# terms and conditions of sale

# **1.** 1.1 1.1.1

roxap

limited

terms

and

conditions

ot

Sal

- the following expressions statistic version and the statistic version of the statistic version o
- the standard terms and conditions of sale of the Seller as set out in these terms and includes any additional terms and conditions of sale agreed in Writing by the Seller.
- What guy are served... 'Contract" is contract for the Supply of Goods and/or provision of Services by the Selferto the Buyer whether made verbally or in Writing.
- "Date of Delivery" he date on which delivery of the Goods or Services takes place pur
- "Goods" the goods, art Contract. as or items which the Seller is to supply under the
- around services, hazards and impediments to reasonable
- any underground services, its and any underground services and any underground services and any underground services whether verbally or in Writing.
- roxap Limited or the trading division, subsidiary or holding company or ssociate of the company as notified to the Buyer in Writing.
- work, installation, maintenance, services or any of them to be wided and where necessary delivered by the Seller pursuant to the
- Contrac. "Site" the premises or location nominated by the Buyer where Goods are to be delivered or Services provided by the Seller.
- Writing" ncludes facsimile transmission, electronic mail and other comparable means of communication.
- ORDERS, ACKNOWLEDGMENTS, CONDITIONS AND VARIATIONS
- **2.** 2.1 ithstanding that the Seller may have given a detailed quotation or tate either verbally or in Writing no Order shall be binding on the r unless and until it has been acknowledged in Writing by the Seller. 2.2
- These Conditions are incorporated in the Contract and contain the entire obligations between the Seller and the Buyer. In the case of any Conditions between the Seller and the Buyer, in the Case of any inconsistencybetween anyletter or quotation incorporating orrefering to these Conditions and any Order, letter or form of contract sent by the Buyer to the Seller, whatever may be their respective dates, the provisions of these Conditions shall prevail.
- e Conditions apply to all the Seller's sales and any variation to these titions and any representations about the Goods and the Services have no effect unless expressly agreed in Writing by the Seller. 2.3 These Cond

# **3.** 3.1

- DESCRIPTION The description of the Goods and/or Services shall be set out in the Seller's quotation. Any figures, statements, descriptions, illustrations, photographs, drawings, weights or any other matters contained in the Seller's catalogues, pamphlets, price lists, advertising literature or samples providedtoandinspectedbythe Buyer are not guaranteed to be accurat 3.2 intended merely to represent a general picture and/or quality of the ller's products and services and shall not form part of the Contract norbe arded as a warranty or representation relating to the Goods, or a sale by
- sample. If the Buyer wishes to order Goods in accordance with a particular grade or specification this should be tataed in the Buyer's Order and any companying drawings, but in any event be Selter stearces the right at any time without notice to the Buyer to change or modify the particulars of any specifications, description, design, drawing, illustration and/or particulars of any goods or materials used in their manufacture and/or supply the Goods as somofaled or subtatile similar goods of equivalent is a somofale or subtatile similar goods of equivalent 3.3
- Vype. I'rhe Seller and its servants and agents give no representations as to the condition of the Goods, their filness for purpose or the measurements or specifications of any Goods unless it is confirmed in Writing by the Seller. 3.4
- DESIGNS, BUYER'S PROPERTY AND INTELLECTUAL PROPERTY **4.** 4.1 DEGNORS, DUTER STRUCTENT AND MILELECURAL FROMENT No right of ownership or interest in the Selfer's patents, registered designs, trademarks, copyrights crany other intellectual property owned by the Selfer shall pass in any way to the Sulfer intellation to the Gods or **8**. Services provided under these Conditions. The Selfer gives no warranties and intellation to the Selfer spatents, registered designs, trade marks, copyrights crany other intellectual property and, in particular, does not warrant or regresent that any registered patents, registered designs, trade marks, copyrights crany other intellectual property are valid or will remain registered.
- Inde marka, copyright or any other intellectual property are valid or will main registrate. The second of the scape of the the Buyer's one superilication, pattern or deligin or where standard to the Buyer's net subject on social and the Buyer's instructions the Buyer's and subject on design does not infining any patent, that mark negatered design, specification, pattern or design build also that such specification, pattern or design does not infining any patent, that mark, negatered design, and inderstand and use phis Seler information of the Contract by second any to an and the second second and the second any to infiningement of any such patent. It takes mark, negatered design, infiningement of any such patent. It takes mark, negatered design, infiningement of any such patent. It takes mark, negatered design, copyright or infiningement of any such patent. It takes mark, negatered design, copyright or any design of the second or infiningement of any such patent. It takes mark, negatered design, copyright or any design of the second or patent or infiningement of any such patent. It takes mark, negatered design, copyright or the unstantiable for whatever reason for application or use. To the exeter that the Seler has agreed on Writing to make paterems the second takes of the Seler has agreed on the Writing to base paterems the second takes of the Seler has agreed on the Writing to base paterems the second takes of the Seler has agreed on the Writing to make paterems the second takes of the Seler has agreed on the Writing to the Seler has agreed on the Writing to the second take takes and takes and takes agreed takes and takes and takes agreed on the second takes and takes agreed on takes and takes and takes and takes and takes agreed on takes and takes and takes and takes agreed on takes and takes and takes and takes and takes and takes and takes agreed on takes and t 4.2
- be unsultable for Whatever reason to application or use. To the extent that the Seller has agreed in Writing to make patterns especially for the Buyer the same shall become the property of the Buyer when paid infull. Any replacements, alterations or repairs to any Buyer's patterns or equipment shall be paid for by the Buyer. 4.3
- especially for the Surye source when paid-full. Any replacements, alterations or response patterns or equipment shall be paid for by the Buyer. The Seller shall have on responsibility for any loss of or damage to any patterns, equipment or other leaves of the Buyer's property whils on the Seller's premises arising form inadqueut is torage or any unauthorised, injurious act or default by any employee of the Seller's or there equipment. Buyer must arrange is own insurance all times for such equipment. 4.4
- Buyer mutatranspels to wninsurance at allitises for such equipment. The Selfer stall have a general life on all the Buyer's property in the Selfer's possession for all sum due at any time from the Buyer and shall be effect to real more support of the self start of the Selfer's and shall be selfer to real more support of the self start of the Selfer's and the towards the payment of such sums on 28 days notices in Writing to the Buyer. On accounting to the Buyer for any balance remaining after payment of any sums due to the Selfer and the costs of sale or disposal, the Selfer in abla discharged of any liability functioner in respect to the Buyer's 4.5

