchaser shall carefully inspect the Products and/or Plant (including any ancillary services) on delivery.

9.4 Where the Company is expressly stated in the Contract to be responsible for delivery, no liability in respect of Products and/or Plant (including any ancillary services) found to be damaged on delivery, or, had a careful inspection been carried out by the Purchaser on delivery, which would have found to be damaged, or for shortages, or for non-compliance with their description, will be accepted by the Company unless (a) a senior manager of the Company is contacted by telephone at the time of delivery and (b) the delivery note is clearly marked with such damage or shortage and (c) written notice thereof is received by the Company within three days of delivery or, in the case of non-delivery, within seven days of the notified date of delivery and (d) the Company is given an opportunity to inspect the Products and/or Plant (including any ancillary services) within a reasonable time before any use is made thereof by the Buyer and (e) the Buyer was not aware of the damage to, or shortages in the Products and/or Plant (including any ancillary services) at the time of entering into the Contract.

9.5 Where the Company is expressly stated in the Contract to be responsible for delivery, and subject to clause 9.4 above the Company shall make good any shortage in the Products and/or Plant (including any ancillary services) and where appropriate replace any Goods damaged in transit as soon as it is reasonably able to do so but otherwise shall be under no liability whatsoever for such shortage or damage.

10. Packing and Storage

10.1 Unless otherwise specified in the Contract, all packing cases and materials must be returned to the Company at the Purchaser's expense and in good condition within thirty (30) days from date of receipt. If not so returned they will be charged to and paid for by the Purchaser.

10.2 If the Company does not receive delivery instructions from the Purchaser and/or there is an event which entitles the Company to an extension of time for the Performance of Work which causes delivery to be impossible within 14 days after the date of notification that the Products and/or Plant (including any ancillary services) are ready for dispatch the Purchaser shall either take delivery or arrange storage.

10.3 If the Purchaser does not take delivery or arrange for storage, the Company shall be entitled to arrange storage either at the Company's own premises or elsewhere on the Purchaser's behalf and all the Company's expenses and outlay incurred in respect of but not limited to storage, insurance and any other costs shall be payable by the Purchaser. The Products and/or Plant (including any ancillary services) shall be invoiced on the day on which

they are put into storage and such Products and/or Plant (including any ancillary services) shall be thereupon be deemed to have been delivered.

11. Risk and Title

11.1 Ownership of the Products and/or Plant (including any ancillary services) shall not pass to the Purchaser until the company has received in full (in cash or cleared funds) all sums due to it in respect of:

- 11.1.1 the Products and/or Plant (including any ancillary services);
- 11.1.2 the Works; and
- 11.1.3 all other sums which are or which become due to the Company from the Purchaser under this Contract.

11.2 The Products and/or Plant (including any ancillary services) shall remain the Company's sole and absolute property and title in them shall not pass to the Purchaser until such time as the Purchaser has paid the Company in full for the Products and/or Plant (including any ancillary services) and for any other Products and/or Plant (including any ancillary services) which are the subject of this or any other contract that the Purchaser has with the Company.

11.3 Until title in the Products and/or Plant (including any ancillary services) passes to the Purchaser, the Company shall be entitled at any time by notice, either to require the Purchaser to return the Products and/or Plant (including any ancillary services) forthwith at the Purchaser's expense, or to enter upon the premises where they are stored (or where they are reasonably thought to be stored) for the purpose of recovering them.

11.4 The Purchaser acknowledges that the Purchaser is in possession of the Products and/or Plant (including any ancillary services) solely on a fiduciary basis as bailee for the Company until title in the Products and/or Plant (including any ancillary services) passes to the Purchaser and if required by the Company, until such time the Purchase will store the Products and/or Plant (including any ancillary services) without cost to the Company separately from all other products and/or plant and mark or otherwise identify them as the Company's property.

11.5 The Purchaser shall, while property in the Products and/or Plant (including any ancillary services) remains with the Company insure the Products and/or Plant (including any ancillary services) to their full value against "All Risks" to the reasonable satisfaction of the Company and whenever reasonably required to do so shall produce to the Company a copy of the policy or policies of such insurance and a receipt for the



current premium. The interest of the Company shall be noted on the policy and a certificate to this effect shall be produced to the Company on request.

