
**CONDITIONS OF SALE OF KDC PROJECTS LIMITED
(Hereafter KDC)**

**IMPORTANT: CONDITIONS 7, 13 AND 14 PROVIDE THAT CERTAIN RISKS ARE TO BE
BORNE BY THE BUYER AND MAY AFFECT THE BUYER'S INSURANCE
ARRANGEMENTS**

1. **DEFINITIONS:** In these Conditions, the following definitions apply:

“**Contract**” means the agreement between KDC and the Buyer for the supply of goods and / or services in accordance with these Conditions;

“**these Conditions**” means these terms and conditions as amended from time to time;

“**Buyer**” means the person or firm who purchase the Goods and / or services from KDC;

“**Deliverables**” means the deliverables set out in the Order;

“**Delivery Location**” has the meaning set out in clause 7.1;

“**Goods**” means the goods / or any part of them set out in the Order;

“**Goods Specification**” means any specification for the Goods, including any relevant plans or drawings, that is agreed in writing between the Buyer and KDC;

“**KDC Materials**” has the meaning set out in clause 10.1(g).

“**Order**” means the Buyer's Order for the supply of Goods and / or Services as set out in the Buyer's purchase order form, or the Buyer's written acceptance of KDC's quotation or overleaf, as the case may be;

“**Services**” means the services, including the Deliverables, supplied by KDC to the Buyers as set out in the Service Specification;

“**Service Specification**” means the description or specification for the Services provided in writing by KDC to the Buyer; and

2. **GENERAL:**

The contract is entered into and all quotations are given subject to these Conditions which may only be varied or waived by written agreement between KDC and the Buyer. No Contract shall be made until KDC has accepted in writing an Order placed by the Buyer. If these Conditions differ from the terms of any offer made or Order placed by the Buyer, any subsequent communication by KDC constitutes a counter offer and not acceptance of such terms or Order. Any quotation given by KDC shall not constitute an offer and may be varied or withdrawn without notice. These Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate or which are implied by trade, custom, practice or course of dealing.

3. **DESCRIPTIONS:**

All photographs, drawings, descriptions and details in KDC's catalogues, price lists and other documents are only indicative of a type of Goods or Services offered by KDC and do not constitute warranties, conditions or representations in relation to such Goods or Services. The contract constitutes the entire agreement between the parties and the Buyer acknowledges that. No report, representation, advice, communication or statement made by a representative of KDC shall be binding on KDC unless expressly contained herein, subject to Clause 13.4(b). KDC reserves the right to incorporate improvements in the general development of its products and make and charge for mandatory modifications to the Goods.

4. **GOODS:**

4.1 The Goods are described in the KDC catalogue, as modified by any applicable Goods Specification as appropriate.

4.2 To the extent that the Goods are to be manufactured in accordance with the Goods Specification supplied by the Buyer, the Buyer shall indemnify KDC against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professions costs and expenses) suffered or incurred by KDC in connection with any claim made against KDC for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with KDC's use of the Goods Specification. This clause 4.2 shall survive termination of the Contract.

5. **PRICE:**

5.1 The price for the Goods shall be the price set out in the Order or, if no price is quoted, the price set out in KDC's published price list as at the date of delivery. Unless otherwise agreed in writing, all prices quoted are net ex-works trade packed and apply only in relation to the total quantities and dates and rates of delivery quoted. All prices are exclusive of duties and taxes (including where applicable Value Added Tax at the rate ruling at the relevant tax point) and all costs and charges of packaging, insurance and transportation of the Goods.

5.2 The charges for Services shall be on a time and materials basis and the charges shall be calculated in accordance with the KDC standard daily fee rates which fee rates for each individual person are calculated on the basis of an eight hour day from 8.30am to 5.00pm worked on business days, unless otherwise agreed. KDC should be able entitled to charge an overtime rate of 150% of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals submitting gauges on the Services outside the hours referred to in this clause 5.2 and KDC shall also be entitled to charge the Buyer for any expenses reasonably incurred by the individuals whom KDC engages in connection with the Services including but not limited to travelling expenses, hotel costs, subsistence and any associated expenses and for the cost of services provided by third parties and required by KDC for the performance of the Services and the costs of any materials.

