



STANDARD CONDITIONS FOR SALE AND INSTALLATION (EQUIPMENT & SOFTWARE)

1 GENERAL

1.1 The contract documents (the "**Contract**") shall consist of (i) the "**Form of Agreement**", describing the parties and any special terms upon which the parties agree, (ii) these "**Standard Conditions**", (iii) the "**Scope of Work**" specifying and describing the scope, design and constructions of the Work, (iv) the "**Schedule**" setting forth the milestones applicable to the performance of the Work (v) the "**SAT**" procedures and (vi) any other document specifically referred to in the Form of Agreement and incorporated by reference.

1.2 If a conflict arises between or among the terms of the documents forming the Contract, the documents shall take precedence in the order listed in art 1.1, unless otherwise set forth in the Form of Agreement.

2 FURTHER DEFINITIONS

"**Equipment**" shall mean all machinery, apparatus, materials and articles, including computers (CPUs) and hardware forming part of the Work, excluding Computer Software.

"**Documentation**" shall mean system documentation and/or user manuals included with the Computer Software, and any other materials provided to the Purchaser by the Contractor to supplement the system documentation and/or user manuals.

"**Intellectual Property**" ("**IP**") means all work of authorship, procedures, designs, inventions and discoveries, and, in each case, in all forms, formats, languages and versions.

"**Intellectual Property Rights**" ("**IPR**") means all right, title and interest in and to any Intellectual Property, in all territories, under any and all applicable bodies of law (including, without limitation, under the laws of copyright, patent trademark, trade usage and trade secrets), and all applications, registrations, renewals, extensions, restorations and resuscitations relating to any of the foregoing.

"**Work**" shall mean the work to be carried out by the Contractor pursuant to the Scope of Work, including the Equipment, the Computer Software, the Documentation and the System.

"**FAT**" shall mean the internal factory acceptance test carried out at the place of manufacture according to the Contractor's standard practice and procedures.

"**SAT**" shall mean any Site Acceptance Tests to be carried out according to the procedures attached hereto.

"**Contract Price**" shall mean the payment to be made for the performance of the Work and any adjustments thereto as agreed by the parties, including the license fees for the Computer Software.

"**Site**" shall mean the place where the System is to be installed, including as much of the surrounding area as is necessary for unloading, storage and internal transport and installation of the Equipment.

"**System**" shall mean the system which the Contractor shall deliver pursuant to the Scope of Work and thus includes the Equipment, the Documentation and the license for the Computer Software.

"**In Writing**" shall mean either by document signed by the parties or by letter or telefax, identifying the sender but shall not include other forms of electronic communication such as e-mail.

"**Computer Software**" shall mean the computer software to form a part of the System, and consisting of Contractor's Software and/or Sublicensed Software.

"**Contractor's Software**" shall mean computer software to which the Contractor holds the copyright; or that is specifically developed for the Purchaser by a third party and the copyright is vested with that third party developer.

"**Sublicensed Software**" shall mean generally available computer software to which a third party holds the copyright and to which the Contractor, with the copyright holder's permission, grants the right to use pursuant to a licensing agreement from said third party.

3 THE WORK

3.1 A detailed description of the Work shall be set forth in the Scope of Work.

3.2 The Contractor shall ensure that the Work is carried out in accordance with all applicable laws and regulations. If requested by the Contractor, the Purchaser shall provide all relevant information on such laws and regulations as they apply in the jurisdiction of the Site.

3.3 The Contractor shall carry out any variation work caused by changes in applicable laws or regulations referred to in Clause 3.2 occurring between the dates of submission of the tender and taking-over. The Purchaser shall bear the extra costs and other financial consequences resulting from such changes, including variation work.



4 COMPUTER SOFTWARE

4.1 Upon payment by the Purchaser of the Contract Price in full, the Contractor grants to the Purchaser and the Purchaser accepts from Contractor, a perpetual, non-exclusive and non-transferable License to limited use of the Contractor's Software and Documentation as set forth herein and to use the Sublicensed Software according to the terms of the licensing agreement governing such software.

4.2 Use of the Computer Software shall be limited to the use specified in the Form of Agreement or any Annex hereto, including, without limitation, only on the operating system delivered as part of the Scope of Work.

4.3 The Purchaser shall not install, use or transfer the Computer Software on other computers but the Equipment without prior consent In Writing from the Contractor.

