

CONDITIONS OF SALE

1. Interpretation

1.1 In these Conditions:

'Buyer' means the person, firm or company who purchases Goods and/or Services from the Seller.

'Goods' means the goods agreed in the Contract to be supplied to the Buyer by the Seller.

'Conditions' means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.

'Contract' means each and every contract between the Buyer and the Seller for the purchase and sale of the Goods and/or Services and incorporating these Conditions.

'International Supply Contracts' as defined by Section 26(3) of the Unfair Contract Terms Act 1977 (or any amending legislation).

'Order Acknowledgement' means any acknowledgement of an order issued by the Seller to the Buyer.

'Seller' means HME Technology Limited

'Services' means all services to be provided under a Contract by the Seller to the Buyer.

'Website' means the website of the Seller [www.hme-tech.com].

'Writing' includes telex, cable, facsimile transmission, e-mail and comparable means of communication, including information given by the Seller via the Website.

Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. Basis of the Sale

2.1 The Seller shall sell and the Buyer shall purchase the Goods and/or Services subject to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions (including any terms and conditions which the Buyer purports to apply under any purchase order).

2.2 No variation to these Conditions shall be binding unless agreed in writing by the Seller.

2.3 In entering into the Contract the Buyer acknowledges that it has not relied on, and waives any claim for breach of, any representation, statement or promise (including but not limited to those contained on the Website) which is not set out in the Contract.

2.4 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage application or use of the Goods which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, or price list, acceptance of offer, invoice or other document or information issued by the Seller or any information contained on the Website shall be subject to correction without any liability on the part of the Seller.

3. Orders and specifications

3.1 Any quotation is given on the basis that no Contract shall come into existence until the Seller dispatches an Order Acknowledgement, or (if earlier) the Seller delivers the Goods or provides the Services to the Buyer.

3.2 Where the Buyer is placing an order via the Website no order shall be deemed to have been accepted until such time as the Seller sends an email to the Buyer confirming (in the case of Goods) the Goods have been dispatched or sends an Order Acknowledgement (in the case of services). The Contract between the Seller and the Buyer will only be formed once such confirmation/order Acknowledgement is received or at such time as the Goods are delivered or the Services provided (whichever is the earliest).

3.3 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods and/or Services within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.4 No Order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and no terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

3.5 By placing an order via the Website the Buyer confirms that it is legally capable of entering into binding contracts and, in the case of an individual, that it is at least 18 years old. The Buyer acknowledges that falsifying such information is a serious offence and agrees that the Seller is entitled to undertake background checks against the Buyer as is necessary to verify the Buyer's age and status.

3.6 If the Buyer is purchasing Goods as a consumer the Buyer may cancel a Contract at any time within 7 days beginning on the date it receives the Goods. If the Buyer cancels a Contract pursuant to this clause it must notify the Seller in writing and return the Goods to the Seller, at its own expense, within 14 days. A Buyer is not entitled to cancel orders for Goods that have been specifically manufactured, modified or otherwise personalised for the Buyer by the Seller. This provision does not affect any statutory rights of a Buyer acting as a consumer.

4. Description of the Goods

4.1 The quantity and description of and any specification for the Goods and/or Services shall be those set out in the Order Acknowledgement or in the absence of such Order Acknowledgement as set out in the Buyer's order (if accepted by the Seller).

4.2 Unless otherwise agreed in writing the Seller accepts no responsibility whatsoever for the design of the Goods or the suitability.

4.3 All samples, drawings, descriptive matter, specifications and advertising issued by the Seller and any descriptions or illustrations contained in the Seller's catalogue, brochure or Website are issued for the sole purpose of giving an appropriate idea of the Goods and/or Services described in them. They shall not form part of the Contract and this is not a sale by sample.

4.4 If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other Industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.

4.5 The Seller reserves the right to make any changes in the specification of the Goods and/or Services which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

5. Price and Charges

In the case of Goods:

- (a) The price shall be the Seller's quoted price or, where no price has been quoted for a quoted price is no longer valid, the price listed in the Seller's published price list current at the date of acceptance of the order;
- (b) Where the Goods are supplied for export from the United Kingdom, the Seller's published export price list shall apply;
- (c) Except as otherwise stated under the terms of any quotation or in any price list of the Seller and unless otherwise agreed in writing between the Buyer and the Seller, all prices are given by the Seller on an ex works basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance;
- (d) The cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods, but full credit will be given to the buyer provided they are returned undamaged to the Seller before the payment date.