11.6 The risk of loss or damage to the Products and/or Plant (including any ancillary services) shall pass to the Purchaser when the Products and/or Plant (including any ancillary services) are despatched to the Purchaser unless and to the extent that the contrary is expressly stated in the Contract.

11.7 If the Products and/or Plant (including any ancillary services) are delivered at the Company's premises, the Products and/or Plant (including any ancillary services) shall be at the Purchaser's risk while that are being loaded onto the Purchaser's transport.

12. Inspection and Tests

12.1 If tests other than those specified in the Proposal, or tests in the presence of the Purchaser or the Purchaser's representative are required, these will be paid for by the Purchaser. In the event of any delay on the Purchaser's part in attending tests (where the attendance of the Purchaser is required) or in carrying out an inspection required by the Purchaser after fourteen (14) days notice that the Company is ready (or such shorter period as may be agreed in writing by the Company and the Purchaser), the tests will proceed in the Purchaser's absence and shall be deemed to have been made in the Purchaser's presence. The location and timing of the tests shall be determined by the Company at the Company's sole discretion.

12.2 The Purchaser bears the risk of inspecting the Products and/or Plant (including any ancillary services) upon delivery.

13. Defects after Delivery

13.1 If the Purchaser establishes to the Company's reasonable satisfaction that there is a defect in the Products and/or Plant (including any ancillary services) manufactured or there is some other failure by the Company in relation to the conformity of the Products and/or Plant (including any ancillary services) with the Contract then the Company may at its option, at its sole discretion and within a period of twelve (12) calendar months:-

13.1.1 repair or make good such defect or failure in such Products and/or Plant (including any ancillary services) free of charge to the Purchaser (save that the Company reserves the right to charge for any travelling and subsistence expenses at cost plus 10%, and any labour which the Company agrees to provide outside of normal office hours may be charged at the Company's published rates at the time);

13.1.2 replace such Products and/or Plant (including any ancillary services) with Products and/or Plant (including any ancillary services) which are in all respects in accordance with the Contract; or

13.1.3 issue a credit note to the Purchaser in respect of the whole or part of the Contract Price of such Products and/or Plant (including any ancillary services) as appropriate, having taken back such Products and/or Plant (including any ancillary services) subject, in every case, to the remaining provisions of this clause, provided that the liability of the Company under this clause shall in no event exceed the purchase price of such Products and/or Plant (including any ancillary services) and performance of any one of the above options shall constitute an entire discharge of the Company's liability under this warranty.

13.2 Clause 13.1 shall not apply unless the Purchaser:

13.2.1 notifies the Company in writing of the alleged defect within 7 days of the time when the Purchaser discovers or ought to have discovered the defect and in any event;

13.2.2 in respect of a defect in the Products and/or Plant (including any ancillary services), within 12 months of the date of delivery of the Products and/or Plant (including any ancillary services) or 12 months from the date of Acceptance of the Products and/or Plant (including any ancillary services), whichever expires earlier; or

13.2.3 Such other periods as may be agreed by the Company in writing; and

13.2.4 affords the Company a reasonable opportunity to inspect the relevant Products and/or Plant (including any ancillary services) or the location at which the Works were performed and, if so requested by the Company and where it is reasonable to do so, promptly returns to the Company or such other person nominated by the Company a sample of the Products and/or Plant (including any ancillary services) within 14 days, carriage paid by the Purchaser, for inspection, examination and testing and/or otherwise permit the Company to have access to the Products and/or Plant (including any ancillary services) or such materials at the Purchaser's premises or other location where they may be or the Services were performed for such purposes.