4.4 Unless specifically allowed for in the Form of Agreement, the Purchaser shall not copy, reproduce, modify, adapt, translate, reverse engineer, decompile, or disassemble the Computer Software or the Documentation. The Purchaser shall not develop derivative work which is intended to be functionally equivalent substitutes for the Computer Software, the Documentation or parts thereof.

4.5 Full title and ownership in and to the Contractor's Software and Documentation, including all copies thereof, and all exclusive rights therein including without limitation IPR, trade secrets, trademarks, patents, and copyrights, belong to and shall remain with the Contractor (or its subcontractor, as the case may be). The Purchaser acknowledges that similar ownership rights apply to the Sublicensed Software.

4.6 The Purchaser shall not remove or alter the Contractor's or any third party's ownership-, trademark-, copyright-, or other proprietary notices on the Computer Software or Documentation.

5 FACTORY ACCEPTANCE TEST (FAT)

5.1 The Contractor, at its sole option, may as part of its internal quality assurance procedures perform a Factory Acceptance Test (FAT) of the System.

5.2 The Contractor shall notify the Purchaser In Writing of a FAT being performed in sufficient time to permit the Purchaser to be represented as

an observer at the FAT. The Purchaser shall be entitled, at its own cost, to be present during FAT, but is not obliged to do so. If the Equipment or parts thereof have been approved by the Purchaser under FAT, such Equipment may not be rejected by the Purchaser under SAT if the quality and performance of the Equipment are unchanged from FAT.

6 PREPARATORY WORK

6.1 The Purchaser shall provide access to the Site, including necessary security clearances, and ensure the necessary conditions for the installation of the Equipment and for the correct operation of the System (such as power, appropriate air-conditioning, LAN etc) all in such time so as not to delay the installation of the Equipment.

6.2 Any preparatory construction or other work that the Purchaser needs to conclude in order to prepare the Site for installation of the Equipment and for the correct operation of the System shall be completed in good time so as not to delay the Contractor's performance of its Scope of Work.

6.3 The Purchaser shall in due time and in accordance with the Schedule provide the Contractor with the information and documentation required by the Contractor to customize the System according to the Scope of Work. If the Schedule does not provide a deadline for the provision of such information, the Contractor shall notify the Purchaser in due time of the date by which the information and documentation must be provided for the Contractor to adhere to the Schedule. The Purchaser shall be liable for any and all costs and delays resulting from delays by the Purchaser in providing the information and documentation required by the Contractor. The Purchaser shall also be responsible for the accuracy and completeness of all preparatory construction and other work as well as all information and documentation provided by the Purchaser.

7 WORKING CONDITIONS

7.1 The Purchaser shall ensure that the Contractor's personnel have full access to the Site during all normal working hours and outside normal working hours to the extent deemed necessary by the Contractor.

7.2 At least 30 days prior to the scheduled commencement of the installation of the System the Purchaser shall (i) inform the Contractor In Writing of all relevant safety regulations in force at the Site and (ii) ensure that the Site complies with



all applicable health and safety laws and regulations. The Contractor shall have the right to stop work at the Site if at any time it encounters any unsafe or dangerous conditions and the Purchaser shall be liable for any and all costs and delays resulting from any such work stoppage.

7.3 The Contractor's personnel shall be able to obtain suitable and convenient board and lodging in the neighbourhood of the Site. The Purchaser, at its sole expense, shall make available to the Contractor all necessary cranes, lifting equipment and equipment for transport on the Site as and when reasonably requested by the Contractor.

7.4 The Purchaser, at its sole expense, shall make available to the Contractor all necessary facilities for the storage of and protection against theft and deterioration of the Equipment, all tools and equipment required for installation, and the personal effects of the Contractor's personnel.

8 PURCHASERS DEFAULT

8.1 If the Purchaser anticipates that it will be unable to comply with the conditions of Clause 6 or 7 or to receive the Equipment on the Site and/or to allow the Work to be completed in time, it shall forthwith notify the Contractor In Writing, stating the reason and the time when it will be able to comply with its obligations.

8.2 The Purchaser shall be liable to the Contractor for any and all costs and delays resulting from the Purchaser's failure to comply with Clauses 6, 7 and 8.1. Such delay shall not relieve the Purchaser of its payment obligations and the Purchaser shall pay any part of the Contract Price which but for such failure would have become due. If the Purchaser fails to comply with Clauses 6, 7 and/or 8.1, the Contractor shall have the right at its sole discretion, but not the obligation, to fulfil the Purchaser's obligations under Clauses 6 and 7 at the Purchaser's sole expense.

