



**BISON MANUFACTURING LIMITED**  
**STANDARD TERMS AND CONDITIONS**

## **1. Definitions**

The SELLER means Bison Manufacturing Limited (registered no. 06725943).

The PURCHASER means the person, firm, company or other legal entity to whom the SELLER supplies the goods and services or whose order for the GOODS and / or SERVICES is accepted by the SELLER.

The PRICE means the total value specified in the SELLER's quotation or tender.

The GOODS and / or SERVICES mean all the work and all of the services to be performed together with the equipment and material which are the subject matter of the CONTRACT.

The CONTRACT means the agreement between the SELLER and the PURCHASER for the sale and purchase of the GOODS and / or SERVICES.

The SPECIFICATION means the detailed description of the GOODS and / or SERVICES to be provided by the SELLER which the SELLER and PURCHASER agree comprises, subject to these Terms and Conditions which take precedence thereto, the scope of the SELLER's responsibility concerning merchantability, fitness for purpose, size, weight or any other attribute of the GOODS and / or SERVICES whatsoever.

"CONDITIONS" means the Standard Terms and Conditions of sale set out in this document, any notes and/or clarifications made in the SELLER'S quotation or referred to therein and includes any special terms and conditions agreed in writing between the PURCHASER and the SELLER.

"QUOTATION" means the SELLER's written quotation or tender.

"PARTY" shall mean the PURCHASER or the SELLER, as the case may be.

## **2. Establishment of Contract**

2.1 Any contract arising between the parties shall only be formed by the SELLER's acceptance of the PURCHASER's order. Such contract shall be conditional upon the availability of productive capacity, labour, plant and materials, mutual agreement of programme confirmed in writing at the time of contract and the PURCHASER's creditworthiness being approved by the SELLER. Each order for GOODS and / or SERVICES by the PURCHASER shall be deemed to be an offer by the PURCHASER to purchase GOODS and / or SERVICES subject to these CONDITIONS.

2.2 The CONTRACT shall be governed by these CONDITIONS and any documents made a part of the CONTRACT by specific reference in the SELLER'S QUOTATION. For the avoidance of doubt, any terms and conditions of the PURCHASER which conflict with these CONDITIONS shall be null and void. Acceptance of delivery of the GOODS and / or the supply of the SERVICES shall be conclusive evidence that the PURCHASER accepts that the SELLER's CONDITIONS apply.

2.3 The SELLER reserves the right to sub-let the CONTRACT in whole or in part or use the services of sub-contractors for any part or parts of the CONTRACT.

2.4 No servant or agent of the SELLER has any authority to make any representation or give any warranty in relation to the materials, design or work carried out, or to agree to any variation of or addition to these CONDITIONS unless such representation, warranty, variation or addition is expressed in writing and signed on behalf of the SELLER by a director (or other authorised person).

2.5 If and so far as the GOODS and / or SERVICES have been necessarily commenced in advance of the agreed programme having regard to normal process time, the PURCHASER shall be liable to accept delivery of the GOODS and / or SERVICES at the times and in the quantities

as indicated in the agreed programme and pay therefore in accordance with the rates and PRICES set out in the SELLER'S QUOTATION and these CONDITIONS.

- 2.6 Unless expressly stated in the SELLER'S QUOTATION to the contrary, the SELLERS QUOTATION shall be open for acceptance by the PURCHASER for 28 days from the date of QUOTATON (unless otherwise agreed in writing by the SELLER). All QUOTATIONS are made on the basis that no contract will come into existence until a written acknowledgement of order is issued by the SELLER and the SELLER has confirmed its approval and acceptance of the PURCHASER'S credit. The SELLER reserves the right to continuously review the PURCHASER'S credit. Any PURCHASER without an approved credit account with the SELLER is required to pay for goods in full a minimum of 15 working days prior to delivery / collection.
- 2.7 The PURCHASER acknowledges and agrees that by entering into the CONTRACT with the SELLER that the CONDITIONS of the CONTRACT are fair and reasonable in the circumstances.