# **5**. 5.1

- QUOTATIONS AND PRICE The Seller's quotations shall be valid for 30 working days from the date of quotation and are provisional in so far as they are subject to alteration by reference to any changes in the price of raw materials, any item to be acquired by the Seller from a third party, rates of wages, other costs of production, the conditions of the Sile to the provision of the Services and production, the conditions of the Site for the provision of the Site for the conditions of the Site for the provision of the Site for the conditions of the Site for the provision of the Site for the condition of the Site of the condition of the Contract (the condition in the event of errors or omissions. The Seller shall be elimited to adjust the Contract (the Site of the Site of the Contract (the event of errors or after the making of the Contract in the event of any analysis in the cost to the Seller of supplying the same or any partitiened caused by: any increase in the cost of materials or services required by the Seller for the completion (the Contract or any increase in the set of the Seller of supplying the same or any partitiened caused by: any increase in the sets of services required by the Seller for the completion (the Contract or
- 5.2
- 5.2.1
- increase in wages or production and manufacturing costs, taxes, as and other overheads; or 5.2.2 5.2.3
- 5.3
- addea and other overheads to ''' an ensurement of the costs, classes, any other reason whitssever the yound the control of the Seller including (but without prejudice to the generality of the foregoing) fluctuations in exchange rates between monetary currencises the action of any government any other authority or any labour problems. The Seller shall be entitled to adjust the Contract for Boods and/or Services whether before or after the making of the Contract in the entities of the Seller to supply additional Goods and/or Services which shall be dealt with in accordance with Condition 12. Unless otherwise stated, the prices are out in the Seller's aquadition shall be exclusive of any value added tax, insurance, packaging, cost of carriage to the contracted bloces of delivery, cost of d-folding and installation of the Goods (which for the svoidance of doubt shall be at the Buyer's toler risk but not being implied to congestion changes, parking change, local authority licences and/barges for stap and parking. 5.4 10.2.5
- 5.5
- Locates a distance to a generative tanges, jeaning targes, cut allunding locates at characteristic targets and the second secon 5.6 10.4

H:\ContractsRegister\Terms&ConditionsSale\JBNOV16

Tel 01782 564411 (7.30am-5.30pm, Monday to Friday) E.mail sales@broxap.com Web www.broxap.com

- The Buyer may request that the Selier carry out additional work to rectify any Hazards. The Selier is entitled to refuse such additional work. If the Selier accepts such additional work the Selier shall provide the Buyer with an estimate which the Buyer acknowledges may after once the Selier provides it with a revised quadation. If the Buyer is unable to meet any additional cost quoted by the Selier, the Selier reserves the right to whichar inform the Site and to entitore payment for completion of the self.
- eu. Buyer warrants that all information applied to Seller is complete and ate and the Seller reserves the right to amend the quotation and/or the act price or terminate the Contract in the event of any breach of this

### DELIVER

5.7

5.8

6. 6.1

6.2

6.6

6.7

7.2

7.3

9.1

0.2

9.5

9.6

97

**10.** 10.1

10.2

10.3

- DELIVERY 11.12 Delivery of Goods shall be deemed to be effected by the Seller, where Goods are delivered by the Seller, when the same arrive prior to unbealing and Sell of the seller, when the same arrive prior to unbealing and Sell of the seller, when the same arrive prior to the seller of the seller of the seller seller seller seller behalf of the Buyer by its servants or agents, when the same are collected or in the case of Services shall be deemed to be delivered at the 11.1.4 time of completion by the Seller of the Services.
- time d completion by the Seler of the Services. The second services will be serviced by the D set of D services will be set of D services the Contract by the D ate of D selvery such date of dates shall only constitute the times by which has Seller sequets to be differ such delivery and if no time is agreed delivery and/or provision will be within a reasonable time by the D seller shall not be Seller shall not be of the session of in any communitances be responsible for any direct or consequential boas of damaged any kind whatsoever. The Buyer shall ensure that, where Goods and/or Services are to be a provided to that B seller shall not constitute a buffer to direct and plate that any provide to the different direct or during the services or against, full and adequate access to the plate or during the services or against any complete the the Seller and/or is services against any complete the time services and the Seller and the Seller that the Seller that the Seller that the Seller shall the Sel
- deliveryandperformthe Services. If the other for any delay in 11.19 Naither of the parties shall be responsible to the other for any delay in 11.19 performance or non-performance due to any causes beyond the reasonable control of the parties, but the affected party shall promptly upon the occurrence of any such cause so inform the other party in 11.110 Writing, staling that such cause has delayed or prevented its performation intervent Contract can thereafter such party shall take all accomptly asposable.
- If the Buyer fails to take delivery of the Goods for any reason on the Date of Delivery, the Buyer shall pay the Seller for any re-delivery required by the
- Buyer. The Supplier reserves the right to refuse to deliver the Goods outside the 11.2 UK. Where the Goods are to be transported via sea transit the Seller and the Buyer agree that the Seller is not required to serve on the Buyer such notice as provided far in section 32(3) of the Sale of Goods Act 1978. 11.2. 11.2.1
- provide in social and social