5.3 KDC reserves the right, by written notice to the Buyer at any time, to:

(a) Adjust the price of the Goods anytime before delivery, to take account of increases in the costs of the Goods to KDC which is due to (i) any factor beyond the control of KDC such as costs of components etc under clause 3 above, (ii) any requests by the Buyer to change the delivery dates, quantities or types of Goods ordered or the Good Specification; or (iii) any delay caused by any instructions of the Buyer in respect of the Goods or failure of the Buyer to give KDC adequate or accurate information or instructions in respect of the Goods.

(b) Increase its standard daily fee rates for the charges for the Services provided that such charges cannot be increased more than once in any 12 month period. If after written notice has been provided to the Buyer and such increase is not acceptable to the Buyer, it shall notify KDC in writing within [] number of weeks of the date of KDC's notice and KDC shall have the right without limiting its other rights or remedies to terminate the Contract by giving [] weeks written notice to the Buyer.

6. PAYMENT:

Unless otherwise agreed in writing, all payments shall be made in full without deduction or withholding in cash in pounds sterling within 30 days of date of invoice and free of setoff, counterclaim, deduction or withholding except as required by law. In respect of Goods, KDC shall invoice the Buyer on or at any time after completion of delivery. In respect of Services, KDC shall invoice the Buyer monthly in arrears. Failure by the Buyer to make payment in accordance with the terms agreed shall, without prejudice to any other remedies KDC may have, render the Buyer liable to pay interest upon the total sums outstanding calculated at the rate of 6% above Barclays Bank PLC base rate from time to time in force calculated from the date of delivery, such interest accruing on a daily basis and being payable on demand. Time for payment is of the essence of the Contract.

7. DELIVERY:

7.1 Unless otherwise agreed and stated on the face hereof, the Buyers shall collect the Goods from the Supplier's premises or such other location as may be advised by the Supplier before delivery "**Delivery Location**" within 2 business days of KDC notifying the Buyer that the Goods are ready for collection. Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.

7.2 KDC shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the relevant Buyer and KDC reference numbers, the type and quantity of the Goods, special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

7.3 Any periods quoted for delivery or despatch are estimates only and time for delivery shall not be made of the essence. KDC shall not be liable for any for any delay in delivery of the Goods that is caused by Force Majeure Event or the Buyer's failure to provide KDC with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods. If KDC fails to deliver the Goods its liability should be limited to the price of those Goods not delivered and the Buyer shall not be entitled to reject any consignment of the Goods or to treat the Contract as repudiated in the event of any such failure.

7.4 Delivery of the Goods to a carrier for transmission to the Buyer or the delivery of the Goods to the Delivery Location shall constitute delivery to the Buyer and the risk therein shall upon such delivery pass to the Buyer. Section 32(2) and (3) of the Sale of Goods Act 1979 shall not apply.

7.5 KDC shall be entitled to make partial deliveries or deliveries by instalments and these Conditions shall apply to each partial delivery. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

7.6 Where the Goods are ready but cannot be despatched for any reason beyond the control of KDC or through the fault or delay of the Buyer, KDC shall be entitled to make a reasonable charge in respect of storage and insurance of the Goods.