### **3. Scope of Supply**

- 3.1 Only the GOODS and / or SERVICES expressly stated in the SELLER'S QUOTATION are included in the PRICE shown in the SELLERS QUOTATION.
- 3.2 Unless expressly stated in the SELLER'S QUOTATION to the contrary, insitu floor infill work where units are cut out around stanchions / columns / obstructions and the like is excluded from the GOODS and / or SERVICES.
- 3.3 Unless expressly stated in the SELLER'S QUOTATION to the contrary, insitu strips / areas where precast units do not completely fill bays bounded by structural steelwork or similar within the floor zone are excluded from the GOODS and or SERVICES.
- 3.4 Unless expressly stated in the SELLER'S QUOTATION to the contrary, taking of site dimensions, site surveys, bedding or closing the ends of units at bearings, staircases, beams or lintels etc, encasement to steelwork or finishes over the precast construction are excluded from the GOODS and / or SERVICES.

### **4. Specification and Drawings**

- 4.1 All descriptive material, drawings and particulars of weights, finishes and dimensions contained in the SELLER'S QUOTATION are intended merely to present a general idea of the GOODS and / or SERVICES and none of these shall form part of the CONTRACT and this is not a sale by sample; nor shall the SELLER be liable for any misrepresentation or inaccuracy therein unless and to the extent such representation or accuracy comprised part of the SELLER'S scope of work, GOODS and / or SERVICES to be provided as set out in the SPECIFICATION.
- 4.2 The PURCHASER shall accept the GOODS or SERVICES as satisfactory fulfilment of the CONTRACT notwithstanding variations (which do not affect their quality) which are reasonable or attributed to any change in construction techniques or design within the limitations which are imposed by availability of materials and components and by production techniques.
- 4.3 No responsibility is accepted by the SELLER for the accuracy or correctness of any information supplied by the PURCHASER (and the PURCHASER confirms that the information is accurate and suitable). The PURCHASER shall be responsible for checking and approving any drawings provided by the SELLER to ensure they satisfy the needs of the PURCHASER. The SELLER has no liability for GOODS and / or SERVICES that have had designs / drawings checked and / or approved that are subsequently found to not meet the needs of the PURCHASER.
- 4.4 In any case where the SELLER'S design is subject to approval by the PURCHASER, Government Departments, Local Authorities, Architect's, Consulting Engineers or similar bodies or persons, the SELLER'S quotation is subject to variation or withdrawal in the event of modification of the design being required as a result of consideration by any such body or persons.
- 4.5 Any plans, drawings or technical documents prepared by the SELLER and submitted to the PURCHASER prior or subsequent to the formation of the contract shall remain the property of the SELLER and shall be returned to the SELLER on request. The PURCHASER shall not without the SELLER'S written consent copy the said plans, drawings or technical documents or any part of them to others or allow



others to use or copy them, nor will the PURCHASER use or allow any third party to use the said plans, drawings or technical documents other than in connection with the installation of the GOODS.

- 4.6 The GOODS and / or SERVICES must be handled and stored by the PURCHASER in the manner recommended from time to time by the SELLER.

