

## TERMS AND CONDITIONS OF SALE

### 1. DEFINITIONS: "Seller" shall mean Kaelus Pty Limited

"Customer" shall mean the person(s) or Seller that purchases Products/Services from Seller pursuant to this Order.

"Products" means all components, spare parts, goods, Products, or materials of any kind, which are supplied by Seller under this Order.

"Operator" shall mean the operator or user of the Products/Services.

"Order" shall mean the agreement between Seller and the Customer (individually "Party" and collectively "the Parties") for the sale and purchase of the Products/Services, including the Terms and Conditions of Sale herein and any contemporaneous writing, signed by both Parties, and firmly attached hereto.

"Quotation" shall mean the written Quotation or tender submitted by the Seller.

"Services" means all services, including maintenance and installation services, provided under this Order.

**2. OFFER AND GOVERNING PROVISIONS:** Each Quotation and Order acknowledgement issued by Seller is an offer by Seller to sell the goods and/or services described in it in accordance with these Terms and Conditions of Sale, is not an acceptance of any offer made by Customer, and is expressly conditioned upon the Customer's assent to these Terms and Conditions of Sale. Seller objects to any additional or different terms contained in any purchase order or other communication previously or hereafter provided by Customer to Seller. No such additional or different terms or conditions will be of any force or effect. The terms of the Order will be the entire agreement between Customer and Seller on the subject of the transaction that it describes; and there are no conditions to that agreement that are not part of the Order.

**3. PURCHASE PRICE:** Prices shall be as specified by Seller and shall apply for the period specified in the Quotation. If no period is specified, prices shall be valid for 30 days. Prices cited herein are based on current costs and are subject to reasonable adjustment on or after the date of acceptance of any purchase order to meet a rise or fall in such costs, as computed on the date of delivery.

**4. PAYMENT:** (A) Unless otherwise agreed by the Seller payment shall be made within 30 days after the delivery of the Products (as defined in Section 6 below).

(B) Punctual payment as stipulated herein is of the essence for the Order. When any sum owed by Customer to Seller under this Order is overdue, Seller may, without notice to Customer, either:

(i) cease the supply of further Products/Services under this Order without liability for any loss (including loss of profit, consequential or indirect loss or other financial or economic loss) to Customer until such sum, together with such interest as may be due thereon, is paid; or

(ii) terminate the Order and any other agreements between Seller and Customer, whether or not any sums are due for payment by Customer thereunder, without liability on the part of Seller. Customer shall pay Seller immediately all sums due and outstanding under all such agreements with respect to Products/Services, supplied or ordered in partial execution of the agreements, together with all overhead and other costs incurred by Seller as a result of such termination.

(C) No defect in the Order of the Products/Services shall operate to interfere with the terms of payment. If payment is not made as provided above, Customer shall thereby be deemed to have waived the warranties provided in Section 10 hereunder. Seller may demand different terms of payment from those specified on the face of this Order, whenever it reasonably appears that Customer's financial condition requires such changes, and may demand assurance of the Customer's ability to pay whenever it reasonably appears that such ability is in doubt. Such demand shall be in writing and Seller may, upon making such demand, stop production and/or suspend shipments hereunder.

(D) If Customer is in default of any payment obligation, Seller is, without prejudice to any other rights, entitled to charge interest (both before and after any judgment) on the amount unpaid at the rate of 2.5 percent per annum above the Bank of Queensland base rate from time to time, until payment in full is made..

**5. LIENS AND TITLE:** (A) Customer hereby grants to Seller a security interest in any property owned by Customer (including Customer's beneficial rights to property leased by Customer) in the possession of Seller or any of Seller' affiliates, at any time, to secure all amounts owed by Customer to Seller under this Order.

(B) In the case of repairs or overhauls performed pursuant to this Order, Customer agrees to grant Seller a perfected security interest in all Products retained in possession of Seller upon which any repair or overhaul services have been performed by Seller. Customer further acknowledges and agrees that, in addition to the security interest and lien expressly granted by Customer to Seller, Seller shall have a lien on the Products retained in possession of Seller to the extent otherwise provided by law. Customer acknowledges that the lien (whether granted by Customer or through the operation of law) for repairs or overhaul shall be for the full value of such work, and shall be superior to any lien or interest in favour of Customer, its parents, affiliates, or subsidiaries, or any other person who has knowledge of this Order. To the extent that Seller maintains possession of Products under repair, Customer agrees that Seller is a secured creditor of Customer and has all the rights of a secured creditor.