The Contractor shall, after notification In Writing to the Purchaser, be entitled to suspend completion of the Work for the duration of the Purchaser's failure.

If the Equipment is not yet on Site, the Contractor shall arrange for storage of the Equipment at the risk and expense of the Purchaser. The Contractor shall also, if the Purchaser so requires, endeavour to secure third party insurance on the Equipment at the Purchaser's expense.

8.3 Unless completion of the Work is prevented by any such circumstance as mentioned in Clause 20, the Contractor may by notice In Writing require the Purchaser to remedy its default within a final reasonable period.

If, for any reason for which the Contractor is not responsible and not within the Contractor's reasonable control, the Purchaser fails to remedy its default within such period, the Contractor may by notice In Writing terminate the Contract. The Contractor shall then be entitled to compensation for any and all costs, expense and losses suffered as a result of the Purchaser's default.

9 VARIATIONS

9.1 The Purchaser may require variations In Writing to the originally agreed scope, quality, design and construction of the Work until the System has been taken over. Such request shall contain an exact description of the variation required.

9.2 Within reasonable time after receipt of a request for a variation, the Contractor shall notify the Purchaser In Writing of its proposal to implement the variation and the resultant adjustments to the Contract Price, the Schedule and other terms of the Contract. The Contractor shall have no obligation to implement variations requested by the Purchaser until the parties have agreed In Writing on the adjustments to the Contract Price, the Schedule and other terms of the Contract.

10 TITLE AND RISK

10.1 The risk of loss of or damage to the Work shall pass to the Purchaser on the date of taking-over of the System, according to Clause 12.

10.2 Title to the Equipment shall remain with the Contractor and shall not pass to the Purchaser until payment for the Work in accordance with Clause 14 has been made in full to the extent that such retention of property is valid under the applicable law. The retention of title to the Equipment shall not affect the passing of risk under Clause 10.1 above.

10.3 The Contractor shall be liable for any damage to the Work, regardless of the cause, which occurs before the risk has passed to the Purchaser, except to the extent that such damage is caused by the Purchaser or anyone for whom the Purchaser is responsible. Any loss or damage to the Work after the risk has passed to the Purchaser shall be at the sole risk of the Purchaser, unless



such loss or damage is subject to remedy pursuant to the provisions of Clause 15 and 16.

11 SITE ACCEPTANCE TEST (SAT)

11.1 When installation has been completed, SAT shall, unless otherwise agreed, be conducted to determine compliance of the System with this Contract.

The Contractor shall notify the Purchaser In Writing that the System is ready for SAT and taking-over. The notice shall specify the date for the performance of SAT. The Purchaser shall bear all costs related to the SAT with the sole exception that Contractor shall bear all costs relating to its own personnel.

11.2 If, after having been notified In Writing of the date of SAT the Purchaser fails to fulfil its obligations under Clause 11.1 or otherwise prevents SAT from being carried out as scheduled, the test shall be deemed as having been satisfactorily completed at the date for SAT stated in the Contractor's notice.

11.3 SAT shall be carried out during normal working hours according to the Contractor's procedures attached hereto. The parties shall record the tests and the results of the SAT In Writing.

11.4 Minor outstanding work and defects that will not substantially affect the use or operation of the System shall not prevent SAT from being deemed completed. The Contractor shall remedy such minor outstanding work and defects without undue delay.

If the record shows outstanding work or defects that are not minor, as defined above, the Contractor shall remedy these deficiencies without undue delay. When such deficiencies have been satisfactorily remedied, the SAT shall be deemed successfully completed. Only if a new SAT (in full or in part) is necessary in order to show that these deficiencies have been remedied, shall such a new SAT (in full or in part) be performed.

12 COMPLETION & TAKING-OVER

12.1 Save for any obligations specified in the Scope of Work to be performed after taking-over, the Work shall be considered as completed when the System is taken over. Taking-over of the System takes place:

(i) when the SAT has been satisfactorily completed or is deemed under Clause 11.2 as having been

satisfactorily completed, (ii) where the parties have agreed not to carry out SAT, when the Purchaser has received a Contractor's notice In Writing that the System has been completed; or (iii) pursuant to clause 12.3.