## 5. Deliveries and Collection

- 5.1 The period for collection or delivery shall commence from the date of the SELLER's acknowledgement referred to in clause 2.6 or from the date of receipt by the SELLER of all necessary information, drawings and a fully phased programme to enable the SELLER to properly commence the work, whichever is the later. Any information received thereafter may result in the collection or delivery date proposed being amended and any revision to a previously agreed programme will be subject to renegotiation, having due regard to the SELLER's other business commitments at the time. The time of commencement of design work is to be at the SELLER's option having regard for the delivery period quoted, the extent of the design work required and the drawing approval period. The possession of design information provided by the PURCHASER does not necessarily imply acceptance of its adequacy. The adequacy of design information can only be assessed at the design and detailing stage. Inadequate information may affect delivery dates. Unless expressly stated in the SELLERS QUOTATION a period of five working days for the PURCHASER to approve the SELLER's working drawings has been allowed. Any delay in approval over and above this may result in amendment of the collection or delivery date(s).
- 5.2 Unless expressly stated in the SELLER's QUOTATION to the contrary, where programme dates have been agreed, two weeks notice in writing is required confirming the PURCHASER will be ready to receive the SELLER's products. Revised programme requirements shall not be considered as accepted until confirmed by the SELLER in writing.
- 5.3 Where the SELLER's QUOTATION includes for erection / laying units on site, in order to enable the incorporation of the SELLER's programme of works into the overall construction programme, a period(s) agreed with the SELLER is required to carry out the SELLER's GOODS and / or SERVICES on site. Should the GOODS and / or SERVICES described in the SELLER's QUOTATION be varied it may be necessary for the above site period(s) to be extended.
- 5.4 Unless expressly stated in the SELLER's QUOTATION to the contrary, the SELLER's QUOTATION is based upon units being delivered during normal working hours on the SELLER's normal working days (i.e.: 8.00am to 5.00pm Monday to Friday excluding Bank Holidays and works shutdown periods). The PURCHASER shall pay additional charges for delivery outside these periods as set out in the SELLER's QUOTATION or referred to therein. Deliveries for specific times of day are not guaranteed by the SELLER and the PURCHASER shall accept delivery at any time during normal working hours.
- 5.5 Unless expressly stated in the SELLER's QUOTATION to the contrary, the SELLER's QUOTATION is based upon units being delivered on standard articulated vehicles with 45' flatbed trailers. In the event that site constraints prevent delivery as the foregoing, additional charges will apply as set out in the SELLERS QUOTATION or as subsequently advised by the SELLER. Such extra charges shall be added to the PRICE and paid for in accordance with provisions of clause 8 of these CONDITIONS.
- 5.6 Whilst the SELLER shall make reasonable efforts to maintain delivery schedules or programmes, the SELLER shall not be liable for any loss or damage, direct, indirect or consequential whether foreseeable or unforeseeable due to any delay in delivery and the date for delivery may not be made of the essence by notice. Due to manufacturing, loading and haulage constraints and the need to ensure the safe transit of goods, the sequence of goods supplied on delivery is not guaranteed and can only be at the SELLER's option. Some double handling may be required at the point of delivery / installation and if required this is at the PURCHASER's cost.
- 5.7 Delivery of the GOODS will be made as near to the site stated in the CONTRACT as, in the opinion of the SELLER or its haulier, safe hard access permits. It is the PURCHASER's responsibility to ensure that there is safe, suitable access for the heaviest legally permitted articulated vehicles.