In the case of Services:

- (a) Where Services are provided on a time and material basis:-
 - (i) the charges payable for the Services shall be calculated in accordance with the Seller's standard daily fee rate;
 - (ii) the Seller's standard daily fee rates for each individual engaged in the Services are calculated on the basis of an eight hour day between 8am and 5pm on weekdays (excluding public holidays);
 - (iii) the Seller shall be entitled to charge an additional overtime rate of 30% of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals engaged to provide the Services outside the hours referred to at condition 5.2(a)(ii).
- (b) Where Services are provided for fixed price, the total price for the Services shall be the amount agreed in writing between the parties;
- (c) Any fixed and daily rate excludes the cost of any hotel, sustenance, traveling or other ancillary expenses reasonably incurred by the individuals when the Seller engages in connection with the Services, the cost of any materials and the cost of any Services reasonably and properly provided by third parties and required by the Seller for the supply of Services such expenses, materials and third party services shall be invoiced separately.

5.3 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods and/or Services to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods and/or Services which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.

6. Terms of Payment

6.1 Subject to any special terms agreed in writing between the Buyer and the seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which even the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.

6.2 The Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled, but without any other deduction, set-off, counter claim, discount, abatement or otherwise) within 30 days of the date of the Seller's invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be the essence of the Contract. Receipts for payment will be issued only upon request.

- 6.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- (a) Cancel the contract or suspend any further deliveries to the Buyer;
 - (b) Appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
 - (c) Charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 3 per cent per annum above Barclays Bank base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
- 6.4 No payment shall be deemed to have been received until the Seller has received cleared funds.
- 6.5 In respect of Goods sold for export, unless otherwise agreed in writing, payment should be made by irrevocable letter of credit confirmed with a UK clearing bank approved by the Seller.
- 7. Delivery**
- 7.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, but the Seller delivering the Goods to that place.
- 7.2 Any dates quoted for delivery of the Goods are approximate only and time for delivery shall not be made of the essence by notice. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 7.3 The Seller may deliver the Goods in installments. Where the Goods are to be delivered in installments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the installments in accordance with these Conditions or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the Contract as a whole repudiated. Each installment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 7.4 Any liability of the Seller for non-delivery of the Goods shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) or similar goods to replace those not delivered over the price of the Goods.
- 7.5 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery:
- (a) the Seller may store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
 - (b) the Seller may sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any short fall below the price under the contract.
- 7.6 If the Buyer is ordering Goods for delivery outside of the UK such Goods may be subject to import duties and taxes which are levied when the Goods reach the specified destination. The Buyer will be responsible for payment of such import duties and taxes. The Buyer will comply with all laws and regulations of the country for which the Goods are destined and the Seller will not be liable for any breach of those laws.
- 8. Risk and property**
- Risk of damage to or loss of the Goods shall pass to the Buyer:
- (a) In the case of Goods to be delivered to the Buyer at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
 - (b) In the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
- 8.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property/legal title in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due and all other sums which are or which become due to the Seller on any account.
- 8.3 Until such time as the property/legal title in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property. Until that time the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any moneys or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.
- 8.4 Until such time as the property/legal title in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 8.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.
- 8.6 The Buyer's right to possession of the Goods shall terminate immediately if the Buyer becomes subject to any form of insolvency procedure. The Buyer grants to the Seller, its agents and employees an irrevocable licence at any time to enter any premises where Goods are or may be stored in order to inspect, or, where the Buyer's right to possession has terminated, to recover them
- 9. Quality**
- 9.1 Save in respect of International Supply Contracts, the provisions of this clause 9 shall apply:
- (a) Where the Buyer has the right of inspection of the Goods during and/or after manufacture but before delivery and the right to reject the Goods before delivery ("the right to inspect and reject"): (a) It shall be the Buyer's sole obligation to assess that the Goods are of satisfactory quality and that the Goods are fit for purpose. Accordingly sections 13 and 14 of the Sales of Goods Act 1979 shall be excluded; and
 - (b) the Buyer shall waive any claim that the Goods do not meet their description or match any sample previously given.
- 9.2 Where the Buyer does not have the right to inspect and reject as defined in clause 9.1 above, the Seller warrants subject to the remaining provisions of these conditions that the Goods shall be of satisfactory quality under the Sale of Goods Act 1979 and be reasonably fit for the purpose of which they have been supplied under the Contract.
- 9.3 The Buyer shall only be entitled to claim for breach of any of the warranties at condition 9.2 if the defects were not visibly apparent on delivery and:
- (a) The Buyer gives written notice of the defect to the Seller and, if the defect is as a result of damage in transit to the carrier, within 7 days of the time when the Buyer discovers or ought to have discovered the defect; and
 - (b) The Seller is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business for the examination to take place there.
- 9.4 The Seller shall not be liable for a breach of any of the warranties in condition 9.2 if:
- (a) The Buyer makes any further use of such Goods after giving such notice; or
 - (b) The defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
- (c) The Buyer alters or repairs such Goods without the written consent of the Seller
- 9.5 Subject to condition 9.3 and condition 9.4 if any of the Goods do not conform with any of the warranties in condition 9.2 the Seller shall at its option, repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro-rata Contract rate provided that, if the Seller so requests, the Buyer shall, at the Buyer's expense, return the Goods or the part of such Goods which is defective to the Seller.
- 9.6 If the Seller complies with condition 9.5 it shall have no further liability for a breach of any of the warranties in condition 9.2 in respect of such Goods.
- 9.7 Nothing in this clause 9 shall have the effect of limiting the statutory rights of a Buyer acting as a consumer.
- 10. Services**
- 10.1 The Services supplied under the Contract are to be provided by the Seller to the Buyer from the date agreed between the parties.
- 10.2 The Services supplied under the Contract shall continue to be supplied for the period agreed between the parties ("the Term") or if no Term is agreed shall continue to be supplied unless the Contract is terminated by one of the parties giving to the other not less than three months notice.
- 10.3 The Supplier shall use reasonable endeavours to meet any performance dates agreed, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 10.4 The Buyer shall:
- (a) co-operate with the Seller in all matters relating to the Services;
 - (b) provide the Seller, its agents, sub-contractors, consultants and employees in a timely manner and at no charge, with access to the Buyer's premises, office accommodation, data and other facilities as reasonably required by the Seller;
 - (c) provide to the Seller in a timely manner such input, material and other information as the Seller may reasonably require and ensure that it is accurate in all material respects;
 - (d) inform the Seller of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Buyer's premises.
- 10.5 If the Seller's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Buyer, its agents, sub-contractors, consultants or employees, the Seller shall not be liable for any costs, charges or losses sustained or incurred by the Buyer arising directly or indirectly from such prevention or delay. The Buyer shall be liable to pay on demand to the Seller all reasonable costs, charges or losses sustained or incurred by the Seller (including without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to, or death of any person, and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Buyer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Seller confirming such costs, charges and losses to the Buyer in writing.
- 11. UK Supply Contracts**
- 11.1 Save in respect of International Supply Contracts, the provisions of this clause 11 shall apply:
- Subject to condition 3, condition 4, condition 9 and save in the case of International Supply Contracts, where clause 12 applies the following provisions set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