12.2 Minor outstanding work and defects that will not substantially affect the use of the System shall not prevent taking-over. To the extent training is part of the Work, such training may be performed after taking-over, and thus shall not prevent taking-over.

12.3 The Purchaser shall not be entitled to use the System, any other part of the Work or any part thereof before taking-over. If the Purchaser does so without the Contractor's consent In Writing, it shall be deemed to have taken over the System. The Contractor shall then be relieved of its duty to carry out SAT or any other taking-over tests.

12.4 As soon as the System has been taken over in accordance with Clauses 12.1, the warranty period of Clause 15.2 shall start to run. The Purchaser shall at the Contractor's request In Writing issue a certificate stipulating when the Work has been taken over. The Purchaser's failure to issue a certificate shall not affect taking-over according to Clauses 12.1.

13 CONTRACTOR'S DELAY

13.1 The Contractor shall be entitled to an extension of the time for completion if delay occurs due to:

- a) any of the circumstances referred to in Clause 20, or
- b) variation work under Clause 3.3 or
- c) variations under Clause 9, or
- d) an act or omission on the part of the Purchaser, or
- e) suspension under Clauses 8.2, 14.4 or 21.

13.2 If the Contractor is entitled to an extension under Clause 13.1, such extension shall be sufficient, taking into account the total effect of the delay to the Contractor's activities. This provision applies regardless of whether the reason for delay occurs before or after the agreed time for completion.

13.3 The Contractor is in delay when the Work is not completed at the time for completion set forth in the Schedule, as amended pursuant to the provisions of Clauses 9, 13.1 and 13.2. The Purchaser shall be entitled to liquidated damages



from the date on which the Work should have been completed according to the preceding sentence.

The liquidated damages shall be payable at a rate of 0.1 per cent of the Contract Price for each completed week of delay. The liquidated damages shall not exceed 5.0 per cent of the Contract Price.

If only part of the Work is delayed, the liquidated damages shall be calculated on that part of the Contract Price which is attributable to such part of the Work as cannot in consequence of the delay be used as intended by the parties.

The liquidated damages shall become due upon the Purchaser's request In Writing but not before taking-over or termination of the Contract under Clause 13.5. A claim for liquidated damages cannot be submitted by the Purchaser later than at taking-over or on termination of the Contract under Clause 13.5. The Contractor shall not be liable for a claim for liquidated damages submitted after the time-limits set forth in this provision.

13.4 If the Contractor's delay is such that the Purchaser has become entitled to the maximum liquidated damages under Clause 13.3 and the Work is still not completed, the Purchaser may demand In Writing completion within a final reasonable period which shall not be less than two months.

13.5 If the Contractor does not complete the Work within such final period and such delay is not the result of circumstances for which the Purchaser is responsible, then the Purchaser may by notice In Writing to the Contractor terminate the Contract in respect of such part of the Work which, due to the Contractor's failure, cannot be used as intended by the parties.

If the Purchaser terminates the Contract it shall, subject to the limitations of liability of Clause 19.1, be entitled to compensation for the loss it has suffered as a result of the Contractor's delay.

13.6 Liquidated damages under Clause 13.3 and termination of the Contract within limited compensation under Clause 13.5 shall be the exclusive remedies available to the Purchaser in case of delay on the part of the Contractor. All other claims against the Contractor based on such delay shall be excluded.

14 PAYMENT

14.1 Unless other terms are specifically set forth in the Form of Agreement, payment shall be made according to the following payment schedule:

- a) 30% of the Contract Price shall be paid 7 days after the date of the Contract,
- b) 30% of the Contract Price shall be paid on the date falling half way between the date of the Contract and the scheduled shipment date for the Equipment,
- c) 30% of the Contract Price shall be paid against presentation of shipping documents showing that the Equipment has been dispatched from the place of manufacture,
- d) the remaining part of the Contract Price shall be paid no later than 30 days after taking-over.

14.2 If the installation is delayed for any cause for which the Purchaser or any of its contractors other than the Contractor is responsible, the Purchaser shall compensate the Contractor for (i) costs and extra work resulting from the delay, including removing, securing and setting up installation equipment; (ii) additional costs, including costs as a result of the Contractor having to keep its equipment at the Site for a longer time than expected; (iii) additional costs for travel and board and lodging for the Contractor's personnel; (iv) additional financing costs and costs of insurance; and (v) other documented costs incurred by the Contractor as a result of changes in the installation programme.