### QUANTITIES AND INSTALMENTS

- The service Goods are delivered and/or Services are provided by instalments the instalment shall be deemed to be sold under a separate Contract of the party in default in respect of any instalment shall be liable performance of the Contract are grand soft and instalments.
- due performance of the Contract as regards other installments, the sense mitted due performance of the Contract as regards other installments, the Seller shall be entited to invice such installment as and where y and/or non-provision is made and payment for all delivered and/or Services provided by instalments shall be due notivitientanding non-delivery and/or non-provision of other installment by other address the second secon 13.1
- The Contract shall be deemed to have been fulfilled by delivery of a quantity within 10% either way of the quantity ordered and the Buyer shall ave the price of the Goods actually received. 13.3.1

### SUSPENSION AND CANCELLATION

- Subjectional and CARCELATION If the Boyer requires cancellation of the Contract this will only built the Boyer requires cancellation of the Contract the second second Withingonly upon condition that any costs, charges responses (both direct and onerequential) incurred by the Saler up to the date of cancellation and the value of all loss or damage (both direct and consequential) incursed by the Selevin to the date of a consequential) the Boyer to the Selevin to think, acceptance by the Selevin of any the Boyer to the Selevin to think, Acceptance by the Selevin of any Withins. 13.3.3
- cancellation by the Buyer will only be arrang spears are some Winning. 13.34 The Seller shall suspend the performance of the Contract on receipt of a strateging of the Seller for a strateging of the Seller for a strateging storage charges and the Seller shows the Seller for use the Seller such costs shall be added to and form part of the price of the Goods. If such assessments hall continue for a period of more than 28 days then the seller may terminate the Contract and the rights and labilities of the particle storage charges and charge strateging the strateging of the strateging of the seller may terminate the Contract and the rights and labilities of the particle strateging of the strateging o 13.4

### TERMS OF PAYMENT

- Save where the Seller has otherwise agreed in Writing payment of the proc of the Goods and/or Services is due 30 days from the dateon which the Goods and/or Services were delivered or deemed to be delivered and the time for payment shall be defined to have been received until the Seller has No payments shall be defined to have been received until the Seller has 13.4.
- 1342 ved cleared funds. All payments payable to the Seller under the act shall become due immediately on termination of this Contract
- Contract shall become due immediately on termination of this Contract depite any other provision. The Buyer shall noche entitled to withhod/payment of any amount due to the Seller by reason of any disputed daims by the Buyer in concection with the Contract nor shall the Buyer be entitled to set off against any amount payable under the Contract to the Seller any amount which is not them due and payable by the Seller for for which the Seller disputes liability. If the Buyer liab is pay the Seller any sum due pursuant to the Contract to the Seller date to payable by the Seller of or which the Seller disputes liability. If the Buyer liab is pay the Seller any amount pay the seller any date of payments at the amount rate of 4% above the base lending rate of Mational Westminest Bank pic, according on a daily basis will payment is sell discretion, to levy an additional thange with may be incurred by the Seller as nessit of the Seller pursuing the Buyer for payment. The Seller may suppend or close the credit accord with the Buyer relevant to is contract, to comply with the terms and conditions relevant bits and or part of is credit account.

- relevantoniscreditaccount. If the Buyer pays all or part of this credit account with a cheque and the cheque is dishonoured, the Seller reserves the right to debit the Buyer's credita account with any charge level by the Seller's bankers and/or any other thirdparty in respect to the handling of the dishonoured cheque. Where the Seller agrees for the Buyer to pay for the Goods and/or Services by instalments, any delay or default in making payment do one (or more) instalment(s), will ender all remaining instalments due and payable together with interest in accordance with Conditions 9.4.

# NTALLATION, MAINTENANCE AND/OR PROVISION OF SERVICES When the Contractincludes provision of Services by the Seler, the Seler will supply all necessary personnel and tools for the provision of the Services according/other details specified in tage updation. Where Services are to be provided under Condition 101, unless otherwise agreed the Buyer will be responsible for (as agree) protected all necessary preparation of the Sile including, but not being limited to all when perpendiculations, appoint instructures and flexipoints. The provide of the conduction service of the Coolds from the time of delivery.

- 10.2.1 10.2.2
- 10.2.3
- time orcearivery; the provision of scatfolding, lifting and any other equipment (excluding tools) to allow or assist the Seller to provide the Services; any other matter not included in the Seller's quotation but required to enable the Seller to provide the Services; 10.2.4
  - giving the Seler access to and possible the Site at such time and in 14, such state as may enable it to complete the provision of the Services 14.1 withinaryagreed timelimit; the removal of all debris and surplus materials from the Site at its sole cost and expense.

  - cost and expense. The Buyer acknowledges that the Seller may not be able to perform the Services unless the Buyer has compiled with its obligations under Concilion 10.2, there Buyer that comprised all carry of the items referred to 15. In the Buyer that comprised all carry of the items referred to 15. In example, and the Buyer that the provide all carry of the items referred to 15. In example, and the service that the provision of a unit is sele option aither arrange for the provision of auch item or items is items require and charge such expense as any bain curred in providing such item or items to the Buyer or invoke the provisions of Condition 10.4 below.
  - Item of items to the striper of involve the province of the balance. The Buyer acknowledges that the ability of the Seller to provide the Services is of primary importances to the Beller. In view of the Billiculty of unable to provide the Services at the time and/or on the claims agreed between the particular but to the Buyer to compute what any of its obligations under Condition 10.2, the parties have attempted to obligations. 15.2 15.2.1 15.2.2

provide a genuine pre-estimate of the loss the Seller would suffer. Without prejudice to any other right or remedy the Seller may have for failure by the Buyer to take delivery of the Services under the Contract, the Buyer argress to pay to the Seller a sum to be determined by the Seller acting reasonably and with reference to its standard arches charged for the provision of services similar or identical to the Services by way of compensation for each day or part of a day by which the Seller a prevented from providing the Services subject to a maximum of the Contract price. provi. Withou failure by . Buyer agree, acting reasona rovision of rpensatic rted

broxap

aintain the Goods in satisfactory condition and keep them insured ainst all risks for their full price from the date of delivery; if the Sellier immediately if it becomes subject to any of the ents listed in clause 15.5; and the Seller such information relating to the Goods as the Seller sy require from time to time.