- (a) any breach of these conditions;
 - (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; any use made by the Buyer of the Services.
- 11.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 11.3 Nothing in these conditions excludes or limits the liability of the Seller
- (a) For death or personal injury caused by the Seller's negligence; or
 - (b) Under section 2(3) of Consumer Protection Act 1987; or
 - (c) For any matter which it would be illegal for the Seller to exclude or attempt to exclude its liability; or
 - (d) For fraud or fraudulent misrepresentation.
- 11.4 Subject to condition 11.2 and condition 11.3 the Seller'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 amount paid by the Buyer for the Goods and/or Services (excluding Expenses) under the Contract ("the Contract Price").
- 11.5 Save as where otherwise stated in these conditions, the Seller shall not be liable for loss of profit; loss of business; depletion of goodwill and/or similar losses; loss of anticipated savings; loss of goods; loss of contract; loss of use; loss or corruption of data or information; any loss of government grant or similar financial allocation; any loss of trust status or similar; or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 11.6 The Buyer acknowledges and agrees that the Contract Price reflects the limitations of liability contained in these conditions
- 12 International Supply Contracts**
- The following provisions of this clause 12 apply to all International Supply Contracts.
- 12.1 The parties agree that where this clause 12 applies the Unfair Contract Terms Act shall not apply to the Contract.
- 12.2 All warranties or conditions (whether express or implied) as to quality, condition or fitness for purpose (whether statutory or otherwise) are excluded from the Contract to the fullest extent permitted by law.
- 12.3 The Seller's total liability in contract, tort (including negligence), misrepresentation or otherwise in relation to these conditions shall be limited to the amount paid by the Buyer for the Goods and/or Services (excluding Expenses) under the Contract (the "Contract Price").
- 12.4 The Seller shall not be liable to the Buyer for any indirect, special or consequential loss or damage; or loss of data or other equipment or property; or economic loss or damage; or incurring of liability for loss or damage of any nature whatsoever suffered by third parties (including in each case incidental and punitive damages); or any loss of actual or anticipated profit, interest, revenue, anticipated saving or business or damage to goodwill even if the Seller is advised in advance of the possibility of any such losses or damages.
- 12.5 The Seller is not liable for any losses arising from the Buyer's subsequent use or misuse of the Goods and/or Services and shall not be liable for fair wear and tear; the willful misconduct of the Seller, or its employees or agents; the Buyer's negligence, or that of its agents, or employees; or any failure to follow the Seller's instructions as to the use of the Goods; abnormal working conditions beyond those referred to in the specification; and any alteration or repair of the Goods by any manufacturing process or otherwise, save for any latent defect which means that the Goods did not comply with the specification.
- 12.6 The Seller is not liable for a defect in the Goods unless it is notified to the Seller within 3 days of the date of delivery or, if the defect would not be apparent on reasonable inspection, within 1 month of the date of delivery.
- 12.7 The Buyer acknowledges and agrees that the Contract Price reflects the limitations of liability contained in these conditions.
- 12.8 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon.
- 12.9 Unless otherwise agreed in writing between the Buyer and the Seller, the Goods shall be delivered fob the air or sea port of shipment and the Seller shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.
- 12.10 The Buyer shall be responsible for arranging for the testing and inspection of the Goods at the Seller's premises before shipment. The Seller shall have no liability for any claim in respect of any defect in the Goods, which would be apparent on inspection and which are made after shipment, or in respect of any damage during transit.
- 12.11 Payment of all amounts due to the Seller shall be made in accordance with the terms and conditions of this Contract
- 13 Confidential Information and Intellectual Property Rights**