8. TITLE AND RISK:

- 8.1 Risks in the Goods shall pass to the Buyer on delivery.
- 8.2 Title of the Goods shall not pass to the Buyer until KDC has received in full all sums due to it in respect of:
- (a) the Goods; and
 - (b) all other sums which are or which become due to KDC from the Buyer on any account.
- 8.3 Until title of the Goods has passed to the Buyer, the Buyer shall:
- (a) hold the Goods on a fiduciary basis as KDC's bailee;
 - (b) store the Goods (at no cost to KDC) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as KDC's property;
 - (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
 - (d) maintain the Goods in satisfactory condition and keep them insured on KDC's behalf for their full price against all risks to the reasonable satisfaction of KDC. On request the Buyer shall produce the policy of insurance to KDC.
- 8.4 While title in the Goods remains in KDC, KDC shall have the right without prejudice to the obligation of the Buyer to purchase the Goods or to retake possession of the Goods.
- 8.5 KDC shall have the right to maintain an action for the price notwithstanding that title in the Goods may not have passed to the Buyer.
- 8.6 Until title of the Goods passes to the Buyer, the Buyer grants KDC, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to repossess them pursuant to Clause 8.4 or inspect them.
- 8.7 On termination of the Contract, howsoever caused, KDC's (but not the Buyer's) rights contained in this Clause 8 shall remain in effect.
9. **SUPPLY OF SERVICES:**
- 9.1 KDC shall use its reasonable endeavours to provide the Services to the Buyer in accordance with the Service Specification in all material respects.
- 9.2 KDC shall use all reasonable endeavours to meet any performance date for the Services specified in the Service Specification but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 9.3 KDC shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement or which do not materially effect the nature or quality of the Services and KDC shall notify the Buyer in any such event.
- 9.4 KDC warrants to the Buyer that the Services will be provided using reasonable care and skill.
10. **BUYERS OBLIGATIONS:**
- 10.1 The Buyer shall:
- (a) Ensure that the terms of the Order (and if submitted by the Buyer) the Goods Specification are complete and accurate;
 - (b) Cooperate with KDC in all matters relating to the Services;
 - (c) Provide KDC and its employees, agents, consultants and sub-contractors with access to the Buyers' premises, office, accommodation and other facilities as reasonably required by KDC to provide the Services;
 - (d) Provide KDC with such information or materials as KDC may reasonably require to supply the services and ensure that such information is accurate and in all material respects;
 - (e) Prepare the Buyer's premises for the supply of the Services if applicable;
 - (f) Obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and
 - (g) Keep and maintain all materials, equipment, documents and other property of KDC ("**KDC Materials**") at the Buyer's premises in safe custody at its own risk, maintain KDC Materials in good condition until return to KDC and not dispose of or use KDC Materials other than in accordance with KDC's written instructions or authorisation.
10. If KDC's performance of any of its obligations in respect of the Services is prevented or delayed by any act or remission by the Buyer or failure by the Buyer to perform any relevant obligation ("**Buyer Default**"):

- (a) KDC shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Buyer remedies the Buyer Default and to rely on the Buyer Default to relieve it from the performance of any of its obligations to the extent the Buyer Default prevents or delays KDC's performance of any of its obligations.
- (b) KDC shall not be liable for any for costs or losses sustained or incurred by the Buyer arising directly or indirectly from the KDC's failure or delay to perform any of its obligations as set out in this clause 10.2.
- (c) the Buyer shall reimburse KDC on written demand for any costs or losses sustained or incurred by KDC arising directly or indirectly from the Buyer Default.

11. TRANSIT:

Claims for damages to Goods occurring in transit or for shortage in delivery or Goods received from carriers will be considered by KDC only if the carriers and KDC received written notification of such damages or shortage within seven days of arrival or in the event of loss of Goods in transit within 21 days of the date of consignment. Where delivery is taken of Goods without being checked they will be deemed to have been accepted by the Buyer unless the carrier's delivery book is signed "Not Examined".

12. INSPECTIONS:

12.1 Unless otherwise agreed in writing, KDC will carry out such tests and inspections as it usually carries out on such Goods. Any additional tests or inspections required by the Buyer will be to the Buyer's account.

12.2 The Goods shall be manufactured and released in accordance with the relevant requirements of such public or responsible body or bodies in the United Kingdom to whose jurisdiction, control or regulations the Goods may from time to time be subject and in addition such Goods as are manufactured by KDC shall be inspected and released by KDC under its own system of inspection as approved by any such body and such inspection and release shall constitute acceptance by the Buyer of all the Goods.