14.3 Whatever the means of payment used, payment shall not be deemed to have been effected before the Contractor's account has been fully and irrevocably credited.

14.4 If the Purchaser fails to pay by a stipulated date, the Contractor shall be entitled to interest from the day on which payment was due. The rate of interest shall be 12 per cent per annum or the maximum permitted by law, whichever is lower. In addition, the Contractor may, after having notified the Purchaser In Writing, suspend its performance of the Contract until it receives payment hereunder and the Contractor may implement key-lock shutdown, rendering the System inaccessible to the Purchaser.

If the Purchaser has not paid the amount due within two months from the date the respective



payment became due, the Contractor shall be entitled to terminate the Contract by notice In Writing to the Purchaser and to claim compensation for the loss suffered as a result of such breach by the Purchaser.

14.5 Apart from any obligations on behalf of the Contractor or the Purchaser under the trade terms applicable to shipment, all taxes, duties and fees, if any, are to be paid by the Purchaser, with the sole exception of taxes on the income or revenue of the Contractor.

15 DEFECTS IN THE EQUIPMENT

15.1 Pursuant to the provisions of this Clause, the Contractor shall remedy any defect in the System resulting from faulty design, materials or workmanship. Notwithstanding the above, the warranty for Computer Software is exclusively set forth in Clause 16.

15.2 The Contractor's liability to remedy is limited to defects in the System which appear within a period of one year from taking-over. If taking-over has been delayed for reasons for which the Purchaser is responsible, the Contractor is only responsible for defects which appear within a period of one year from the originally stipulated take-over date.

15.3 When a defect in a part of the Equipment has been remedied, the Contractor shall be liable for defects in the repaired or replaced part under the same terms and conditions as those applicable to the original Equipment for a period of one year, however, the Contractor shall have no further liability hereunder whatsoever after 18 months from taking-over.

15.4 The Purchaser shall without undue delay notify the Contractor In Writing of any defect which appears. Such notice shall under no circumstances be given later than two weeks after the expiry of the period specified in Clause 15.2. Where the defect is such that it may cause damage, the notice shall be given immediately.

The notice shall contain a description of the defect and how it manifests itself. If the Purchaser does not provide the notice to the Contractor of a defect within the time-limits set forth in this provision, the Contractor shall have no responsibility to remedy the defect and shall have no liability to the Purchaser in relation to such defect.

15.5 On receipt of notice of a defect from the Purchaser the Contractor shall remedy the defect

as soon as reasonably possible at the Contractor's own cost. Notwithstanding the preceding sentence, the Purchaser shall reimburse the Contractor for its cost of travel to and from the Site and board, lodging and other facilities pursuant to Clause 7.3. Repair shall be carried out at the Site, unless the Contractor deems it appropriate that the defective part or the Equipment is returned to it for repair or replacement. All costs of transporting Equipment or parts thereof to and from the Site shall be for the Purchaser's cost and risk.

15.6 If the Purchaser has notified the Contractor in accordance with Clause 15.4, and no defect is found for which the Contractor is liable, the Contractor shall be entitled to compensation for the costs it incurs and time spent as a result of the notice.

15.7 The Purchaser shall at its own expense arrange for any dismantling and reassembly of equipment other than the System, to the extent that such is necessary to remedy the defect. Defective parts which have been replaced shall be made available to the Contractor and shall become the property of the Contractor.

15.8 If, within a reasonable time, the Contractor does not initiate and diligently pursue its obligations under Clause 15.5, the Purchaser may, by notice In Writing, fix a final time for completion of the Contractor's obligations. The notice shall be given at least 1 month before such fixed final time.

If the Contractor fails to fulfil its obligations within such final time, the Purchaser may undertake or employ a third party to undertake necessary remedial work. Where successful remedial work has been undertaken by the Purchaser or a third party, reimbursement by the Contractor of reasonable costs incurred by the Purchaser shall constitute full settlement of the Contractor's liability for the said defect.

15.9 The Contractor shall have no liability for defects caused by faulty maintenance or faulty repair by the Purchaser or third parties to, or by alterations carried out on the Equipment without the Contractor's consent In Writing. The Contractor shall not be responsible for normal wear and tear.

15.10 EXCEPT AS SPECIFICALLY STATED OTHERWISE IN CLAUSE 15.1, THE CONTRACTOR SHALL NOT BE LIABLE FOR AND HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR



IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR PURPOSE AND MERCHANTABILITY.