give the Seller such information reliating to the Goods as the Seller may require from into to time. Such as the Cool and the Seller such usars to which it is Goods support instrat topy at the Seller such usars to which it is each to the Seller such usars to Seller such usars to which it is the to be Seller shall have an advect segment from any monopy of the Super and/or any third he Seller such usars and the effected in the ordinary course of the Super's business at full market value, and any such sale that be as all or the Seller such usars and the seller such usars the and/or any third he Seller's program was any such as sell. The Seller may at any time revoke the Super's conditional power of sells contained in Condition 15.3 by giving 24 hours' pro notice in Writing of such revocation and without notice in the event of the Seller has bons file down and whour notice in the event of the Seller has bons file down and whour notice in the event of the Seller has bons file down and whour notice in the event of the Seller has bons file down the Seller of the Super's conditional power of the Seller has bons file down the Seller of the Seller of the Seller of the Seller has bons file down the Seller of the Seller of the Seller of the Seller has bons file down the Seller of the Seller of the Seller of the Seller has bons file down the Seller of the soler of the Seller has bons file down the seller of the Goods and contained has a contained in the Seller in the seller of the Goods and the Seller has bons file down the seller of the torther whole or sele contained in the seller in the seller of the Goods and the Seller has bons file down the seller and the seller of the Seller has bons file down the seller seller the seller of the Seller has bons file down the seller and the seller and the seller the Seller has bons file down the seller and the seller the Seller has bons file down the seller seller the seller the Seller has bons file down the seller seller the seler the Seller has bons fi

sale contained in Condition 15.3 shall automatically cease it. a receiver or admitistrative receiver is appointed over the whole or any part of the assets or the undertaking of the Buyer or a winding up order is made against the Buyer or the Buyer orge and the voluntary liquidation (except solely for the purpose of reconstruction or malganization) or calls a meeting or makes any arrangement with its any aird bankhophyror the Bures address r is in more whome hu wave is doneinthe for the Bures address r is in more whome hu wave is doneinthe for

Buyer pledges or in any way charges by way of security for lebtedness the whole or any part of the Goods.

Indebtedness the whole or any part of the Goods. Should the Contract require the installation of the Goods at or in the premises of any third party, the Buyer shall notify the third party before installation begins of the terms of the Condition 15 and Obtain the achnowledgement in Winting of the third party (bending a copy thereof the Link of Condition 15 and the Condition 15 and Condition to and concomester the rights of the Safet under larms of the Condition made by the third party directly with the Safet: The Safet will have the rights of the Safet in action agains the Buyer for the price of the Goods notwithstanding that property in the Goods has not passed.

Interprise of the Goods notwinnstanding that property in the Goods and not passed. The Buyer grants the Seller, its agents and employees an intervocable licence at any time to enter the premises where the Goods are or may be stored with or without vehicles in order to recover them, where the Buyer's right to possession has terminated On termination of the Contract, howsover caused, the Seller's (but not the Buyer's rights contained in this Continon is half enterminian in effect.

RISK ADD INSURANCE The risk in the Goods and Services shall pass to the Buyer at the time of delivery as provided for in Condition 6. The Services shall be deemado be delivered at the time of completion by the Seller of the Services. Notwithstanding the reservation of title contained in Condition 15, the Buyer shall insure the Goods and/or any product smale wholly or parity therefrom and/or all areas on which the Services are being rendered for the full amount of the price payable under the Contract with an insurance efficie of repute from the time of delivery of the Goods and/or performer of the site to the Seller as the owner of the Goods and/or performer of the Seller as the owner of the Goods insurance and produce such policy to the Seller for impection on demand.

HEALTHANDSAFETYATWORK(ETC)ACT1974 The attention of the Buyer is drawn to the provisions of section 6 Health and Safety AI Work (Etc) Act 1974. The Seller will make analable upon request information on the design, construction and installation of its products to ensure that, as far as is reasonably particulable, they are safe and whitout risk to health. It is the responsibility of the Buyer to take such steps as are necessary to Services which is appropriate is made unalable to its sensitiva, grants or any person to whom the Buyer supplies them and to any other person to whom the Buyer reasonably considers any such information should be given.

PROCE MALEXEE The Solidar reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Seller including, without limitation, acts of dod, government actions, war or national emergency, not, ori bubour dispates, provided that, if the event in question continues for a continuous period in excess of 60 days, the Buyer that be entited to ave notice in Writing to the Seller toterminate the Contract.

Vithout prejudice to any other rights or remedies which the parties nay have, the Seller may at its option terminate the Contract and/or uspend the performance of the Contract if:

(if such a breach is remediable) fails to remedy that breach within 30 days of being notified in writing of the breach; or

days of being notified in writing of the breach; or the Buyer commiss a breach of any of the terms of any other contract between the Buyer and the Seller (or any number of the Seller's group of companies) and (if such breach is remediable) fails to remedy that breach writin 30 days of being notified in writing of the breach; the Buyer subgenies, or threatens to subgenic Agriculture of its debts or is unable to pay its debts as they fail due or admits liability to pay its debts: or

The Buyer has a barkingtey order made against him or makes an arrangement or composition with its creditors, or otherwise take the benefit of any statutory provision for the line being in force for the relief of insolvent debtors, or (being a company) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary bas a receiver appointed over its undertaking or any part thereol, or documents are filed with the court for the appointment of an administrator igne by the Buyer or notice of intertion to appoint an administrator igne with the diverse of the diverse of the Buyer asys proceedings are commenced reliation to the insolvency or passible insolvency of the Buyer or the Buyer cases or threaters to case to carro in bluimiens.

there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010).