(C) With respect to Products sold pursuant to this Order, Customer agrees and acknowledges that Seller shall retain a security interest in such Products, unless and until all payment for Products has been made and all other covenants and agreements of this Order have been performed in full. Accordingly, Customer agrees that it will not suffer or permit any lien or encumbrance to be established that affects the title to the Products sold by Seller pursuant hereto until Seller has been paid in full. Customer agrees that, in the event of Customer's insolvency, or in the event that a liquidator, provisional liquidator, controller, administrator or any similar official is appointed to, or takes possession or control of the Customer's assets or undertaking, or the Customer enters into, or resolves to enter into, an arrangement, compromise or composition with any of its creditors or members, Seller may, at its discretion, recover all Products sold pursuant to this Order and/or seek damages or costs under applicable laws.

### 6. DELIVERY:

6.1 Delivery shall mean the delivery of the Products (to a carrier nominated by the Customer. In the absence of specific instructions, the Seller may nominate a carrier.)

6.2 Unless otherwise agreed in writing Products are supplied FCA Brisbane port (subject to Incoterms).

6.3 If the Customer shall fail to accept delivery of the Products as and when preferred by the Seller then the Seller shall be deemed to have tendered and the Customer to have refused delivery at that date.

6.4 Unless otherwise agreed in writing any dates quoted for delivery of Products are approximate only and the Seller shall not be liable for any delay in despatch or delivery or any loss or damage thereby arising. Time of delivery shall not be the essence, and the Customer shall not be able to cancel the Contract, refuse delivery of the Products or withhold payment on account of any delay howsoever caused.

6.5 Unless otherwise agreed in writing, the Seller reserves the right to deliver the Products in instalments and each such instalment shall constitute a separate Contract. Failure by the Seller to deliver any one or more of the instalments shall not entitle the Customer to treat the Contract as a whole as repudiated or breached.

6.6 The Customer shall be responsible for complying with any legislation or regulations governing the importation of the Products into the country of destination and for the payment of any duties thereon.

6.7 The Seller shall have no liability for any claim in respect of any defect in the Goods which arise after shipment or in respect of any damage during transit.

(B) If proper tender of the Products is made and completion of delivery is prevented through no fault of Seller, Seller may specify a reasonable alternative place of delivery. Customer agrees that all costs of storage and transport incurred following an initial attempt at delivery are hereby allocated to and imposed upon Customer, and shall be added by Seller to the Purchase Price. Delivery may at any time be withheld by Seller pending payment of any sum due from Customer to Seller under this Order or any other agreement. Seller will return Products via the incoming method unless an alternative method has been indicated on the purchase order or a change authorized by Customer's representative.

**7. ACCEPTANCE OF PRODUCTS:** Customer shall conduct a thorough evaluation of the exterior of the system upon receipt of the Products. Customer is deemed to have accepted the Products unless written notice of rejection is received by Seller within 3 days after delivery. Customer waives any right to revoke acceptance thereafter.

**8. RETURN OF PRODUCTS:** No return of Products shall be accepted by Seller without a Return Material Authorization ("RMA") number, which may be issued by Seller in its sole discretion. Returned Products must be in its original shipping cartons complete with all packing materials. All Products for return shall be returned freight prepaid in the manner specified in the RMA. If returned Products is claimed to be defective, a complete description of the nature of the defect must be included with the returned Products. Products not eligible for return shall be returned to Customer, freight collect. There will be a 20% restocking fee, in addition to any shipping costs incurred for all returned items.

**9. STORAGE FEES:** A storage fee will be applied monthly up to the maximum allowed by law on all repaired and overhauled Products if delivery is not taken within 5 days of notification.

**10. WARRANTIES:** (A) Seller warrants that the Products sold by Seller, and that is manufactured by Seller, for the period set forth in the Quotation or Order (1) conforms to Seller specifications, and (2) is free from defects in materials and workmanship (under normal usage and provided that Seller' operation and maintenance instructions are followed by the Operator). Normal wear and tear shall not be considered a defect. The warranty period shall commence (1) 1 month from the date of shipment of the Products to the Customer; or (2) on the date on which the Customer takes possession of the Products, whether or not the Products has been installed or commissioned, whichever is the earlier. A written product specific warranty addendum may address consumable items or other parts that are not covered by this Warranty or contain alternate warranty terms that will supersede any similar terms in this warranty section. If a Product sold to Customer under an Order is test and measurement equipment (e.g., PPIM), such Product shall require an annual calibration to be performed by Seller to maintain its month warranty. **THE**

## TERMS AND CONDITIONS OF SALE

### **PPIM ACCESSORY KIT SHALL BE CONSIDERED CONSUMABLES, AND ARE NOT COVERED UNDER THE SELLER WARRANTY.**

(B) Seller warrants that it shall use reasonable efforts to provide the Services ordered under the Order. Seller does not represent or warrant that all Products problems will be corrected or if corrected, corrected to the full satisfaction of Customer.