- 5.8 Where the PURCHASER is responsible for unloading (as part of the GOODS and / or SERVICES), an allowance of up to two hours per load (measured from booked time) is made for the PURCHASER to unload the SELLER's vehicles. The SELLER reserves the right to charge the PURCHASER for any additional time taken as set out in the SELLER's QUOTATION or documents referred to therein.
- 5.9 The PURCHASER shall not be entitled to claim in respect of short delivery or goods damaged in transit unless the appropriate delivery ticket is suitably endorsed by the PURCHASER or his agent and verbal notification is made to the SELLER's office within 24 hours of delivery and separate written confirmation is received by the SELLER within 5 working days of delivery. Notwithstanding the foregoing, the SELLER has no liability to the PURCHASER in respect of short delivery or goods damaged in transit unless conclusive contemporary evidence is provided by the PURCHASER to the SELLER.
- 5.10 If the SELLER so agrees, the GOODS may be collected from the SELLER's production facility by the PURCHASER. Following the SELLER's notification to the PURCHASER that the GOODS are ready for collection, the PURCHASER shall collect them without delay.
- 5.11 To ensure haulage efficiencies, any consignments of product in quantities which represent part-loads may be delivered in conjunction with deliveries of other phases / visits and / or to other sites / projects. Delivery dates and times may be affected by this.
- 5.12 The SELLER may make delivery by instalments. Each separate instalment shall be applied for / invoiced by the SELLER and paid for by the PURCHASER in accordance with the CONTRACT. Failure by the SELLER to deliver any one or more (but not all) instalments in accordance with the CONTRACT or any claim by the PURCHASER in respect of any one or more (but not all) instalments shall not entitle the PURCHASER to treat the CONTRACT as repudiated. Failure by the PURCHASER to pay for any one or more instalments in accordance with the CONTRACT shall entitle the SELLER (without prejudice to its other rights and remedies) to suspend further deliveries of GOODS and / or SERVICES under the CONTRACT or any other contract between the SELLER and the PURCHASER pending payment by the PURCHASER; and / or to treat the CONTRACT as repudiated by the PURCHASER.
- 5.13 The PURCHASER shall not be entitled to, nor shall it refuse to accept the GOODS and / or SERVICES on the grounds of delay in delivery.

## **6. Sequencing**

- 6.1 The PURCHASER is to ensure that all brickwork, blockwork or concrete bearings are to be adequately cured for a minimum period of seven days prior to placing of precast units. Particular attention should be paid to curing of site pre-mixed mortars.
- 6.2 The PURCHASER is to ensure that all non load bearing internal walls beneath the precast floor construction are either not constructed at all or if constructed are left down by at one course below the bearing level of the precast units until the floor level is completely erected.
- 6.3 The PURCHASER is to ensure that all steelwork bearings are secure, stable, lined and levelled. Holding down bolts must be grouted in prior to the commencement of installation.
- 6.4 The PURCHASER is responsible (at the PURCHASER's cost) for the re-routing, removal and/or making safe, prior to the commencement of the SELLER's works on site, of any aerial obstructions which are likely to foul or hinder a crane boom or suspended load, (including parts of the structure e.g. purlins, cross-bracing or the like) and also for their subsequent replacement. If the removal of any structural member is necessary to facilitate the installation, structural stability must be maintained and the building designer must be satisfied that such structural stability is not prejudiced.
- 6.5 The PURCHASER is to ensure that no other trades are working either above or below the area of the precast fixing operations during construction and is responsible for erecting and maintaining any necessary barriers / signage etc to prevent access into the area.

## **7. Variation, Cancellation and Suspension**

- 7.1 Should the SELLER incur any direct or indirect / consequential cost, loss or expense arising from a variation and / or cancellation and / or suspension of work due to the PURCHASER's actions, lack of action, instructions or lack of instructions, such extra cost, loss or expense shall be added to the PRICE and paid for in accordance with provisions of clause 8 of these CONDITIONS.



- 7.2 If for any reason the PURCHASER is unable to or will not accept delivery of the GOODS and / or SERVICES or collect the GOODS and / or SERVICES at the time when they are due and ready for delivery or collection, the SELLER shall be entitled at his option to apply for / invoice for the GOODS / and or SERVICES and be paid by the PURCHASER as if delivered or collected. In such circumstances the SELLER shall so long as storage facilities permit, store the GOODS and / or SERVICES until actual delivery or collection (at the PURCHASER's risk and cost).
- 7.3 Should the SELLER be required to undertake works on a daywork basis, the SELLER's standard daywork rates at the time such work is undertaken shall apply.