13. INTELLECTUAL PROPERTY RIGHTS ("IPR")

13.1 All IPR in the Goods (including without limitation any and all patent rights, design rights, copyrights and other IPR (whether registered or unregistered) in the specification(s) and design(s) of the Goods) shall, as between KDC and the Buyer, be the property of KDC. The Buyer represents and warrants that the use of any design(s), specification(s) and/or instruction(s) (or any part thereof) provided directly or indirectly by the Buyer will not infringe any rights of any third party. The Buyer shall indemnify and hold harmless KDC against any and all claims alleging infringement of trade marks, trade names, patents, copyrights, designs, registered designs and/or any other IPR (including without limitation any "passing off" claims) which arise as a result of KDC's compliance with the Buyer's specification(s), design(s) and/or instruction(s) (or any part thereof).

13.2 The Buyer shall:

- (a) notify KDC forthwith of any claim(s) that the sale, use or other exercise of the Goods infringes any IPR and give to KDC all authority and information and every reasonable assistance required by KDC for the defence of any such claim(s) and shall not itself admit, handle, deal with or compromise any such claim(s) except with the written consent of KDC;
- (b) The Buyer shall comply with all instructions of KDC and all legislation in relation to the sale, processing, storage and use of the Goods. KDC may without liability cancel or suspend any deliveries or manufacture of any of the Goods which have become the subject of a claim by a third party alleging infringement of any IPR.

13.3 The Contract does not grant the Buyer or any other third party any licence, express or implied, under any IPR of KDC for the Goods or any product, process, design or machine of which the Goods form part, nor does the sale of the Goods or supply of supporting information imply, represent or warrant that the Goods do not infringe the rights (including without limitation the IPR) of a (or any) third party (and for the avoidance of doubt no indemnity is given by KDC in relation to any such infringement(s) or alleged infringement(s)).

13.4 All IPR in or arising out of or in connection with the Services shall be rendered by KDC.

13.5 The Buyer acknowledges that in respect of any third party IPR in the Services, the Buyer's use of any such IPR is conditional on KDC obtaining a written licence from the relevant licensor on such terms as will entitle KDC to licence such rights to the Buyer.

13.6 All KDC Materials are the exclusive property of KDC.

14. INFORMATION:

14.1 All drawings, descriptions, specifications, designs, documents and other information (including without limitation features contained in any of the foregoing or in any objects or software), whether business or technical, (together, "Information") supplied or otherwise disclosed by KDC are supplied or disclosed on the express understanding that such supply or disclosure shall not be construed as passing to the Buyer any copyright (or any

other rights whatsoever) in such Information. All rights including, without limitation, copyright and property in all such Information shall, as between KDC and the Buyer, remain vested in KDC.

14.2 A party ("Receiving Party") shall keep in strict confidence all Information which are of a confidential nature and have been disclosed to the receiving party by the other party ("Disclosing Party"), its employees, agents or subcontractors and any other confidential information concerning the Disclosing Party's business, its products and services which the Receiving Party may obtain. The Receiving Party shall only disclose such confidential information to those of its employees, agents and sub-contractors who need to know it for the purpose of discharging the Receiving Party's obligations under the Contract and shall ensure that such employees, agents and sub-contractors comply with the obligations set out in this clause as though they were a party to the Contract. The Receiving Party may also disclose such of the Disclosing Party's confidential information as is required to be disclosed by law. Any governmental or regulatory authority or by a Court of Competent Jurisdiction. This clause 14.2 shall survive termination of the Contract.

15. KDC WARRANTY:

15.1 KDC will at its option either replace or repair or issue credit to the Buyer for the price of the Goods for any Goods found to be materially defective by sole reason of faulty design (to the extent parts are manufactured to KDC detailed design), materials or poor workmanship (fair wear and tear excluded) within 6 months from the date of delivery or within 60 hours of use (whichever shall first expire) provided that in each instance:

- (a) KDC is notified in writing within 7 days of the discovery of any such defects by the Buyer and the defective goods are returned to KDC, transportation charges being prepaid by the Buyer;
- (b) examination by KDC of such goods establishes to its satisfaction that such defects exist and have not been caused by misuse, neglect, improper installation or repair, alteration, accident or inadequate storage; and
- (c) this warranty shall not extend to any products or parts thereof not manufactured by KDC.

In the case of products not manufactured by KDC, KDC will so far as possible pass to the Buyer the benefit of any warranty or guarantee given to KDC by the manufacturers.

