

# CERTUSS (UK) Ltd

## Conditions for Sale of Goods

Version 1.0, September 2021

### 1. Definitions

- (a) "Certuss" means Certuss (UK) Ltd.
- (b) "the Customer" is any party entering into a contract with Certuss for the supply of Goods or provision of Services.
- (c) "Fixed price" means a quotation to carry out a defined programme of work at a quoted price.
- (d) "Goods" mean the goods supplied by Certuss to the Customer as described in any relevant quotation from Certuss.
- (e) "Hourly price" means a quotation to carry out a defined programme of work where the services are to be paid at an agreed hourly rate.
- (f) "Plant" shall mean Goods supplied by Certuss for commissioning at the Work Site.
- (g) "Services" mean work done by Certuss for the Customer including commissioning and servicing.
- (h) "Tradesperson" or "Tradespeople" mean the person or persons appointed by Certuss to carry out work.
- (i) "Warranty Period" means the shorter of:
  - (i) a period of 12 months starting on the supply or commissioning or the goods, materials or work in question; or
  - (ii) 3000 operating hours starting at the date and time that commissioning is signed off by the Customer.
- (j) "Work Site" means the area within which Certuss is to carry out Services.
- (k) Delivery of goods shall be deemed to take place:
  - (i) where goods are delivered by Certuss's own transport, at the moment when the goods are lifted from the delivery vehicle; or
  - (ii) where goods are delivered by other means of transport or collected by the Customer, at the moment when the goods are loaded onto the vehicle used for such transport.
- (l) "Act of Insolvency": means:
  - (i) the Customer having any distress, execution or other insolvency process levied upon it; or
  - (ii) the Customer making, or offering to make, any arrangements or compromise with creditors, or committing any act of bankruptcy; or
  - (iii) the Customer having any petition or receiving order in bankruptcy presented or make against it.
  - (iv) the Customer having a receiver of its property or assets or any part of them appointed.
- (m) For the purpose of any term requiring notice, such notice will take effect 24 hours after dispatch by post or electronic transmission and:

- (i) must be in written or email form (voicemail, text messages or other messaging systems are not accepted by Certuss for purposes of giving notice);
- (ii) if to Certuss, must be to a postal address or email address quoted by Certuss on its quotation or specifically nominated by Certuss for the receipt of notices;
- (iii) if to the Customer, will be sent to the Customer's registered office or such alternative postal address, email address or facsimile number as provided by the Customer on its request for quotation or order, service on one or more of such addresses being deemed satisfactory service of a notice by Certuss.

### 2. General

- (a) These Terms and Conditions apply to every contract between Certuss and any Customer and to all further contracts between Certuss and that Customer (until and unless Certuss notifies that Customer of revised Terms and Conditions).
- (b) No contract arises between Certuss and the Customer until Certuss accepts the Customer's order and communicates such acceptance to the Customer.
- (c) Where a contract is made online, the contract is deemed to arise when the customer either:
  - (i) commits to purchase via electronic payment service; or
  - (ii) confirms that cheque or BACS payment will be made.
- (d) No prior statements made by Certuss or the Customer, nor any correspondence between them, are incorporated into any such contract unless separately agreed in writing by Certuss.
- (e) No representation by or on behalf of Certuss by an employee or agent (including but not limited to advice or recommendations as to the quality or suitability for specific purposes of goods or materials supplied by Certuss) takes effect unless separately confirmed by Certuss in writing, and the Customer agrees that it does not enter into any contract in reliance on such representations unless so confirmed.
- (f) All drawings, photographs, illustrations, performance data, dimensions, weights and other technical information and particulars of the goods or materials to be supplied or installation work to be carried out are given by Certuss in the belief that they are as accurate as reasonably possible but the Customer acknowledges and accepts that they are not incorporated into the contract.