(C) To the full extent permitted by law, for Products that is not manufactured by Seller, Seller' only responsibility is to assign to its Customer any manufacturer's warranty that does not prohibit such assignment.

(D) To the full extent permitted by law, Products and parts that are consumed in normal operation are not covered by this Warranty.

(E) If Customer or Operator, as the case may be, discovers a defect within the applicable warranty period, it must be reported to Seller's service department immediately upon discovery.

(F) Within a reasonable time after proper notification, Seller shall, during its normal business hours, Monday through Friday, correct any defect covered by this warranty with either new or used replacement parts, without charge. The original duration of this Warranty shall remain applicable to those parts not repaired or replaced. Any part repaired or replaced is warranted to conform to Smith's specifications and to be free from defects in materials or workmanship appearing within a period after repair or replacement equivalent to the warranty period originally applicable to the Products of which it is a part, subject to the other terms of this Warranty. To the full extent permitted by law, and including in the event that statutory warranties apply in respect of the Products or Services, Seller limits its liability as set out in this Section 10, for any claims for breach of this Warranty.

(G) Seller' Warranty ceases to be effective if Customer and/or Operator fail to operate and use the Products sold hereunder in a safe and reasonable manner in accordance with Seller' written instructions.

(H) To the full extent permitted by law, neither Customer nor Operator shall be entitled to any remedy under this Warranty with respect to:

(i) Products that has been subjected to any alteration, disassembly, tampering, modification, or repair without prior authorization by Seller;

(ii) Products subjected to experimental running or any type of operation or use other than that for which the Products/Services is designed;

(iii) Products from which Seller' and/or vendor's trademark or serial number has been altered, removed, or obliterated without Seller' written permission, excluding any alteration, removal, or obliteration directly caused by accident or mishap;

**(I) TO THE FULL EXTENT PERMITTED BY LAW, SELLER EXCLUDES ALL REPRESENTATIONS, WARRANTIES, TERMS AND CONDITIONS, WHETHER EXPRESS OR IMPLIED (INCLUDING THOSE IMPLIED BY STATUTE, CUSTOM OR LAW), EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 10.**

(J) For purposes of the exclusive remedies set forth in this Warranty, and the limitations of liability set forth in Section 12 of the Terms and Conditions of Sale into which it is incorporated, "Seller" shall be deemed to include Seller, its subsidiaries, and their affiliates, directors, officers, employees, agents, representatives, subcontractors, and suppliers of all of them.

(K) This Warranty is non-transferable and is applicable only to the original Customer or Operator.

(L) This Warranty shall not be extended, altered or varied except by written instrument executed by Seller.

(M) To the full extent permitted by law, any official action or legal proceeding for breach of this Warranty must be commenced within 30 months after acceptance of the Products/Services.

**11. INTELLECTUAL PROPERTY:** Seller makes no warranty that the Products/Services are free from, and shall not be liable to Customer for, infringement of the intellectual property rights (including patents, trademarks, copyrights, trade secrets and confidential information) of others, and Customer agrees to assume all risks associated therewith. Customer agrees to hold Seller harmless against any claim for infringement arising out of compliance with Customer's drawings, specifications, requirements or instructions.

### **12. LIMITATIONS OF LIABILITY AND INDEMNITY:**

(A) Customer and Operator understand and agree that:

(i) Products/Services are intended to be used as security screening Products in order to assist in the detection of illegal and/or hazardous materials;

(ii) The level of success with which the Products will fulfill its intended use is dependant on numerous factors, including but not limited to the sophistication of efforts to conceal illegal and/or hazardous materials, the chemical identity and quantity of such materials, the skill, diligence and qualifications of the Operator (where applicable) and environmental conditions; and

(iii) No security screening Products is capable of detecting every threat, and neither the Customer nor the Operator has any expectation that the Products is Kaelus Pty Ltd Terms and Conditions of Sale – June 2014

capable of detecting, or that it will detect, all illegal and/or hazardous materials (this being the case whether the Products is operated with or without Operator supervision, and regardless of the degree of diligence with which the Services are or have been performed).