13.3 The Company shall be under no liability under the warranty at condition 13.1 above:

13.3.1 in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing), misuse or alteration or repair of the Products and/or Plant (including any ancillary services) without the Company's approval;

13.3.2 if the total price for the Products and/or Plant (including any ancillary services) is overdue for payment;

13.3.3 for any parts, materials or equipment not manufactured by the Company, in respect of which the Purchaser shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company to the extent that they are assignable by the Company to the Purchaser;

13.3.4 for any Products and/or Plant (including any ancillary services) manufactured or appropriated to the Contract in accordance with any design, specification, instruction or recommendation made to the Company by the Purchaser or for any Products and/or Plant (including any ancillary services) provided in accordance with specifications, instructions or recommendation issued by the Purchaser;

13.3.5 in respect of any type of defect, damage or wear specifically excluded by the Company by notice in writing; or

13.3.6 if the Purchaser makes any further use of the Products and/or Plant (including any ancillary services) after giving notice in accordance with condition 13.2

13.4 Save for 13.1, the Company shall not be liable in respect of Defects in Products and/or Plant (including any ancillary services) or components thereof delivered or for any injury or for any damage or loss (including loss of profits, loss of use, loss of expectation, loss of business, loss of goodwill or consequential or indirect loss or damage resulting from such defects.

13.5 Upon expiry of the defects correction period specified in Clause 13.2.2 as 12 months after the date of delivery of Products and/or Plant (including any ancillary services) the Company shall be under no further obligation or liability to the Purchaser.



14. Liability

14.1 The Company's liability under this Contract in respect of manufacture, supply and delivery of Products and/or Plant (including any ancillary services) and/or performance of Works shall be as set out in the Contract and any warranties or conditions implied by law as to the quality or fitness for any particular Products and/or Plant (including any ancillary services) are hereby expressly excluded.

14.2 Where the Contract does not expressly state further to clause 14.1, the Company shall have no liability for any loss or damage suffered or incurred by the Purchaser as a result of:

- 14.2.1 the Purchaser's misuse or incorrect use of the Products and/or Plant (including any ancillary services);
- 14.2.2 the Purchaser's use of the Products and/or Plant (including any ancillary services) in combination with equipment or software not supplied by the Company or not designated by the Company for use with the Products and/or Plant (including any ancillary services), or any fault in such equipment or software;
- 14.2.3 any damage to or failure of the Products and/or Plant (including any ancillary services) which is caused by any defect in or failure of any of the Purchaser's equipment or systems with which the Products and/or Plant (including any ancillary services) is integrated or connected;
- 14.2.4 any repair, adjustment, alteration or modification of the Products and/or Plant (including any ancillary services) by any person other than the Company, and
- 14.2.5 operator error.

14.3 The Purchaser acknowledges and agrees that:

- 14.3.1 it is exclusively responsible for:
 - 14.3.1.1 ensuring that its staff are trained in the proper use and operation of the Products and/or Plant (including any ancillary services);
 - 14.3.2 the level of fees set out in the Contract reflects the allocation of risk between the parties; and

14.4 it is in a better position than the Company to assess and manage its risk in relation to the use of the Products and/or Plant (including any ancillary services)

- 14.4.1 The following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Purchaser in respect of:
 - I. any breach of these conditions;
 - II. any use made or resale by the Purchaser of any of the Products and/or Plant (including any ancillary services), or of any product incorporating any of the Products and/or Plant (including any ancillary services); and
 - III. any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
 - IV. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

Nothing in these conditions excludes or limits the liability of the Company:

- I. for death or personal injury caused by the Company's negligence; or
 - II. for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
 - III. for fraud or fraudulent misrepresentation.
 - 14.4.2 The Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract Price; and
- the Company shall not be liable to the Purchaser for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

15. Indemnity

15.1 The Purchaser shall indemnify the Company against all loss, damages, costs and expenses awarded against or incurred by the Company to the extent that such loss, damages, costs and expenses arise from any use by the Purchaser of the Products and/or Plant (including any ancillary services) of the Company.

15.2 The Company shall not be liable and the Purchaser shall indemnify and hold the Company harmless against any claim by or loss or damage to any person or property directly or indirectly occasioned by or arising from any of the following events;