GENERAL If any time any one or more of the provisions or part thereof of these Conditions becomes or is invalid, illegal or unenforceable in any respect under any law or is held by a court to be invalid, illegal or unenforceable, the validy and enforceability of the remaining provisions hereof shallnot in any wey bacflecked or impaired thereby. These Conditions and each and every Contract made pursuant to them hall be governed by and construct of all respects in accordance with the laws of England and the Selier and the Buyer hereby agree to shall to thome-exclusive jurisdification of the English Const.

admit to the for exclusive purposed and the registration of the registration of the registration of 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 other address as may at the relevant line have been notified pursuant to this provision to the party adving the notice. Notices shall be deemed to have been received:

sent by pre-paid first class post, two days (excluding Saturdays, undays and bank and public holidays) after posting (exclusive of the ay of posting); or

It delivered by hand, on the day of delivery, or if sent by tax, on a working day prior to 4.00pm, at the time of transmission and otherwise on the next working day. No waive by the Seller of any prevalent of any provision of the Contract by the Buyer shall be considered as a waiver of any subsequent based on the same on any other provision and the Seller waited based on the same of the source of the Contract shall be increased by true of the Contract shall be increased by true of the Contract Seller to 1998 by any person that is not a party to it. The Seller may assign the Contract or way part of it oany person, firm or company. The Buyer shall not be entitled to assign the Contract on on parafit i who way the prior writer context of the Seller.

e Seller reserves the right to subcontract any part of the Order or

Contract. The Buyer acknowledges and agrees that details of the Buyer's name, address and payment record may be submitted to a credit reference agreency and personal data will be processed by and on behalf of the Seller.

uminit une center. Nothing in the Contract is intended to, or shall be deemed to, constitute a partenership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

if delivered by hand, on the day of delivery; or

. ease to carrv on its b

the Buver ceases or threatens to

HEALTH AND SAFETY AT WORK (ETC) ACT 1974 The attention of the Removie of

15.2.3

15.2.4

15.2.5

15.3

15.4

15.5

15.5.1

15.5.2

15.6

15.7

**16.** 16.1

16.2

**17.** 17.1

18. 18.1

**19.** 19.1

19.1.1

19.1.2

19.1.3

19.1.4

19.1.5 19.1.6

20. 20.1 GENERAL

20.2

20.3

20.3.1

20.3.2

20.3.3 20.4

20.5

20.6

20.7

20.9

TERMINATION

RISK AND INSURANCE

### BUYER'S WARRANTIES

The buyer warrands that: where the Goods are to be installed and/or the Services are to be performed in or at the premises of any third party it has full and proper authority of the Selfie to enter the permises of that third party to install the Goods and/or perform the Services and undertakes with the Selfer to inform it forthwith in the event of any supersion or termination of that authority; the installation of the Goods and/or the provision of the Services will not continuence any supersion available to available the available of the Services will not not limited to, relevant Highways legislation and will not infringe any third partyrights:

is thas obtained all relevant licences and consents to allow for the Seller to perform the Services and it has complied with all requirements applicable to the Goods;

tome ecoods; it has carried out a full inspection of the areas on which the Seller is performing the Services and has arranged for the preparation where appropriate of all necessary risk assessments, method statements and relevant drawings, including, but not limited to, underground service enventions.

it has taken all reasonable precautions to procure that all areas on Seller is performing the Services are safe and without risk to healt 

The Goods are sufficiently suitable and fit for the purposes which the Buyer intend; the installation, use and operation of the Goods comply, both before and after installation and during operation, with all relevant legislation including but not being limited beath and safely legislation. Where the Buyer provides any picce or picces of equipment for the installation and/or operation of the goods or which is analitary to and/or for use in connection with the Goods, the use of such picce or picces of equipments if the purpose and does not adversely affect the suitability or times to purpose of any additional goods supplied and installed. It will comply and has complied with all applicable anti-slavery and human trafficing leves, statutes, regularises from time to time in force. The Buyer shall indemnity and hold the Salter and its offices, directors, employees and agents harmless aginst any clinicar, contained n Condition 11; and/or without prejudication and/or threach by the Buyer of the warranties contained n Condition 11; and/or without prejudication the foregoing any breach by the Buyer of any of these Conditions.

ADDITIONAL GOODS/SERVICES Where the Buyer requires Goods and/or Services to be provided in addition to those set out in the Contract but as a part of the Contract, the Buyer shall place an Order in Wirting therefore and upon acceptance in Writing by the Seller of such Order the provisions of these Conditions shall party throse additional Goods and/or Services.

### SELLER'S WARRANTY

SELLETS WAREANTY Subject to an yearanty stated in the Order the Seller shall make good by replacement or, at its option, repair any failure (fair wear and tear sexpled) in the Cools and/or Sarvice sub-in, uncle coordinos of proper design, materials or workmanetip and which appears not later than 12 months after the Date of Delevory of artic thad so which the provision of the Servicesis completed. Netwinthstanding the provisions of Condition 13.1, in the case of a claim discretion to cradit the Buyer in full the price paid by the Buyer to the Seler.