Accordingly, neither Seller nor any of its affiliates make any guaranty or warranty as to the results that will be achieved through the use of the Products and/or the Services; and it is agreed that the sole responsibility for such results shall be borne by Customer and/or the Operator.

(B) AS PROVIDED IN THE WARRANTY IN SECTION 10 ABOVE, SELLER' LIABILITY FOR BREACH OF WARRANTY SHALL BE LIMITED TO THE REMEDIES THEREIN PROVIDED. WITH RESPECT TO ALL OTHER LIABILITY, INCLUDING WITHOUT LIMITATION LIABILITY RESULTING DIRECTLY OR INDIRECTLY FROM BREACH OF CONTRACT, BREACH OF A DUTY OF CARE OR STATUTORY DUTY OR PRODUCT LIABILITY, THE AGGREGATE CUMULATIVE LIABILITY OF SELLER AND ITS AFFILIATES TAKEN TOGETHER SHALL IN NO EVENT EXCEED THE AMOUNT OF THIS ORDER. IN NO EVENT SHALL SELLER OR ANY OF ITS AFFILIATES BE LIABLE FOR ANY LOSS OF PROFITS OR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY, OR OTHER DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES RESULTING FROM COST OF SUBSTITUTE PROCUREMENT, LOSS OF USE, LOSS OF DATA, LOSS OF SAVINGS, LOSS OF REVENUES, LOSS OF BUSINESS, OR FAILURE OR DELAY IN PERFORMANCE, WHETHER BASED ON BREACH OF WARRANTY OR OTHER CONTRACT BREACH, NEGLIGENCE OR OTHER TORT OR ON ANY STRICT LIABILITY THEORY, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. NOR SHALL SELLER OR ANY OF ITS AFFILIATES BE RESPONSIBLE FOR ANY CLAIM AGAINST CUSTOMER BY A THIRD PARTY. THE LIMITATIONS ON SELLER' LIABILITY CONTAINED IN THESE TERMS AND CONDITIONS ARE MADE TO THE EXTENT PERMITTED BY LAW. NOTHING IN THESE TERMS AND CONDITIONS RESTRICTS THE EFFECT OF WARRANTIES OR CONDITIONS WHICH MAY BE IMPLIED BY THE TRADE PRACTICES ACT 1974 (CTH) OR ANY OTHER LAW WHICH CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED.

(C) To the fullest extent permitted by applicable law, Customer shall defend, indemnify, and hold harmless Seller and its affiliates and their respective officers, partners, directors, employees, agents, successors, and assigns ("Seller Parties") from and against any and all losses, claims, damages, liabilities, expenses (including, without limitation, fees and disbursements of legal counsel and expenses of litigation) or other obligations (collectively "Losses") and threatened Losses to the extent they arise from or in connection with the purchase, use and/or operation of the Products/Services by Customer or Operator, including but not limited to any of the following: (i) the death or bodily injury of any agent, employee, customer, business invitee, or business visitor or other person, and the damage, loss, or destruction of any real or tangible personal property; (ii) any action taken by or on behalf of Customer or Operator in the performance of this Order that causes Seller or any of its affiliates to be obligated to indemnify, defend, and/or hold harmless any third party; (iii) any claim, demand, charge, action, cause of action, or other proceeding resulting from an act or omission of Customer, its employees, agents, or subcontractors acting in its or their capacity as an employer or potential employer with respect to the claimant; and (iv) any claim by Customer or Operator, whether based on warranty or other contract breach, negligence or other tort or on any strict liability theory, for matters disclaimed in subsection (B) above. Customer shall fully indemnify and completely hold harmless the Seller Parties as provided above, whether or not negligence or other fault of any of the Seller Parties contributed to, or is claimed or alleged to have contributed to, the claim, action, damage, loss, cost, liability or expense. Nothing in subsection (B) and this subsection (C) above shall exclude or limit the liability of Seller or its affiliates, or require Customer to defend, indemnify or hold harmless Seller or its affiliates, in circumstances where the Losses claimed are alleged to have resulted from (i) willful misconduct or gross negligence Seller or its affiliates, (ii) any fraud or fraudulent conduct on the part of Seller or its affiliates, or (iii) any other liability that cannot be excluded by law, and where (in each case) such fault or liability on the part of the Seller and/or its affiliates is adjudicated to be the cause of the Losses.