## 8. Prices and Terms of Payment

- 8.1 Approved accounts will be subject to a trade limit, either agreed upon the placing of an Order or as previously agreed. Non-approved accounts will be strictly on a pro forma basis. Payment shall be made by the PURCHASER to the SELLER in accordance with the payment provisions stated in the CONTRACT. In the absence of any other written agreement, payment terms in respect of approved accounts will be 28 days from the date of the SELLER's application / invoice.
- 8.2 Should the PURCHASER default in payment on the due date for any sum, for whatsoever reason, then without prejudice to any other right which the SELLER may possess, the SELLER shall be entitled to be paid interest at a rate of 8% above the Bank of England Base Rate (calculated on a day to day basis on any outstanding balance) to run from the date on which such amount was due for payment until receipt (cleared funds) by the SELLER of the full amount due (whether before or after any judgement).
- 8.3 In addition to the provisions of clause 8.2 and in addition to any statutory rights the SELLER may have and without prejudice to the right to payment for deliveries or collections already made and payment for the work carried out on suspended items, the SELLER shall also have the right to suspend further deliveries in respect of the GOODS and / or SERVICES forthwith or to determine the CONTRACT, and for damages. Should the SELLER incur any direct or indirect / consequential cost, loss or expense arising from such suspension, such extra cost, loss or expense shall be added to the PRICE and paid for in accordance with provisions of clause 8 of these CONDITIONS. In the event of the SELLER suspending its works arising from the PURCHASER's default in payment, the SELLER shall not be liable for any direct or indirect / consequential cost, loss or expense, liquidated and ascertained damages etc arising from such suspension.
- 8.4 In addition to the provisions of clause 8.3, the SELLER may suspend deliveries of GOODS and / or SERVICES or take such action as (at the SELLER's sole discretion) is considered suitable to protect the interests of the SELLER without incurring any liability to the PURCHASER whatsoever. Time for payment shall be of the essence.
- 8.5 The SELLERS QUOTATION is exclusive of Value Added Tax or any other tax or duty which is or may be levied or charged. To the extent that the supply of GOODS and / or SERVICES is subject to such taxes, the amount prevailing shall be added to amounts due under the CONTRACT.
- 8.6 Goods held in stock beyond the programmed collection, delivery or erection date shall be paid for as if collection, delivery or erection had been made at the due time. For the purpose of the passing of risk in such goods, such goods shall also be deemed collected, delivered or erected at the due time. Furthermore, goods held in stock beyond programmed collection, delivery or erection dates shall be subject to a storage charge amounting to £150 per load per week.
- 8.7 Unless expressly stated in the SELLER's QUOTATION to the contrary, any order and / or call off that necessitate deliveries in consignments which result in part loads that have not been included for in the SELLER's QUOTATION, will result in additional charges being made.
- 8.8 The PURCHASERS obligation to pay the SELLER in respect of GOODS and / or SERVICES shall not be subject to any "pay when paid" or "pay when certified" provisions. Completion of contract documents / warranties / bonds / CDM documentation etc shall not be a condition precedent to payment.
- 8.9 All goods shall remain the property of the SELLER until full payment (cleared funds) for them has been received by the SELLER.
- 8.10 Payment shall be made in full. No monies shall be deducted by way of retention. At SELLER's discretion, a Retention Bond or Indemnity may be provided to cover a maximum of 3% of the CONTRACT sum. Such Bond or Indemnity will be reduced to 1.5% 9 months after the



anticipated date of practical completion of the CONTRACT works. The Bond or Indemnity will become null and void (whether or not returned to the Surety or SELLER) at a date of 9 months thereafter. A Bond may only be offered on supply and fix/lay contracts having a value exceeding £100,000.00.

8.11 The PURCHASER's obligation to pay on the due date is absolute.

8.12 No deductions or set-offs from payments due from the PURCHASER to the SELLER shall be allowed without prior notification at least five working days before payment is due to the SELLER giving detailed grounds for such set-off or deduction, amounts attributable to each ground, and the SELLER's written agreement. No disputes arising under the CONTRACT or any other contract shall interfere with the PURCHASERS prompt payment of the SELLER's invoices / applications.