Seller: The Seller's liability under this Condition shall automatically cease if: the Buyer shall not have paid for all Goods supplied and/or Services provided under and/Contract by the due date or is otherwise in breach of this or any other contract made with the Seller; or is the Seller or its evants to regents are denied full and free right of access to the allegedly detective. Goods and/or Services or the Buyer has not properly key used maintainated the Goods strictly nancordance with the manufacturer's or the Seller's instructions (if any); or the detect or failing is caused by will disrange, interference, dirt, neglect, detectablescome apparent; or the detect or failing is caused by will detective. The detective maintenance or incorrect

derect nas become apparent; or the defect or failure is caused by defective, maintenance or incorrect installation of the Goods by an agent or contractor of the Buyer; or the defect or failure is caused by wear and tear; or

In the one continue is a caused of weak and users of the Buyer has failed to notify the Seller in Writing of any loss, defect or suspected defect within 3 days of the Date of Delivery; or if such defect or failure ansess as a result of any inaccurate or incomplete information or details supplied by the Buyer or in any defect or inaccuracy in any design, patterns, equipment or other property of the Buyer; or

the Buyer has modified the Goods in any way.

The warranty set to thin Condition 13.1 shall be in lieu of any warranties conditions or undertakings whether express or implied by statute, common law or derewise howsover which warranties, conditions and undertakings are hereby expressly excluded, except that such exclusions will notapply to:

not apply to: any implied condition that the Seller has or will have the right to sell the Goods when the property is to pass; or when the Buyer deals as a consumer (as defined in section 12 Unfair Contract Terms Act 1977), any implied term relating to the cordormly of the goods with their description or sample or as to their quality or tilness for a

when the Buyer deals as a consume (as defined in section 12 Unfair Contract Terms A1 1977), any implete ore as their quality of these for pools with their description or sample or as to their quality of these for a section of the control or sample or as to their quality of these for any other section of the control or sample or as to their quality of these theory of the control or sample or as to their quality of these for any other section of the control or sample or as to the frequency in the control or the control or the Seler, its services of the select provide or sample or the select or indirect consequential or incidental loss, injur, delay, organize or damage of any kind whatcover the boyer or sampling the select or indirect consequential or incidental loss, injur, delay, organize or damage of any kind whatcover provide or the select or the select, its services whether or not such defect is directly or indirectly wholly or in part caused by the act, mission, delaw or neglegience of the Select, its services whether or not such defect is directly or indirectly wholly or in part caused by the act, mission, delaw of the select is service whole or any or indirect or not such defect amounts to a breach of a fundamental introl or nonecondow with the Contract, whether in contract, to be contact market in a contraction with the Contract, whether in contract, to which the Contract delates. Any Cook that as designed for the Cook and control services to uncomstance are designed or to cook and or services to the Select contrametare as designed or to cook and or services to the Select is any or the Contract delates. Any Cook that as designed for the cook and unclose or damage cooks and the Seler shall no the liable for any loss or damage cooks and the Seler shall no the beam marking heads any designed to the service designed or the cooks and proves the deliable or the service the select and the cooks and proves the deliable of the service the select and the board the service service that whether anot down the bead the

GOODS AND MATERIALS MANUFACTURED BY THIRD PARTIES Where the Goods which are the subject of the Contract are not manufactured by the Seller and are delivered direct to the Buyer or colderade by on or behalf of the Buyer from the manufacturer or other third party, the Seller shall not be liable for any loss or damage to such Goods whatsoever or whensoever occurring.

Until payment in full of all monies due and owing by the Buyer to the Seller on any account whatsoever has been received full legal and beneficial ownership of the Goods shall be retained by the Seller notwithstanding that the risk in the same shall pass to the Buyer at the

Until title to the Goods has passed from the Seller to the Buyer, the Buyer shall:

Buyer shall: Store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property; not remove, deface or obscure any identifying mark on or relating the Goods that clearly identify them as belonging to the Seller;

TITLE TO GOODS

Broxap Limited ("the Company") CONDITIONS OF PURCHASE

# TERMS AND CONDITIONS

broxap

limited

terms

and

conditions

- Each order by the Company constitutes an offer to the person named in the order ("Supplier") in relation to the goods and/or services and at the price and upon the terms and conditions stated or referred to in it and these Conditions. Any commencemento work on the order or written acknowledgment (whether ornotreferring to conditions inconsistent with these Conditions unless clearly stated on its face to be a counter offer) of the order may be treated by the Company as an unconditional acceptance of the order. The contract formed by such acceptance of the Company's order ("Contract") shall exclude any terms or conditions put forward by the Supplier or referred to in any negotiations or arising from any previous ourse of business. 1.1 course of business
- 1.2 The Company shall not be liable for any order unless issued on the Company's official order form nor be bound by any variation or waiver or, addition to, these Conditions unless in writing signed by an authorised officer of the Company

### PRICE AND PAYMENT

- The prices payable for the goods and/or services ordered by the Company shall be the prices listed in the order 2.1
- In the event that the Supplier shall seek to increase its prices, it shall give to the Company, not less than 60 days' notice in writing of its intention to implement such price increases 2.2
- No variation or increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in exchange rates or otherwise) without the prior consent of the Company in writing 2.3
- The Company shall pay the price for the goods and/or the services on a 60 day the monthly account, following receipt by the Company of the Supplier's invoice, but time for payment shall not be of the essence of the Contract

### DELIVERY AND PERFORMANCE

- The Supplier agrees that all goods shall be delivered at the time (being of the essence) and in the quantities specified in the Contract, all charges paid, at the Supplier's risk, adequately packed and protected against damage and deterroration at the times and places instructed by the Company and all services will likewise be performed at the time (being of the essence) and correct locations as specified in the Contract. The Supplier shall, at the Company's request, promptly replace free of charge of the state of the contract. 31 any goods damaged or lost in transit
- The Supplier shall provide such manufacturing work programmes as the Company reasonably requires and keep the Company advised of the progress of the Contract and shall, in particular, immediately notify the Company of any apprehended delay in delivery or performance or the occurrence of any circumstances, including, but not limited to, breakdowns, labour dispute or transportation difficulties, which might give rise to any such delay 3.2