- 13.1 All drawings, documents, confidential records, computer software and other information supplied by the Seller, whether produced by itself or a third party, are supplied on the express understanding that all intellectual property rights are reserved to the Seller (or the third party) and that the Buyer will not, without the written consent of the Seller, give away, loan, exhibit or sell any drawings, documents, records, software or other information or extracts from them, or copies of them, or use them in any way except in connection with the Goods and/or Services in respect of which they are issued.
- 13.2 All claims for alleged infringement of patents, trademarks, registered designs, design rights or copyright received by the Buyer relating to the Goods must be notified immediately to the Seller. If requested by the Seller, the Seller shall be entitled to have conduct of any proceedings relating to any such claim in such manner as the Seller thinks fit and the Buyer shall be entitled to have conduct of any proceedings relating to any such claim in such manner as the Seller thinks fit and the Buyer will provide the Seller such reasonable assistance as the Seller may request. The cost of any such proceedings will be borne by the Seller.
- 13.3 If any allegations shall be made against the Buyer to the effect that the supply of the Goods or the supply of the Services infringes the intellectual property rights of any third party or the Seller has reason to believe that such allegation is likely to be made. The Seller may at its option and expense modify or replace the Goods or amend the Services so as to avoid the infringement (but without adversely affecting the overall performance of the Goods), or obtain for the benefit of the Buyer the right to continue to use the Goods, or repurchase the Goods at the Contract Price as reduced by a reasonable provision for depreciation. If the Seller pursues any of such options, the Buyer will have no rights or remedies against the Seller arising directly or indirectly out of the alleged infringement.
- 14 Buyer's Drawings**
- 14.1 The Buyer shall be solely responsible for ensuring that all drawings, information, advice and recommendations given to the Seller, either directly or indirectly are accurate, correct and suitable Examination or consideration by the Seller of such drawings, information, advice or recommendations shall limit the Buyer's responsibility.
- 15 Plant and scaffolding**
- All plant and scaffolding provided by the Seller is for the sole use of the employees of the Seller. It shall be the responsibility of the Buyer to ensure that no unauthorised person uses the plant or scaffolding whilst it is on the premises of the buyer and it shall be the responsibility of the buyer to pay for any injury, damage or compensation that may arise from any such unauthorised use and the buyer shall indemnify the Seller against any such claims that may be made against the Seller. Any specialised scaffolding beyond that normally used by the Seller due to conditions on the Buyer's site, shall be provided and paid for by the Buyer.
- 16 Quotation Conditions/ Assumptions**
- 16.1 The quotation from the Seller does not include any work required from electricians, painters, builders, bricklayers, masons or carpenters, nor for drilling, cutting away walls, ceilings and steel work for pipe access or pipe hangers. The Buyer shall be responsible for ensuring that all excavations, back-filling making good and keeping trenches free from water, erosion and collapse, together with the lagging of pipe work exposed to the elements, shall be carried out to the requirements of the Seller and shall be paid for by the Buyer. Furthermore, the Buyer shall provide and pay for all lighting and power required to facilitate continuous working during the normal working hours of the Seller. The additional cost of any work required outside those hours shall be paid for by the Buyer.
- 16.2 All quotations for erection of the Goods shall be based upon the assumption that the site will be free from obstruction to the employees of the Seller and that all materials, tools and other tack on the site will present no obstacle or impediment to the proper and continued performance of the erection of the Goods by the Seller.
- 16.3 The Buyer shall provide and pay for all proper foundations at normal ground level and, where necessary, provide water for testing purposes and ensure that the same may be drained away.
- 17 Insolvency of Buyer**
- 17.1 This clause applies if:
- (a) The Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction) or
 - (b) An encumbrancer takes possession, or a receiver is appointed, or any of the property or assets of the Buyer; or
 - (c) The Buyer ceases, or threatens to cease, to carry on business or
 - (d) The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 17.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