8.13 Notwithstanding any provision to the contrary elsewhere in the CONTRACT, the PURCHASER shall save, indemnify and hold harmless the SELLER from the PURCHASERS own direct, indirect or consequential loss, whether or not foreseeable at the formation of the CONTRACT. Consequential loss shall mean consequential or indirect loss including inter alia loss and / or deferral of production, loss of product, loss of use, loss of revenue, loss of profit or anticipated profit (if any), funding and financing costs etc.

8.14 Due to the disproportionate nature of potential losses when measured against the PRICE payable by the PURCHASER to the SELLER, it is agreed that the maximum aggregate liability of the SELLER for all liabilities arising from or related to the CONTRACT in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever arising, shall not exceed 10% of the PRICE

## 9 Fixed Price Period

9.1 The PRICE(s) set out within the SELLER's QUOTATION are valid for the period stated. Unless otherwise agreed, the SELLER reserves the right to apply an immediate price increase to all GOODS and / or SERVICES supplied beyond this period. In the absence of any other agreement, all rates will be subject to an uplift of RPI + 8%, where RPI is taken as the rate published by the government as at the 1<sup>st</sup> of January immediately preceding the date of expiry.

## 10 Defects and Liability

10.1 The SELLER shall not be liable for defects arising from the PURCHASER's methods of erection, installation or maintenance nor alterations to the GOODS and / or SERVICES carried out without the SELLER's written consent nor from repairs carried out improperly nor from deterioration or inadequate protection while being stored by the PURCHASER during or after erection.

## 11 Force Majeure

11.1 The SELLER shall not be liable in any way for any delay in performing its obligations or for any direct, indirect or consequential loss, expense, damages or costs to the extent that the delay, loss, expense, damages or costs is caused by a 'force majeure' event as set out below. In addition, should a force majeure event occur, the SELLER shall not be liable to take alternative measures which will result in increased costs, charges or expenses to the SELLER. Force majeure events shall be acts of God, acts of civil or military authorities, war, fire, tempest, lock-outs, industrial disputes, strikes, accidents, breakdowns of plant and equipment, inclement weather, national emergency, riot, civil disturbance, explosion, inability to obtain adequate material, fuel, parts, labour or plant and circumstances beyond the SELLER's reasonable control.

11.2 The date for performance of the SELLER's contractual obligation(s) which has been delayed by a force majeure event shall be deemed suspended for a period equal to the delay caused by such event plus a reasonable period sufficient to allow the SELLER to re-plan and remobilise its resources. If the delay caused by the force majeure event extends for a continuous period of 28 days after the date on which the force majeure event begins either the SELLER or the PURCHASER may, while such force majeure event continues, terminate the CONTRACT by written notice to the other specifying the termination date, without incurring any liability to the other. Once a notice to terminate has been validly given, the CONTRACT will terminate on the termination date set out in the notice. Such termination will not



prejudice the SELLER's right to payment for GOODS and / or SERVICES already delivered and / or undertaken or for payment for the work carried out on suspended item(s) including storage.

11.3 Should any instance of force majeure cause the contract to be determined, the SELLER shall be entitled to payment for all work executed under the CONTRACT up to the date of termination and for payment for the work carried out on suspended item(s) plus the costs of any obligations with third parties reasonably undertaken prior to the termination in anticipation of the CONTRACT continuing. The SELLER shall not be liable for any direct, indirect or consequential loss, expense damages or costs of the PURCHASER resulting from such a termination.

## 12 Site Erection

12.1 The SELLER must be provided with all facilities under the relevant Health Welfare and Safety Regulations, and all as detailed in the SELLER's "Health, Safety and Welfare Attendances Required on Sub-Contracts For The Supply / Supply and Fixing of Precast Concrete Flooring and / or Components", a copy of which is appended to the SELLER's quotation, or alternatively is available from the SELLER on request or from the SELLER's website.