### WORKMANSHIP. MATERIALS AND DESIGN

The Supplier warrants as separate conditions of the Contract that all goods and, to the extent applicable, any services, shall (a) be new and unused, (b) be free from defects in design, materials and workmanship, (c) be fit for their purpose, (d) comply with all specifications, drawings, samples or other descriptions furnished or specified by the Company, (e) be in accordance with all quality and other standards of the Company from time to time in force, (f) conform to all applicable codes of practice, British standards and manufacturer's recommendations from time to time in force, (g) comply with all other conditions or uncertaine expression direct that a company low of the house. 4.1 ranties express or implied under statute, common law or otherwise

### RECEIPT AND INSPECTION

- All goods and/or services are subject to inspection at the Company's premises. The Supplier shall also, at the Company's request, permit any persons designated by the Company to inspect any goods prior to delivery and shall ensure that, on delivery, the goodsareaccompanied by such certificaties as toorigin, quality ordnewise asthe Company reasonably requires
- Without prejudice to any other remedy, the Company shall be entitled to accept goods and/or services which are defective or otherwise not in accordance with the Contract and, at its discretion and at the Supplier's expense, carry out, have carried out or permit the Supplier to carry out any work which the Company considers necessary to conform the goods and/or services to the Contract. 52
- 5.3 The carrying out or failure to carry out any inspection or checking or any approval given by or on behalf of the Company or payment for any goods and/or services shall not constitute acceptance of them or affect the Company's right to reject them

### REJECTED GOODS AND SERVICES

Goods and/or services rejected by the Company shall be collected by the Supplier promptly upon notice of rejection being given by the Company and pending collection shall be held at the expense and risk of the Supplier who shall pay all expenses incurred by the Company in packing, handling and sorting rejected goods and/or services. If the Supplier fails to so collect the rejected goods within one (1) month of the date on which such notice or ferection is given the Company reserves the right, at its option, to dispose of the rejected goods in a manner it thinks fit without liability to the Supplier 6.1

### TITLE

7.1 Title in all goods shall pass to the Company on delivery or, if earlier, on the allocation of the goods to the Contract

### COMPANY'S PROPERTY

- 8.1
- 8.2 The Seller shall neither quote nor supply any goods and/or services (or any part of them) which have been made or created using or make use of the Company's Property to any third party without the Company's prior written consent
- The Supplier will indemnify the Company in full against: 8.3
- (a) loss or damage or injury caused to the Company's Property howsoever and whensoever arising;
- (b) any wrongful or negligent act or omission on the part of the Supplier, its employees, representatives, agents or sub-contractors in using the Company's Property or otherwise performing its obligations under these Conditions; and
- any loss, damage, liability, costs or expense which the Company may suffer or incur by reason of any breach or breaches of any provision of this Condition 8 (c)

### DESIGNS

All drawings, patterns, samples, specifications or other data prepared by the Supplier or made available by the Company in connection with the Contract ("drawings") and all rights therein shall be and remain the property of the Company which reserves the right to reproduce them or make them available to third parties. The Supplier shall treat all drawings as confidential and, in particular, not use them except for the purpose of the Contract or disclose them to any third party and shall immediately return to the Company any drawings made available to right or by the Company, on completion of the contract or earlier on the Company's request, in good order and condition (fair wear and tear only excepted)

### INNOVATIONS

The Supplier acknowledges that all rights in and title to any variation or addition to the drawings or any products produced therefrom shall be vested in the Company and the Supplier hereby assigns irrevocably and exclusively any rights it may have to such addition or variation or any altered or new product produced therefrom 10.1

### ADMINISTRATION

The Supplier shall (a) ensure that all goods and/or services are accompanied by correct delivery notes, packing slips and customer acceptance forms (b) furnish invoices for each individual shipment, (c) provide by the fifth day of each month a statement of all invoices rendered during the previous month and (d) mark the Company's order number on all advice notes, invoices, statements and correspondence. Inattention to these details may result in delay in payment and where any advance or progress payments are made they are on account of the price stated in the Contract subject to satisfactory performance by the Supplier and are not deposits

### INDEMNITY, INSURANCE AND THIRD PARTY DISPUTES

The Supplier shall indemnify the Company against any loss, damage or injury to the Company, including any loss of or damage to any property (including any works), and shall also indemnify the Company against any claim in respect of loss, damage or injury made against the Company by any third party or parties including any loss of or damage to any property or injury to any person (including death) and any costs and expenses arising in connection therweith which in either case result from the Supplier's performance or purported performance of or failure to perform the Contract whether negligent or otherwise and, in particular, without limitation, which result from any defect of workmanship, materials or design (except only to the extent that the Company is responsible for design) affecting any goods and/or services

- The Supplier shall at all times insure and keep itself insured with a reputable insurance company against all insurance liabil arising under the Contract and shall, on request, provide the Company with evidence as to the existence and sufficiency such insurance
- Where under the terms of any guarantee or warranty given by it, the Company makes good, repairs or replaces any goods and/or services supplied under the Contract the Company shall be entitled at its option to credit or compensation for or the making good, replacement or repair free of charge by the Supplier, without prejudice to any other rights of the Company including, without limitation, the reimbursement of any labour or other costs incurred by the Company 12.3
- Michaeling, Michaeling and the temperature in the temperature in the temperature of 12.4
- The Supplier shall provide all facilities, assistance and advice required by the Company or its insurers for the purpose of contesting or dealing with any action, claim or demand arising out of the Supplier's performance or purported performance or failure to perform the Contract and shall be bound by any award or judgment affecting the Company 12.5