- (g) The Customer accepts that Certuss shall be entitled to rely on information provided by the Customer for the purpose of discharging its obligations under the contract.
  - (h) The Customer accepts that Certuss has the absolute discretion to designate the tradesperson/tradespeople who will carry out work for the Customer.
  - (i) The Customer acknowledges and accepts that Certuss may increase its prices after the contract is agreed:
    - (i) to reflect any increase in the price it is charged by its suppliers for goods or materials; or
    - (ii) where any quotation by Certuss was stated to be based on an assumption by Certuss, to reflect the effect of such assumption proving incorrect.
  - (j) The Customer accepts that where a third party supplier recommends (as distinct from requires) the use of a particular product in conjunction with the supplier's goods, Certuss may, at its own discretion, use an alternative equivalent product in conjunction with the supplier's goods, and that the burden of proof lies upon the Customer to prove that any alleged defect arises from use of such alternative product.
  - (k) Other than in accordance with these terms and conditions, no variation to any contract takes effect unless agreed in writing by a director of Certuss.
  - (l) Any agreed variation in the scope of work will be charged for by Certuss at the sum agreed between the parties or, in default of such agreement on price, at Certuss's prevailing rates.
  - (m) No waiver by Certuss of any of these Terms and Conditions or forbearance to enforce any remedy it is entitled to shall prejudice any of Certuss's other rights and remedies or operate as a waiver of any other breach by the Customer under any contract with Certuss.
  - (n) Should any of these Term or Conditions be held to be invalid or unenforceable in whole or in part the validity and enforceability of the remaining part and of the other Terms and Conditions shall not be affected.
  - (o) Certuss may:
    - (i) subcontract the performance of any contract with the Customer in whole or part;
    - (ii) assign the benefit and burden of any contract with the Customer, subject to giving notice of such assignment to the Customer.
  - (p) The Customer may not assign or sublet the benefit of any contract with Certuss without the written consent of Certuss.
  - (q) Nothing in these terms and conditions shall confer any right upon a third party and the Customer agrees that the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded from any contract to which these terms and conditions apply.
- ### 3. Quotations, Prices and Credit
- (a) Quotations are:
    - (i) made on either an hourly price or fixed-price basis;
    - (ii) valid for **30 days** from the date of quotation unless expressly stated to be otherwise or withdrawn or revised by Certuss;
    - (iii) based upon prices, rates, terms and duties as applying at the date of quotation;
    - (iv) limited to such goods and work as are specified therein;
    - (v) inclusive of packaging (including crates, cases, drums and other containers) unless such packaging is specifically quoted for as 'returnable' in which case Clause 6(h) will apply;
    - (vi) unless otherwise specified within the quotation, exclusive of the matters for which the Customer is responsible as set out in Clause 6; and
    - (vii) where for second-hand, reconditioned or rebuilt goods, are subject to the availability of the Goods being quoted for.
  - (b) Subject to clause 3(a), Certuss may vary its prices and charges without notice.
  - (c) Hourly prices are:
    - (i) inclusive of labour at Certuss's prevailing rates for time including reasonable time spent obtaining non-stock goods or materials;
    - (ii) inclusive of goods and materials, at a rate that will not exceed 20% markup above trade price; and
    - (iii) unless the relevant supply is zero-rated, subject to VAT at the prevailing rate.
  - (d) The Customer accepts and agrees that fixed price estimates are provided on the basis that the final price will not exceed the quoted priced by more than 20% unless:
    - (i) the customer instructs Certuss to carry out additional work not referred to in the estimate, which will be charged for at Certuss's prevailing rates; or
    - (ii) as per Clause 2(i), the price of materials increases; or
    - (iii) upon work commencing Certuss determines, at its sole discretion, that further work is required to complete the agreed programme of work that was not anticipated at the time the estimate was given, such work being charged for at Certuss's prevailing rates; or
    - (iv) the estimate was subject to an obvious error.
  - (e) Credit will be granted at the sole discretion of Certuss and subject to the Customer providing a fully-completed application form and to the Customer's references being taken up and reviewed. Certuss also reserves the right to carry out credit checks with Credit Reference Agencies where appropriate before offering credit.
  - (f) The provision of credit by Certuss to the Customer is subject to the Customer's compliance with Clause 4(a) and may be withdrawn by Certuss at any time and at Certuss's sole discretion.