- 15.2.1 the improper, inappropriate or negligent use or operation, or the neglect, by the Purchaser or any other person or persons of the Products and/or Plant (including any ancillary services) and/or Work;
- 15.2.2 the failure by the Purchaser or any other person or persons to comply with the Company's instructions (whether oral or in writing) for the storage, location, installation, use or operation of the Products and/or Plant (including any ancillary services), or in the absence of said instructions, according to the most common practice in the relevant field;
- 15.2.3 the use of Products and/or Plant (including any ancillary services) and/or Work on unsuitable equipment or for a use not expressly authorised by the Company;
- 15.2.4 the failure by the Purchaser or any other person or persons to implement the Company's recommendations in respect of Products and/or Plant (including any ancillary services) and/or any part of the Work and/or defects and/or faults previously advised by the Company;
- 15.2.5 any repair, adjustment, alteration or modification of Products and/or Plant (including any ancillary services) and/or Work by any person other than the Company without the Company's prior approval in writing;
- 15.2.6 the storage, use, operation or maintenance of any Products and/or Plant (including any ancillary services) or Work otherwise than in accordance with the Company's instructions, catalogues and manuals;
- 15.2.7 any breach or default by or on the part of the Purchaser or any person(s) other than the Company including:



(a) any non-compliance by the Purchaser or any person(s) with any of its obligations in relation with the installation, use, operation and/or maintenance of the Products and/or Plant (including any ancillary services) as set out in or as may be reasonably inferable from this Contract, or

(b) any failure or delay by the Purchaser or any person(s) to provide required information or documentation concerning the environment and/or industrial application of Products and/or Plant (including any ancillary services) and/or Work or the provision of inaccurate information or documentation by the Purchaser or such persons(s) in relation to the environment and/or industrial application of Products and/or Plant (including any ancillary services).

15.3 The indemnity in clauses 15.1 and 15.2 shall extend to any costs, losses and expenses incurred by the Company in relation to any such claim, loss or damage and shall continue in force notwithstanding the termination of this Contract.

15.4 Without prejudice to the forgoing, the Company is also entitled to an extension of time for performance of any Work as is reasonably required by the Company as a consequence of the occurrence of the events set out in clause 15.2.

16. Price

16.1 Unless otherwise agreed by the Company in writing the price for the Products and/or Plant (including any ancillary services) and/ or Works shall be the price set out in the Acceptance of Purchase Order.

16.2 The Company reserves the right, by giving notice to the Purchaser, at any time before the delivery as soon as practicable after delivery, to increase the price of the Products and/or Plant (including any ancillary services) and/ or Works to reflect:

- 16.2.1 any change in the quantities or specification of the Products and/or Plant (including any ancillary services) and/ or Works requested by the Purchaser
- 16.2.2 any requirement to deliver the Products and/or Plant (including any ancillary services) and/ or Works outside the Company's normal business hours, unless such a requirement was expressly stated in the Purchase Order
- 16.2.3 any change in the delivery or time of the Products and/or Plant (including any ancillary services) and/ or Works or any requirement for the Company to re-deliver Products and/or Plant

(including any ancillary services) , if requested by the Purchaser, or any other delay, if caused by any instructions of the Purchaser or failure of the Purchaser to give the Company adequate information or instructions or to provide safe, level and unobstructed access to the relevant delivery site, equipment or systems as is required in order to deliver the Products and/or Plant (including any ancillary services) and/ or perform the Works

16.2.4 any increase in the cost of the Company which is due to any factor beyond the control of the Company

16.3 The Purchaser may not return any Products and/or Plant (including any ancillary services) that are surplus to the Purchaser's requirements if the amount delivered is compliant with the Acceptance of Purchase Order. The Purchaser shall pay the Company in full, unless expressly agreed in writing between both parties.

17. Terms of Payment

17.1 Unless the Company otherwise agrees in writing the Company may submit an invoice for payment for Products and/or Plant (including any ancillary services) and/ or Works together with VAT after the Purchaser is advised that they are ready for despatch and the Company may submit such further invoices for payment of storage charges and additional costs incurred as a consequences of non-delivery of the Products and/or Plant (including any ancillary services) to the Purchaser subject to clauses 7 and 10.

17.2 Payment shall be made by the Purchaser to the Company thirty (30) days from the end of the month in which the Company submits the invoice (the "Final Date for Payment").

17.3 The Company shall be entitled to submit its invoice at any time on or after the date on which the Products and/or Plant are delivered or deemed to be delivered. If there is a delay of delivery that is not caused by the Company, the Company shall be entitled to require the Purchaser to make payment of the whole or part of the price, in such sum as the Company deems appropriate in the circumstances.