12.2 The PURCHASER is to be responsible for any necessary casing and / or protection of the GOODS and / or SERVICES work after completion of each section, particular attention being drawn to following trades and adverse weather conditions. Any voids which are formed in the precast flooring area shall be covered and protected by the PURCHASER as the works progress.

12.3 The units included in the SELLER's quotation may require propping during construction in accordance with the SELLER's guidelines. Unless expressly stated in the SELLER's QUOTATION to the contrary, the PURCHASER is responsible and liable for the temporary works design, provision of necessary labour, plant, equipment and materials in respect of such propping. Such temporary works design to be undertaken by a competent technical authority and is to be made available to the SELLER. If the SELLER's QUOTATION provides that propping / temporary works is the responsibility of the SELLER, the SELLER's responsibility shall only be to the extent specifically set out therein. The PURCHASER is responsible for the security and non disturbance of all propping / temporary works.

12.4 Water may accumulate within the cores of hollowcore units due to exposure during construction. Unless specifically instructed by the PURCHASER and as part of the SELLER's production process, the SELLER will provide drainage points to units with factory formed reduced / troughed / solid / capped ends only. Any requirement for drainage points in other locations is excluded by the SELLER and is the responsibility of the PURCHASER. Where drainage points are provided in units, the PURCHASER is responsible for opening them out, keeping them clear during construction and for subsequent infilling / making good as required. In the event that the PURCHASER fails to undertake the foregoing, the SELLER shall not be liable for any direct, indirect or consequential loss and / or expense arising from such failure whatsoever.

12.5 In view of the nature of precast units and the difficulties encountered in manoeuvring them into position through structural steelwork, the SELLER accepts no responsibility for accidental damage to steelwork sections, paint coatings or the like.

12.6 When erection operations are to be carried out from the public highway, all road signage, traffic control and management, together with all necessary permissions shall be the responsibility and at the cost of the PURCHASER.

12.7 In accordance with BS 7121 Safe Use of Cranes, it is the PURCHASER's responsibility to ensure that the loading capacity of the ground in and around crane set up areas is sufficient to withstand the outrigger loadings imposed on it. Where the SELLER provides the crane(s), the PURCHASER is responsible for providing sufficient and accurate information to the SELLER's Appointed Person in respect of ground bearing capacities. The PURCHASER is also responsible for providing all necessary information relating to ground conditions, stability, location of any underground services / voids / vaults / culverts or the like etc in and around crane set up areas.

12.8 The PURCHASER is responsible for maintaining ground conditions in and around crane set up areas, access roads etc such that they do not deteriorate due to adverse weather, construction activity etc.

12.9 In instances where the PURCHASER is providing a crane(s), the PURCHASER is responsible for ensuring that the lifting operation carried out is properly planned by a competent person in accordance with BS 7121 Safe Use of Cranes. The person planning the lifting operation must have sufficient knowledge and experience of such operations and the PURCHASER is responsible for ensuring that the crane and its operative is capable of the duties required for lifting and installing the SELLER's units.



## 13 Property and Risk

13.1 Until payment in full has been received for the CONTRACT, property in the goods supplied by the SELLER shall remain with the SELLER.

The SELLER may enter any premises and re-take possession of the goods forthwith upon the PURCHASER becoming bankrupt, going into liquidation, administration or receivership or failing to make payment in accordance with the CONTRACT. Until payment in full has been received by the SELLER, the PURCHASER shall have possession of the GOODS as bailee only and the PURCHASER shall account to the SELLER for all proceeds of sale or other disposition of the GOODS. The PURCHASER shall not attach the GOODS to any land without prior written consent of the SELLER. If any of the GOODS are incorporated into a product, property or chattel of the PURCHASER before payment has been made, the property in such GOODS, product, property or chattel shall be and remain with the SELLER until such payment has been made. If the Goods are incorporated as aforesaid into something belonging to someone other than the PURCHASER, then the property in such GOODS, property, product or chattel shall be deemed to be owned by the SELLER in common with that other person / entity.