18 Force Majeure

18.1 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as caused beyond the Seller's reasonable control: (a) Act of God, explosion, flood, tempest, fire or accident; (b) War or threat of war, sabotage, insurrection, civil disturbance or requisition; (c) Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority; (d) Import or export regulations or embargoes; (e) Strikes, lockouts or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party); (f) Difficulties in obtaining raw materials, labour, fuel parts or machinery; (g) Power failure or breakdown in machinery

19. Consumer Protection Act

Save for where the Buyer is acting as a consumer, the Buyer shall indemnify the Seller against all losses and damages (including costs, expenses and charges for legal actions in which the Seller may be involved) which the Seller may incur or have to bear if any claim or claims shall be made against the Seller pursuant to the Consumer Protection Act 1987 or otherwise in which the Goods supplied by the Seller are either:

- (a) not the defective part of the composite or other product; or
- (b) are only rendered the defective part or became a defective product by reason of acts or omissions of the Buyer or a third party; or
- (c) are only rendered the defective part or became a defective product by reason of instructions or warnings given by the Buyer or other supplier of the composite or other products; or are supplied in accordance with the specification or drawings furnished by or on behalf of the Buyer.

20 Communications

20.1 When using the Website the Buyer accepts that communication with the Seller will be mainly electronic. The Seller is entitled to contact the Buyer by email or by posting notices on the Website. The Buyer agrees that such electronic communication and acknowledges all contracts, notices, information and other communications shall apply with any legislation that such communications be in writing. This condition does not affect the Buyer's statutory rights.

20.2 All notices and other Communications shall be deemed to have been received if sent by pre-paid first class post, two days (excluding Saturdays, Sundays, bank and public holidays) after posting (exclusive of the day of posting); or if delivered by hand, on the day of delivery; or if sent by fax on a working day prior to 4.00pm at the time of transmission and otherwise on the next working day; or if sent by email within 24 hours of the email being sent.

21 Anti-corruption undertakings

21.1 The parties agree and undertake to each other that in connection with the Contract and the transactions contemplated by these conditions, they will each respectively comply with all applicable laws, rules, regulations, decrees and/or official government orders of the United Kingdom relating to anti-bribery and anti-money laundering.

21.2 The Buyer agrees, undertakes and confirms that it and its respective directors, officers, employees, agents and representatives have not in connection with the transactions contemplated by this Contract or in connection with any other business transactions involving the Seller made, offered or promised to make, and will not make, offer or promise to make any payment or transfer of anything of value, including without limitation the provisions of any service, gift or entertainment, directly or indirectly: (a) to any government official (including directors, officers and employees of government owned and government controlled companies and public international organisations); or (b) to any director, officer or employee of the Seller; or (c) to any political party, official of a political party, or candidate for public office; or (d) to an agent or intermediary for payment to any of the foregoing; or (e) to any other person or entity, for the purpose of obtaining or influencing the award of, or carrying out of the Contract.

22 General

22.1 The Seller is a member of the group of companies whose holding company is HME Technology Limited and accordingly the Seller may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group, provided that any act or omission of any such other member shall be deemed to be the act or omission of the Seller.

22.2 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

22.3 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

22.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

22.5 Any dispute arising under or in connection with these Conditions or the sale of the Goods shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of The Law Society.

The Contract shall be construed and governed in all respects by the laws of England