17.4 Payment is not deemed to have been received until the Company has received cleared funds.

17.5 Upon termination, all payments due to the Company under the Contract shall become due with immediate effect, regardless of the reason for or the party responsible for termination.

18. Late Payment

18.1 If the Purchaser fails to pay the Company any sum due, whether under the Contract or any other contract between the Purchaser and the Company, on or before the Final Date for Payment, then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:

- 18.1.1 charge interest from the Purchaser on such sum from the due date for payment at the annual rate of 6% above Euribor, accruing on a daily basis until payment is made, whether before or after any judgment is reached
- 18.1.2 cancel or suspend its performance of the Contract including suspending deliveries of Products and/or Plant (including any ancillary services) and/ or Works and suspending delivery of any other Products and/or Plant (including any ancillary services) and/ or Works to the Purchaser until arrangements as to payment or credit have been established which are satisfactory to the Company
- 18.1.3 make a claim for the price of the Products and/or Plant (including any ancillary services) and/ or Works notwithstanding that title may not have passed
- 18.1.4 require payment in advance of delivery or undelivered Products and/or Plant (including any ancillary services) and/ or Works
- 18.1.5 decline to make delivery of any undelivered Products and/or Plant (including any ancillary services) and/ or perform any unperformed Works ordered under the Contract without incurring any liability
- 18.1.6 terminate the Contract and any other contracts the Company may have with the Purchaser.

19. Insolvency or Purchaser's Default

19.1 For the purposes of this clause 19, an "Act of Insolvency" shall mean:-

- 19.1.1 in relation to a company or other corporation which is the Purchaser the inability of the company to pay its debts, entry into liquidation either compulsory or voluntary (except for the purposes of amalgamation or reconstruction), the summoning of a meeting of creditors or any of them, the passing of a resolution for a creditors winding-up, the making of a



proposal to the company and its creditors for a composition in satisfaction of its debts or a scheme of arrangement of its affairs, the application to the Court for a Receivership Order, the appointment of a Receiver, the application to the Court for an Examinership Order, the appointment of an Examiner;

19.1.2 in relation to an individual who is the Purchaser the inability to pay or having no reasonable prospect of being able to pay his debts, the presentation of a bankruptcy petition, the making of a proposal to his creditors for a composition in satisfaction of his debts or a scheme of an arrangement of his affairs and in relation to the various acts of insolvency, they shall wherever appropriate be interpreted in accordance and in conjunction with the relevant provisions of the Personal Insolvency Act 2012.

19.2 If the Purchaser or any group company of the Purchaser shall commit an Act of Insolvency then the Company shall be entitled to cancel the Contract in whole or in part without prejudice to any other right or remedy which accrues to the Company.

19.3 The Company may also cancel or suspend any further deliveries if:

- 19.2.1 the Purchaser fails to perform or observe any of its obligations under the Contract
- 19.2.2 the Purchaser ceases, or threatens to cease to carry out their obligations under the Contract, or
- 19.2.3 the Company reasonably apprehends that any of the above is about to occur.

19.4 **Events of Default.** Time is of the essence and, subject to clause 19.2; the Purchaser will be in "Default" under the Contract if it (1) fails to perform any obligation under the Contract and, if the non-performance can be cured, fails to cure the non-performance to the satisfaction of the Company within 5 business days after notice from the Company specifying the non-performance.

20. Cancellation by Purchaser

20.1 No order which has been accepted by the Company may be cancelled by the Purchaser except with the Company's agreement in writing and on terms that the Purchaser shall indemnify the Company in full against all loss (including loss of profit), cost, (including the cost of all labour and materials used), damages, charges and

expenses incurred by the Company as a result of cancellation.

20.2 If the Company agrees to accept cancellation or part cancellation of the Contract a charge of [20%] of total Contract Price of the cancelled items will be payable by the Purchaser.

21. Force Majeure

21.1 The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Products and/or Plant ordered by the Purchaser (without liability to the Purchaser) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

22. Intellectual Property and Confidentiality

22.1 The Company will provide the Purchaser with non-exclusive licence to use and reproduce any documents or drawings supplied by the Company only insofar as is expressly stated in connection with this Contract.