(D) Seller shall not be liable for failure to deliver, for delay in delivery, or for any losses or damage to Customer, or to the Products/Services occasioned by delays, in the performance of Seller' obligations, due to: (i) any cause beyond Seller' reasonable control or the control of Seller' suppliers or subcontractors; (ii) an act of God, act or omission of Customer, act of civil or military authority, fire, terrorism, strike or other labor difficulty, riot or other civil disturbance, insolvency or other inability to perform by the manufacturer, delay in transportation; or (iii) any other commercial impracticability.

(E) The conditions to performance specifically stated in this provision and elsewhere in this Order shall be the only conditions precedent or subsequent to an absolute duty of performance on the part of Customer and Seller. In no event of breach or repudiation of this Order by Seller shall Seller be liable for indirect, special, third party, incidental, or consequential damages, including without limitation lost profits, data, or goodwill, and Customer hereby agrees not to make any such claim on Seller. Customer agrees to defend, indemnify and hold harmless Seller from and against any claim, loss, liability, expense or damage (including liens or legal fees) incurred by Seller with respect to any of Customers export or re-export activities contrary to Section 18 – Export & Import Controls.

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(F) Seller shall not be liable to Customer nor Operator for any losses or damage as a result of Products that has been subjected to any alteration, disassembly, tampering, modification, or repair without prior authorization by Seller.

**13. TAXES:** Goods and services taxes, value added tax or any other similar tax, payable by Customer, which are presently or may hereafter be imposed by any taxing authority, are not included in the Purchase Price. Any direct or excise tax or import or customs exaction payable by Seller, which may hereafter be imposed by any taxing authority, wheresoever located, upon the manufacture, sale or delivery of products covered by this Order, or any increase in rate of any such tax or import or customs exaction now in force, shall be added to the Purchase Price. If such charge is not collected at the time of payment of Purchase Price, Customer will indemnify and hold Seller harmless against any such charge.

**14. CHANGES AND TERMINATION:** (A) Seller shall have the right, in its sole discretion, to terminate this Order if Customer: (i) is unable to pay its debts generally as and when they become due; (ii) is the subject of a legal process declaring it insolvent; (iii) ceases or threatens to cease carrying on its business; or (iv) commits a breach of this Order which is (a) incapable of remedy (as reasonably determined by Seller); or (b) not remedied within 14 calendar days of the date of the breach.

(B) Customer may make a written request for amendment, modification, or termination. If a request for amendment or modification is accepted by Seller, and any changes cause an increase or decrease in the cost of, or the time required for, the performance of any part of the work under this Order, an equitable adjustment shall be made in the price or delivery schedule, or both, and the Order shall be modified in writing accordingly. Wherever the cost of property made obsolete as a result of the change is included in the price adjustment, Customer shall have the right to prescribe the manner of disposition of such property. If request for termination is accepted by Seller, equitable provision shall be made to Seller for a recoupment of all costs incurred under the Order and for reasonable profit based on time and costs expended. The Order shall continue in effect until such time as payment is received. A written request as specified herein shall give Seller adequate reason to demand written assurance of Customer's ability and intent to carry out the Order.

**15. SEVERABILITY:** If any provision of this Order shall be determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not effect the remaining provisions of this Order, all of which shall remain in full force and effect.

**16. DISPUTE RESOLUTION, GOVERNING LAW, AND FORUM:** (A) This Order shall be governed by, and construed in accordance with, the laws of the State of Queensland and each Party submits to the exclusive jurisdiction of the courts of that State. This Order shall not be governed by the 1980 U.N. Convention on Contracts for the International Sale of Goods.

(B) In the event a dispute arises under or relates to this Order, the Parties shall diligently attempt to resolve the dispute within 30 days from the date either Party gives written notice to the other of its intent to invoke this provision, during which period neither Party may commence legal action to assert its rights against the other. In the event the Parties do not resolve the dispute within the 30-day period referenced above, either Party may institute legal action to pursue any right or remedy it may have against the other Party. Any legal action or proceeding with respect to this Order shall be brought and maintained in the courts of the State of New South Wales. By execution of this Order, Customer hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. No action in law or equity arising out of this Order may be brought by Customer more than 2 years after the cause of action has first arisen.