13.2 Notwithstanding the foregoing, the risk of loss or damage to the GOODS and / or SERVICES (from whatsoever cause arising) shall be borne by the PURCHASER from the time of actual delivery or collection, or at the time when the GOODS and / or SERVICES are due for delivery or collection, whichever occurs first.

13.3 Unless expressly agreed in writing by the SELLER, all moulds, mould liners, tooling, masters and any other item used in the production of the GOODS and / or SERVICES shall remain the property of the SELLER indefinitely.

13.4 The SELLER may at its discretion dispose of or relocate any moulds, mould liners, tooling, masters and any other item used in the production of the GOODS and / or SERVICES at any time. No assurances are offered or deemed to be offered by the SELLER to the PURCHASER in respect of the SELLER retaining moulds, mould liners, tooling, masters and any other item used in the production of the GOODS and / or SERVICES.

## 14 Disputes

14.1 In the event of a dispute arising between the SELLER and the PURCHASER in respect of the CONTRACT the dispute may be referred to an Adjudicator and the decision of such Adjudicator shall be binding on both parties.

14.2 The Adjudicator is to be appointed by the President or a Vice President of the Royal Institution of Chartered Surveyors and is to act in accordance with the Construction Industry Model Adjudication Rules. In the event of a dispute being referred to adjudication, the SELLER and PURCHASER shall carry their own costs. Adjudicator's fees shall be apportioned by the Adjudicator.

## 15 Collateral Warranties

15.1 In the event of the PURCHASER requiring the SELLER to enter into Collateral Warranties, then these shall be in the SELLERS own form or alternatively will be subject to agreement by the SELLER's Directors and / or Insurers. Obtaining such agreement or the provision of Collateral Warranties shall not be a condition precedent to payment by the PURCHASER to the SELLER.

## 16 Construction Design and Management Regulations 1994

16.1 Details in respect of these regulations will, if not already in the PURCHASER's possession, be provided by the SELLER. Provision of such information shall not be a condition precedent to payment by the PURCHASER to the SELLER.

## 17 Notices

17.1 All communications between parties under this CONTRACT shall be in writing (when receipt shall be deemed on the date of delivery, or the next working day when outside office hours).

## 18 Rights of Third Parties



18.1 Nothing in the CONTRACT shall confer or purport to confer on any third party any benefit or any right to enforce any conditions of the CONTRACT.

## 19 Law of the Contract

19.1 The Proper law of the Contract shall be English law and the parties to the CONTRACT submit to the non-exclusive jurisdiction of the Courts of England & Wales. If any part of the CONTRACT is held to be unenforceable the remainder of the CONTRACT shall not be affected.

## 20 Termination

20.1 The SELLER shall be entitled to terminate the CONTRACT by written notice forthwith if the PURCHASER defaults in making payment of any part of the PRICE when such payment falls due.

20.2 In addition to the provisions set out in clauses 11.2 and 11.3, either PARTY shall be entitled to terminate the CONTRACT by written notice forthwith if the other PARTY commits a material breach of its obligations hereunder which, if capable of remedy, has not been remedied within a period of 28 days of receipt of notice from the PARTY not in default specifying the breach and requiring the breach to be remedied.

20.3 Either PARTY shall be entitled to terminate the CONTRACT forthwith should the other PARTY;

20.3.1 In the case of an individual or any partner in a partnership becoming bankrupt or insolvent or being adjudicated bankrupt or insolvent by a court of competent jurisdiction; or

20.3.2 Suffer the appointment of a liquidator, administrative receiver, other receiver or manager or administrator appointed over the whole or a substantial part of its assets or undertaking or if it makes a composition with its creditors; or

20.3.3 Issue a notice proposing that it be wound up or passes a resolution for its winding up; or

20.3.4 Cease to carry on all or substantially all of its business or be unable to pay its debts as they fall due.