22.2 The Purchaser on the Purchaser's part warrants that no design or instruction furnished or given by the Purchaser shall cause the Company to infringe any letters patent, registered design, trade mark or copyright in the execution of the Purchaser's order and the Purchaser will indemnify the Company against any loss or expense suffered and/or claim for infringement of any such intellectual property right.

22.3 The Purchaser shall treat the details of the Contract and any information made available in relation hereto as private and confidential and shall not publish or disclose the same or any particulars therefore (save as may be required by law or insofar as may be necessary for the purposes of the Contract) without the previous consent of the Company, providing nothing in this clause shall prevent the publication or disclosure of any such information that has come within the public domain otherwise than by breach of this clause which is required to be disclosed by law.

22.4 All software products supplied by the Company shall be supplied in accordance with the specific provisions of any software licence agreement which is included with the software product. The Purchaser specifically agrees to

abide by all of the terms and conditions as set forth in any such software licence agreement. Further, the parties agree that if there is any conflict between the provisions of a software licence agreement and the Contract, then the software licence agreement shall govern and be the definitive terms and conditions relating to the supply of software products by the Company to the Purchaser.

23. Disputes and Dispute Resolution Negotiation and Mediation.

23.1 The Purchaser and the Company will first endeavour to resolve through good faith negotiations any dispute arising under the Contract. If a dispute cannot be resolved through good faith negotiations within a reasonable time, either party may request non-binding mediation by a mediator approved by both parties or, absent that approval, the appointing authority shall be CEDR Ireland.

Arbitration.

23.2 If mediation fails to resolve the dispute within 21 days after the first mediation session, either party may submit the dispute to binding arbitration by notice to the other party. The arbitration proceedings will be conducted, and a single arbitrator will be selected, in accordance with UNICITRAL Arbitration Rules. The arbitration will be conducted in Dublin, Ireland or at a location selected by the arbitrator. The arbitrator will issue a written opinion setting forth the basis for the arbitrator's decision, which may include an award of legal fees and costs. The arbitrator's award will be final and non-appealable absent fraud or manifest error, and judgment on the arbitrator's award may be entered in any court having jurisdiction. While arbitration proceedings are pending, the parties will continue to perform their obligations under the Contract without setoff for any matters being contested in the arbitration proceedings.

Litigation.

23.3 The parties have selected binding arbitration as the sole means to resolve a dispute between them over monetary claims that cannot be resolved through mediation. Either party may pursue through litigation claims that also involve third parties who have not consented to arbitration, claims in litigation commenced by third parties, and claims for injunctive or other non-monetary relief.

24. Relationship of the Parties

24.1 The Purchaser and the Company are independent contractors, and nothing in the Contract makes either party the agent or legal representative of the other party for any purpose. Neither party has authority to assume



or to create any obligation on behalf of the other party.

25. Waiver.

25.1 No delay, lenience or omission by the Company in exercising any right, power or remedy provided by this Contract or by law shall operate to impair or be construed as a waiver of such right, power or remedy or if any other right, power or remedy.

26. Severability

26.1 A finding that any provision of the Contract is invalid or unenforceable in any jurisdiction will not affect the validity or enforceability of any other provision of the Contract or the validity or enforceability of that provision in any other jurisdiction.

27. Interpretation.

27.1 When used in these General Terms and Conditions, "including" means "including without limitation".

27.2 The clause headings in these General Terms and Conditions are for the convenience of the parties only and do not affect its interpretation.

27.3 Words importing the singular meaning shall include, where the context so admits, the plural meaning and vice versa.

27.4 Words denoting the masculine gender shall include the feminine and neuter genders and words denoting natural persons shall include corporations and firms and all such words shall be construed interchangeably in that manner.

27.5 Where the context so admits, references these General Terms and Conditions to a clause, recital, appendix or schedule are to a clause, recital, appendix or schedule of these General Terms and Conditions.

27.6 References in these General Terms and Conditions to any statute or statutory instrument shall include and refer to any statutory amendment or re-enactment thereof from time to time and for the time being in force.

28. Notices.

28.1 Any notice or other communication required or permitted in the Contract must be in writing and will become effective on the date of actual receipt if the date of actual receipt is a business day or on the next business day if the date of actual receipt is not a business day.