### TERMINATION AT OPTION OF THE COMPANY

- Performance of work under any Contract may be terminated by the Company, at its option, in whole or in part, at any time by written notice to the Supplier notwithstanding the existence with respect to the Supplier of any force majeure circumstances as referred to in paragraph 15 below. 13.1
- 13.2 Upon the giving of any notice of termination the Supplier shall, unless otherwise directed by the Company:
- 13.2.1 immediately terminate all work under the Contract and all Supplier's orders and subcontractors in connection therewith;
- 13.2.2 settle all claims arising out of such termination of orders and sub-contracts;
- 13.2.3 transfer title and deliver to the Company all completed work which conforms to the requirements of the Contract and does not exceed in quantity the amount authorised for production by the Company;
- 13.2.4 take all actions necessary to protect property in the Supplier's possession in which the Company has or may require
- 13.2.5 submit to the Company promptly and in any event not later than thirty (30) days from the effective date of termination its termination claim, provided that in the event of failure by the Supplier to submit its claim within such period, the Company may determine, on the basis of the information then available to it, the amount, if any, due to the Supplier with respect to the termination and such determination shall be final and binding on the Suppler and the Company
- Upon termination by the Company under this paragraph the Company shall pay the Supplier the following amounts and shall thereupon not be under any further or other liability in respect of goods and/or services in relation to which the Contract has been terminated: 13.3
- 13.3.1 the Contract price for all goods and/or services which have been completed and delivered in accordance with the Contract and not previously paid for and which comply in all respects with the Contract; and
- and in previously part of and which comply in an expects with the contract, and the extent that such costs are reasonable to the amount and are properly allocable or apportionable to the termination portion of the Contract, including the actual cost of work in progress and materials delivered to the Company under paragraph 13.2 and including the actual cost of discharging the liabilities which are so allocable or apportionable: and The aggregate of payments under this paragraph 13.3 shall not exceed the aggregate price specified in the Contract (to the goods and/or services otherwise made or to be made in respect of such goods and/or services
- 13.4 The provisions of this paragraph 13 shall not apply if the Contract is terminated by the Company pursuant to paragraph 14 below or otherwise howsoeve
- Where applicable, goods and/or services that are supplied under a subscription or term contract, shall be limited to the fixed period of 12 months 'from commencement and/or date of order. The Supplier accepts that this contract is renewable only at the written request and/or approval of the Company. The Company reserves the right to cancel the subscription of goods and/or services within the 12 month period, without charge to the Company, giving no more than 30 days' written notice to the Supplier. 13.5

### TERMINATION FOR DEFAULT OF THE SUPPLIER

- The Company may at its discretion, without prejudice to any other remedy, terminate or suspend its performance of the Contact in whole or in part by written notice to the Supplier at any time if the Supplier (a) fails to comply with any provision of the Contract or any other agreement with the Company (b) fails to make progress so as in the reasonable opinion of the Company to endanger the performance of the Contract, or (c) becomes insolvent, has a receiver or administrator appointed in respect of any of its assets or is compulsorily or voluntarily wound up or the Company to bona fide believes that any of such events may occur. Incase of such termination, the Company shall be discharged from all further liability in connection with the Contract but such discharge shall not affect any accrued liabilities of the Company
- 14.2 No failure or delay by the Company to exercise its rights in respect of any default under the Contract by the Supplier shall prejudice the Company's rights in connection with the same or any subsequent default

### FORCE MAJEURE

Neither party shall be responsible to the other by reason of failure to perform under any Contract arising from causes beyond the control of the party concerned including fire, explosion, breakdown, labour dispute or acts or omissions of any authority or governmental agency provided that the Supplier shall promptly notify the Company of the occurrence of any such circumstances and the Company shall be entitled to obtain elsewhere goods and/or services covered by the Contract for so long as such circumstances prevail and to reduce to that extent, without liability to the Supplier, its purchases under the Contract

### INTELLECTUAL PROPERTY INDEMNITY

LECIOAL PROPERT INVERTING The Supplier shall indemnify the Purchaser against all actions, claims, demands, costs, charge and expenses incurred by the Company in connection with any infringement or alleged infringement in any country of the rights of any third party claimed under or in connection with any patent, registered design, trade mark, copyright, design right, breach of confidence or other industrial property right arising from the sale or used any goods and/or services provided by the Supplier except only to the extent that such infringement results exclusively from a design or written instruction given by the Company and shall, at the Company services, defend or assist in defending, at the Supplier's expense, any action against the Company or any person to whom the goods and/or services have been supplied 15.2

### ASSIGNMENT AND SUB-CONTRACTING

16.1 The Supplier shall not without the prior written consent of the Company assign or subcontract any of its obligations under the Contract

### HEALTH AND SAFETY AT WORK ETC

The Supplier undertakes that the goods and/or services and all packaging, instructions and labelling in connection with them shall comply in all respects with all statutes, regulations, byelaws and standards in force at the date of delivery including the Health and Safety at Work etc Act 1974 and any safety precautions required for the handling or use of the goods shall be clearlymarkedon them

# PUBLICITY

Neither the Contract nor the Company's name shall be used by the Supplier for advertisement purposes without the Company's prior written consent 18.1

# CONSTRUCTION

19.1 The construction, validity and performance of the Contract shall be governed in all respects by English Law and the Supplier consents to the jurisdiction of the English courts in all matters relating to the Contract

## NOTICES

Any notice to be given in writing under the Contract may be delivered by hand or forwarded by first class prepaid letter post to the receiving party at its business address as last notified in writing to the other party and shall be deemed to have been given on the date of the hand delivery or on the day following the posting

Registered in England (Company no: 2583752) Rowhurst Industrial Estate, Chesterton, Newcastle-under-Lyme, Staffordshire ST5 6BD Revised April 2011