(C) Customer further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding if such process shall be in writing and either shall be delivered in person or sent by registered or certified mail (return receipt requested), postage pre-paid, and addressed to Customer at the address of Customer for notices under this Order. Nothing herein shall affect the right of Seller to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against Customer in any other jurisdiction.

(D) Seller shall have the right to collect from Customer its reasonable expenses, including attorneys' fees, incurred in enforcing this Order.

(E) The rights and obligations herein shall survive completion of the final payment under this Order.

**17. CONFIDENTIALITY:** The Parties agree that, in the course of performance of this Order, it may be necessary and desirable for them to exchange confidential information. For example, all updates, repairs, replacements, fixes, modifications, and other changes to the Products/Services shall be considered Seller's proprietary information. To accomplish this confidentiality, the Parties agree as follows: Customer shall not disclose confidential information of Seller to any person outside its employ, except when authorized by Seller. Customer shall use the same level of care in preserving the confidential nature of the confidential information as it uses to protect its own confidential information but not less than reasonable care. Customer shall use the Products only for the purpose contemplated by the parties at the time of sale, and for no other purpose. Customer shall not: (a) reverse engineer, disassemble (except to the extent applicable laws specifically prohibit such restriction), or decompile the Products or any portion thereof; (b) engage in

activities to develop improvements to the Products; (c) modify the Products or integrate the Products with any other products, systems, devices or other items other than as contemplated at the time of sale; or (d) allow or assist any third party to perform any of the foregoing.

**18. EXPORT AND IMPORT CONTROLS:** The sale, resale or other disposition of Products and any related technology or documentation are subject to the export control laws, regulations and orders of the United States, Canada and/or the United Kingdom as applicable and may be subject to the export and/or import control laws and regulations of other countries. Customer agrees to comply with such laws, regulations and orders and shall not authorize or permit its employees, distributors, customers, brokers, freight forwarders, and/or agents to export or re-export any of the Order Products/Services or any technology covered by this Order to any foreign person without complying with applicable import and export laws and regulations of Commonwealth of Australia, Singapore, Canada, the United Kingdom, the Customer's country and of the United States, including the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR). Customer agrees to obtain and properly utilize U.S. Government or any necessary export authorizations prior to exporting or re-exporting the Order Products/Services, either in their original form or after being incorporated into other end-items.

**19. LICENSE AND OWNERSHIP:** To the extent that the Order Products/Services contain or are software, Seller hereby grants to Customer a non-exclusive, non-transferable, personal license to use the software and related documentation. Customer's use of the Order Products/Services conclusively evidences its acceptance of this license and this Order, including this Section 19. Title to the software shall at all times remain with Seller. Customer agrees that the software, all enhancements, related documentation, and derivative works are, and will remain the sole property of Seller and includes valuable trade secrets. Customer agrees to treat the software and related documentation as confidential and to not copy, reproduce, sub-license, or otherwise disclose the software and related documentation to third parties. Customer agrees to not disassemble, decompile, reverse engineer, create derivative works from, attempt to derive the source code or otherwise translate, customize, localize, modify, add to, or in any way alter, rent, or loan the software or related documentation.

**20. ASSIGNMENT:** Customer shall not assign or transfer or purport to assign or transfer any contract to which these Conditions apply or the benefit thereof to any other person whatsoever without the consent of Seller.

**21. WAIVER:** The waiver of any provision or of any breach or default shall not be deemed a waiver of any other provision, breach or default.

**22. INSTALLATION:** (A) Where Seller has agreed to install the Products, Customer shall at its own cost prepare the site on which the Products are to be installed in accordance with the specifications furnished by Seller for this purpose and, in accordance with such specifications, provide such Products and carry out such works to the site as may be necessary to enable Seller to install the Products and if it shall fail so to prepare the site and provide such Products and carry out such works before the agreed delivery date, Customer shall indemnify Seller against all costs and charges incurred by Seller (including storage and transportation costs) as a result of such failure.

(B) When the Products shall have been installed at the site, tested and shown to be operating to the satisfaction of Seller, Customer shall be deemed to have accepted the Products unless Seller has been notified to the contrary in writing by Customer within 3 days of completion of such testing (the "Notice"). Customer shall not give and shall be deemed not to have given the Notice unless Customer has found a substantial defect in the Products. If Seller is so notified, Seller shall use its reasonable endeavours to remedy any such defect within a reasonable time and Customer shall be deemed to have accepted the Products within 3 days of such defect being remedied.