16 DEFECTS IN COMPUTER SOFTWARE

16.1 The Contractor recommends all Purchasers of a System to enter into a Long Term System Support Program for the System ensuring prudent maintenance services and access to new versions and releases of Contractor's Software.

16.2 No software is completely free of bugs or errors. Consequently, the Contractor cannot and does not warrant that the Computer Software is free of bugs and errors. As its sole warranty obligation during the period set forth in Clause 15.2, the Contractor undertakes to remedy or replace with an updated version, free of charge, such Contractor's Software for such bugs and errors to the extent they substantially affect the operation of the Contractor's Software. As regards Sublicensed Software, the Purchaser's sole recourse for bugs, errors and defects are to the warranties, if any, provided by such providers. The Contractor will allow and assist the Purchaser in pursuing any claim under such warranties.

16.3 The Contractor warrants that Contractor's Software upon installation into the System has been screened with updated, first class commercially available virus detection programs. The Contractor cannot and does not warrant that the Computer Software will be free of viruses. The Contractor's warranty to screen with updated, first class commercially available virus detection programs shall expire upon installation of the Computer Software in the Equipment and connection to the Purchaser's computer system.

16.4 The Contractor shall not be liable for any bugs, errors, defects, missing functionalities, interface problems or other running problems caused, in whole or in part by the Purchaser using the Computer Software in breach of any of the provisions in Clause 4 or together with other software applications that has not been approved by the Contractor In Writing.

16.5 The Purchaser shall take all precautions, such as data backup, testing and error detection procedures to avoid consequences of errors, and it shall be under a duty to mitigate any loss which may occur as a consequence thereof.

17 INFRINGEMENT OF IPR

17.1 In the event that any third party initiates legal proceedings based upon a claim that any of the Contractor's Software or Documentation

infringes such third party's intellectual property rights (an "**Action**"), the Contractor will, subject to the provisions herein, defend and indemnify the Purchaser and keep him indemnified for costs and damages, provided that:

(i) the Purchaser immediately informs the Contractor of such claim, demand or Action In Writing;

(ii) the Purchaser does not make any admissions that prejudices, or might prejudice the defence of the Action;

(iii) the Contractor is given complete control over the defence of the Action and over all negotiations relating to the Action; and

(iv) the Purchaser provides the Contractor with all assistance requested by the Contractor.

17.2 If the Purchaser becomes the subject of, or in the Contractor's sole opinion there is a risk that the Purchaser could become the subject of an action with regard to Computer Software, the Contractor shall have the right, at its own expense and at its sole discretion to:

(i) carry out an exchange or modification to the Computer Software or Documentation so that it no longer infringes the third party's intellectual property rights; or

(ii) in the event that the remedy in (i) above is not possible to achieve at a cost and on such conditions as the Contractor considers reasonable, the Contractor shall refund to the Purchaser an amount equal to the License Fee, which the Purchaser has paid for the Computer Software or Documentation in question, and the Purchaser undertakes, at the Contractor's request In Writing and at the Contractor's cost, to return the Computer Software or Documentation in question and all documentation provided relating to such Computer Software or Documentation to the Contractor.

17.3 The Contractor's obligations as set forth above shall not apply and the Contractor shall not be responsible or liable for any infringement of third party intellectual property rights resulting from;

(i) the use of its Computer Software or Documentation with any other software, documentation or equipment, if the infringement would not otherwise occur;

(ii) any modifications to the Computer Software or Documentation not performed by the



Contractor; if the infringement would not otherwise occur, or

(iii) the use of a version or a release of the Computer Software or Documentation other than the latest version or release, after a request from the Contractor to change to the latest version or release due to allegation of infringement of third party intellectual property rights, if the infringement would not otherwise occur;

17.4 The parties agree that these Standard Conditions sets forth the Contractor's sole and exclusive responsibility and liability to the Purchaser in the event that the Computer Software or Documentation is held to infringe the intellectual property rights of any third party.

18 THIRD PARTY LIABILITY AFTER TAKING-OVER

18.1 The Contractor shall not be liable for any damage to property caused by the Work or the System after taking-over. Nor shall the Contractor be liable for any damage caused by the services provided by the Purchaser using the System after taking-over.

If the Contractor incurs liability towards any third party for such damage as described in the proceeding paragraph, the Purchaser shall indemnify, defend and hold the Contractor harmless.