15.2 KDC shall not be liable for the Goods failure to comply with the warranty if the defect arises because KDC followed any drawing, design or Goods Specification supplied by the Buyer, or as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

15.3 If KDC complies with Clause 15.1, it shall have no further liability for a breach of the warranty in Clause 15.1 in respect of such goods.

15.4 In the case of a consumer transaction as defined in the Consumer Transactions (Restrictions on Statements) Order 1976 (as amended) this condition shall not affect the statutory rights of the Buyer.

16. LIMITATION OF LIABILITY:

16.1 Subject to Clause 15, the following provisions set out the entire financial liability of KDC (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

- (a) any breach by KDC of its obligations under the Contract;
- (b) any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the contract.

16.2 SAVE AS EXPRESSLY PROVIDED IN THESE CONDITIONS, ALL CONDITIONS, WARRANTIES AND OTHER TERMS IMPLIED BY STATUTE OR COMMON LAW, ARE, TO THE FULLEST EXTENT PERMITTED BY LAW, EXCLUDED FROM THE CONTRACT.

16.3 Subject to Clause 16.2 and Clause 16.4:

- (a) KDC'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 (save where Clause 16.2 applies); and
- (b) KDC shall not be liable to the Buyer for any:
 - (i) loss of sales or profit;
 - (ii) loss of business;
 - (iii) depletion of goodwill and/or similar losses;
 - (iv) loss of anticipated savings;
 - (v) loss of agreements contract;
 - (vi) loss of use;
 - (vii) loss or corruption of data or information; or

(viii) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses whatsoever (howsoever caused) which arise out of or in connection with the contract

16.4 Except where the Contract is an international supply contract within section 26 of the Unfair Contract Terms Act 1977 ("the Act") nothing contained in these conditions shall exclude or restrict:

(a) any liability of KDC for death or personal injury (as defined in the Act) resulting from negligence (as defined in the Act);

(b) any liability of KDC for fraud or fraudulent misrepresentation;

(c) any liability of KDC for breach of the implied undertakings as to title contained in section 12 of the Sale of Goods Act 1979 (as amended); and

(d) where the Buyer deals as a consumer within the meaning of the Act, any liability of KDC for breach of its implied undertakings as to conformity of the goods with description or sample or as to their quality or fitness for a particular purpose contained in sections 13, 14 and 15 of the Sale of Goods Act 1979 (as amended).

16.5 this clause 16 shall survive termination of the Contract.

17. TERMINATION

17.1 Without limiting its other rights or remedies, KDC may terminate the Contract with immediate effect by giving written notice to the Buyer if:

(a) the Buyer commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within [NUMBER] days after receipt of notice in writing to do so;

(b) the Buyer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

(c) the Buyer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of the Buyer;

(d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Buyer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;

(e) the Buyer (being an individual) is the subject of a bankruptcy petition or order;

(f) a creditor or encumbrancer of the Buyer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within [14] days;

(g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Buyer (being a company);

(h) the holder of a qualifying charge over the assets of the Buyer (being a company) has become entitled to appoint or has appointed an administrative receiver;

(i) a person becomes entitled to appoint a receiver over the assets of the Buyer or a receiver is appointed over the assets of the Buyer;

(j) any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 17.2(b) to clause 17.2(i) (inclusive);

(k) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;

(l) the Buyer's financial position deteriorates to such an extent that in KDC's reasonable opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or

(m) the Buyer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

17.2 Without limiting its other rights or remedies, KDC may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under this Contract within [] days of demand.

17.3 Without limiting its other rights or remedies, KDC may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Buyer and KDC if the Buyer fails to pay any amount due under this Contract on the due date for payment, or if the Buyer becomes subject to any of the events listed in clause 13.2(b) to clause 13.2(m).