If a claim for damage as described in this Clause is brought by a third party against the Contractor, the Contractor shall forthwith inform the Purchaser thereof In Writing.

If a third party initiates a legal proceeding, whether by court action or arbitration, against the Contractor for which the Purchaser has agreed to defend and indemnify, the Purchaser hereby consents to be added to such proceeding as an additional party and hereby waives any objection to the jurisdiction of such court or tribunal.

19 LIMITATION OF LIABILITY

19.1 Notwithstanding anything to the contrary set forth in these Standard Conditions, the following shall apply:

19.1.1 Neither the Contractor nor the Purchaser shall be liable to the other by way of indemnity or by reason of any breach of the Contract or of statutory duty or by reason of tort of whatever reason (including but not limited to negligence) for any loss of profit, loss of use, loss of production, loss of contracts, attorney's fees or for any indirect,

consequential or special damages whatsoever that may be suffered by the other.

19.1.2 In no circumstances whatsoever shall the liability of the Contractor to the Purchaser under the Contract by way of indemnity or for any one act or default exceed 25 per cent of the Contract Price.

19.2 The Purchaser and the Contractor intend that their respective rights, obligations and liabilities as provided for in this Contract shall be exclusively set forth herein and thus exhaustive of the remedies, rights, obligations and liabilities that may arise in respect or in consequence of a breach of contract or of statutory duty or a tortious or negligent act or omission at statutory and/or common law.

20 FORCE MAJEURE

20.1 Either party shall be entitled to suspend performance of its obligations under the Contract to the extent that such performance is impeded or made unreasonably onerous by force majeure, including but not limited to any of the following circumstances: industrial disputes and any other circumstance beyond the reasonable control of the parties such as fire, war (whether declared or not), extensive military mobilization, insurrection, epidemic disease, requisition, seizure, embargo, governmental action, restrictions in the use of power and defects or delays in deliveries by sub-contractors caused by and such circumstances referred to in this Clause.

20.2 The party claiming to be affected by Force Majeure shall notify the other party In Writing without undue delay on the intervention and on the cessation of such circumstance. If Force Majeure prevents the Purchaser from fulfilling its obligations, it shall compensate the Contractor for all costs incurred in securing and protecting the Work.

20.3 Regardless of what might otherwise follow from these Standard Conditions, either party shall be entitled to terminate the contract by notice In Writing to the other party if performance of the Contract is suspended under Clause 20.1 for more than 12 months.

21 SEVERABILITY

21.1 The parties agree that should any provision of this Contract violate any applicable mandatory law or regulation, such provision shall be deemed severable and modified to comply with such applicable mandatory laws or regulations to



the extent such modification will give meaning to the intent of the parties consistent with mandatory applicable laws and regulations.

22 CONFIDENTIALITY AND IPR

22.1 Commercial and technical information, including drawings, documents and computer programs regardless of the storage and the copies thereof relating to the Work submitted by one party to the other before and after the formation of the Contract shall remain the property of the submitting party and shall not, without consent In Writing of the other party, be used for any other purpose than installation of the Equipment and commissioning, operation or maintenance of the System. They may not, without consent In Writing of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party.

22.2 The Computer Software and Documentation constitute highly valuable property of the Contractor and contain IPR, trade secrets and confidential information owned by the Contractor. The Purchaser shall observe confidentiality with respect to the Computer Software, Documentation and performance data.

22.3 The obligations of confidentiality shall survive the termination or cancellation of this Contract.

22.4 The duty of confidentiality does not apply to confidential information which, by documentary evidence is:

- (a) already known to the Purchaser at the time it is obtained from the Contractor, free from any obligations to hold such information in confidence;
- (b) or becomes publicly known;
- (c) rightfully received from a third party without restrictions.

23 DISPUTES AND APPLICABLE LAW

The Contract shall be governed by the substantive law of the Contractor's country. All disputes arising in connection with this Contract shall be finally settled by three arbitrators pursuant to the applicable Arbitration Act of the Contractor's country. The arbitration shall be conducted in the English language and at the Contractor's main place of business.

24 ENTIRE AGREEMENT

This Contract embodies the entire agreement between the Contractor and the Purchaser. The parties shall not be bound by or liable for any statement, representation, promise or understanding not set forth herein. No changes, amendments, or modifications of any of the terms or conditions hereof shall be valid unless reduced to writing and signed by both parties.