17.4 On termination of the Contract for any reason:

- (a) the Buyer shall immediately pay to KDC all of KDC's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, KDC shall submit an invoice, which shall be payable by the Buyer immediately on receipt;
- (b) the Buyer shall return all of KDC Materials and any Deliverables which have not been fully paid for. If the Buyer fails to do so, then KDC may enter the Buyer's premises and take possession of them. Until they have been returned, the Buyer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

18. **FORCE MAJEURE:**

18.1 KDC shall not be liable for delay in performance or for non-performance in whole or in part of its obligations under the contract direct or indirectly resulting from causes beyond control either of KDC or of KDC's suppliers including, but not limited to reference to, acts of God, acts of the Buyer or a third party, hostilities, embargoes, sabotage, civil disturbance, government regulations, strikes, lock-outs or other industrial action, illness, flood, fire, impact, explosion, adverse weather, delay in delivery to KDC or KDC's suppliers or shortage of any services, products or materials (a "**Force Majeure Event**")

18.2 In any such event KDC may without liability extend the time for performing its obligations under the contract provided that if the Force Majeure Event prevents KDC from providing any of the Services and / or Goods for more than [] days / weeks], KDC shall, without limiting its own rights and remedies, have the right to terminate this Contract immediately by giving written notice to the Buyer. If the contract is frustrated or cancelled as a result of an event set out in Clause 18.1 KDC shall be entitled to such reasonable remuneration as it may specify.

19. **HEALTH AND SAFETY AT WORK ETC ACT 1974**

19.1 If the Goods are articles for use at work within the meaning of the Health and Safety at Work etc Act 1974, the Buyer hereby agrees that it is responsible for taking all necessary steps to ensure that the Goods are safe and without risks to health when properly used including:

- (a) regular and properly testing, inspecting and maintaining, properly installing, storing and housing the Goods,
- (b) disseminating adequate detailed information regarding their sale and proper use to the persons using the goods, and ensuring that the Goods are adequately manned, and the Buyer's order for the Goods shall be deemed to be its written undertaking therefore pursuant to the said Act.

20. **BUYER'S PROPERTY:**

Any property of the Buyer received by KDC whether for incorporation in Goods of KDC or for repair or otherwise will be held by KDC at the Buyer's risk as regards loss or damage whatsoever arising (whether due to KDC's negligence or otherwise). The Buyer shall also accept liability in cases where quantity, quality or delay in delivery of free issue items prejudices KDC's performance of the contract.

21. **PROPER LAW AND JURISDICTION:**

The contract shall be governed by and construed in accordance with English law and the Courts of England shall have non-exclusive jurisdiction to hear all disputes arising in connection with the contract.

22. **EXPORTS:**

In the case of export contracts the following additional conditions shall apply:

22.1 It is hereby declared and agreed that the Uniform Laws on International Sales Act 1967 and any statutory modification or re-enactment thereof shall not apply.

22.2 KDC shall not be taken as indemnifying the Buyer or as being liable for IPR infringement where the goods are sold or used outside UK or their usual function.

22.3 Any order that conflicts with the Export Control Act (ECA2002) and any revisions thereto shall in no event be binding upon KDC.

23. **SEVERANCE:**

If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

24. WAIVER:

Failure or delay by KDC in enforcing or partially enforcing any provision of the contract shall not be construed as a waiver of any of its rights under the Contract. Any waiver by KDC of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

25. THIRD PARTIES:

The parties to the Contract do not intend that any terms of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

26. ASSIGNMENT:

KDC may assign transfer, subcontract, charge or otherwise deal with its rights and obligations under the Contract the contract or any part of it to any person, firm or company. The Buyer shall not be entitled to assign transfer charge, subcontract or otherwise deal with its rights and obligations under the Contract or any part of it without the prior written consent of KDC.

27. NOTICES:

27.1 Any notice or other communication given to a Party under or in connection with this Contract shall be in writing addressed to that Party at its registered office (if it is a Company) or its principal place of business (in any other case) or such other address as that party may specify to the other Party in writing in accordance with this clause, and shall be delivered personally or sent by pre-paid first class post or other next working day delivery service or via commercial courier, fax or email.

27.2 A notice or other communication shall be deemed to have been received:

(a) If delivered personally when left at the address referred to in clause 27.1, is sent by prepaid first class post or other next working day delivery service at 9.00am on the second business day after posting, if delivered by commercial courier on the date and at the time that the courier'