- (g) Credit accounts will be reviewed periodically and accounts that have not traded for 6 months may have credit suspended or withdrawn.
- (h) If credit is withdrawn for any reason Certuss shall be entitled to any or all of the remedies under Clause 4(d).
- (i) Following the exit of the United Kingdom from the European Union with effect from 1<sup>st</sup> January 2021, in the event that any customs charges or tariffs become chargeable in respect of any goods ordered to the Customer's order and are levied on Certus the customer shall pay such charges or tariffs and indemnify Certus against them.

#### 4. Payment terms

- (a) Where credit has been granted by Certuss in accordance with clause 3(d) then, unless agreed otherwise in advance between Certuss and the Customer in writing:
  - (i) a deposit of 25% of the estimate price is payable immediately as a precondition of work being commenced; and
  - (ii) all invoices are strictly net for payment within 30 days of date of invoice and time of payments shall be of the essence of the contract.
- (b) Where credit has not been granted, payment shall be made in full:
  - (i) within 30 days of delivery; or
  - (ii) where goods are sold 'ex works', upon notification that the consignment is ready for delivery or collection.
- (c) Where commissioning or servicing work is carried out Certuss may issue periodic invoices.
- (d) If for any reason whatsoever payment is not made when due Certuss shall be entitled to:
  - (i) charge interest and fees in accordance with the Late Payment of Commercial Debts (Interest) Act 1998;
  - (ii) cancel or suspend any contract with the Customer;
  - (iii) require the Customer to pay any other sums due to Certuss immediately; and/or
  - (iv) enter into the premises of the Customer and repossess and remove all of its goods that remain its property under clause 8, including such goods as have been installed but for which title has not yet passed under clause 8(b), and the Customer grants Certuss its employees servants and agents a non-revocable licence to enter into its premises for such purpose.
- (e) The Customer agrees that it shall not be entitled to withhold payment by reason of:
  - (i) retention;
  - (ii) any re-work or repair whether or not agreed with Certuss under these Terms and Conditions.
  - (iii) set-off or counterclaim in respect of any claim disputed by Certuss.
- (f) The Customer agrees to indemnify Certuss in respect of the full amount of any fees costs disbursements or expenses incurred (including court fees and the

reasonable

cost of legal representation) arising from overdue payment by the Customer or any other breach by the Customer of these terms and conditions.

- (g) The Customer accepts that Certuss's prices are not subject to discount.

#### 5. Termination or Suspension

- (a) Without prejudice to any of its other rights Certuss may terminate the contract or suspend further deliveries to the Customer in the event of:
    - (i) the Customer failing to make due payment in accordance with Clause 4(a) for any goods, materials or work done; or
    - (ii) any act of Insolvency relating to the Customer;
    - (iii) Certuss receiving any information indicating that the Customer is or may become unable to pay its debts; or
    - (iv) any breach of the Customer's obligations under Clause 6 that is notified to the Customer by Certuss and not rectified to Certuss's satisfaction within 7 days.
  - (b) In the event the contract is terminated under clause 5(a) Certuss shall be entitled to any or all of the remedies under clause 4(d).
  - (c) Certuss reserves the right to withhold performance of any of its obligations under the contract if in its sole opinion the Customer's credit status becomes unsatisfactory.
  - (d) Any purported termination by the Customer will only take effect with the written agreement of Certuss and subject to the Customer indemnifying Certuss in full for all loss (including loss of profit), cost (including labour and materials), damages, charges and other expenses incurred by Certuss as a result of termination.
  - (e) Any cancellation or re-scheduling by the Customer of any arranged attendance by Certuss's tradesperson or tradespeople must be made no later than 4pm on the prior working day, in default of which the Customer will be liable to Certuss in full for all loss (including loss of profit), cost (including labour and materials), damages, charges and other expenses incurred by Certuss as a result of such cancellation or rescheduling.
- #### 6. Customer's Obligations during Commissioning or Servicing Works
- (a) The Customer shall ensure that all persons with access to the Work Site comply with all access control and health and safety requirements specified by Certuss during the duration of any commissioning or servicing works.
  - (b) The Customer shall ensure uninterrupted access for Certuss to the work site for the duration of any commissioning or servicing works.
  - (c) The Customer shall ensure that all preparation work outside the scope of the contract with Certuss is complete and carried out to a suitable standard in time for Certuss to commence work, and in particular that:

- (i) proper foundations ready to receive the Plant shall be prepared and ready for the start of the commissioning works; and
  - (ii) adequate, suitable and properly certified and maintained cranes, lifting tackle and scaffolding shall be provided.
- (d) Unless agreed to the contrary the Customer shall arrange at its own expense for the provision of sufficient and suitably-trained builders, joiners, masons, labourers and other specialist labour to enable the Commissioning to be carried out in accordance with Certuss' programme of work.
- (e) The Customer shall at its own expense ensure adequate provision of power, heat and light for Certuss to carry out work.
- (f) The Customer shall:
- (i) ensure all necessary licences, authorities and permissions are obtained in advance of work and shall indemnify Certuss against any damage or loss arising from failure to obtain such licences, authorities or permissions;
  - (ii) arrange insurance of all materials and equipment delivered by or on behalf of Certuss to the work site against loss or damage by fire and special perils to a value not less than the contract price, and shall pay to Certuss any sum received from the insurer in respect of any claim under such insurance relating to Certuss property.
- (g) Unless agreed to the contrary, the Customer shall be responsible for taking delivery and unloading at the Work Site.
- (h) Where packaging is quoted for as 'returnable' as per Clause 3(a)(v) it must be returned to Certuss at the Customer's expense and in good condition within 14 days of being unpacked, in default of which Certuss may charge for such packaging at its prevailing rate.
- (i) The Customer shall be responsible at all times for any loss or theft of, or damage to, the goods supplied by Certuss howsoever caused and for the safe storage of the Certuss's materials, vehicles and equipment at the Customer's premises.
- (j) The Customer shall reimburse Certuss in full for the value of any of Certuss's materials, vehicles and equipment at the Customer's premises that suffer damage or loss, howsoever caused.
- (k) Where the works carried out by Certuss are alterations, adaptations, modifications, or extensions to, or maintenance of, any existing works, Certuss shall not be liable for any defect which may become apparent in the existing works by reason of the works executed by Certuss.

### 7. Delivery, Commissioning and Storage

- (a) Any date or time quoted for delivery or commissioning is given as an estimate only and Certuss shall:

- (i) not be liable for any loss or damage howsoever arising by any matter beyond its reasonable control from failure to deliver or carry out commissioning on or by such stated date or at such stated time;
  - (ii) if found liable for loss or damage arising from failure to deliver on such stated date or at such stated time shall be liable only for loss limited to the excess (if any) over the price of the goods of the cost to the Customer of similar goods in the cheapest available market.
- (b) Certuss may at its discretion deliver Goods by instalment and in any order.
- (c) Unless agreed otherwise Certuss's quotation for commissioning is based upon the works being executed in normal working hours and undertaken in one single day or block of days, with full continuity of work so as to allow Certuss to carry out the works in an orderly manner and logical sequence to comply with any completion date agreed with the Customer.
- (d) If it becomes reasonably apparent to Certuss that the commencement, progress or completion of the works or any party thereof is being or is likely to be delayed for any reason at any time, then the Customer shall in writing grant an extension of time to Certuss as is fair and reasonable for the completion of the works.
- (e) Certuss will use reasonable endeavours to accommodate the Customer's programme of work by making reasonable and practical adjustments to its sequence of work. The Customer agrees that if any additional cost is incurred by Certuss by reason of rescheduling or interrupting its work for the convenience of the Customer then Certuss will be entitled to charge the Customer for all such costs (including indirect and consequential losses) and to recover such charges in accordance with Clause 4(d).
- (f) If the Customer causes the delivery of goods or materials or any part thereof to be delayed beyond the time when they would otherwise have been delivered or does not make available a person authorised to sign for a delivery such goods or materials shall be removed to Certuss's premises or other storage facility and stored by Certuss at the sole risk and expense of the Customer.
- (g) The Customer agrees that:
- (i) time is not of the essence in the performance by Certuss of its obligations; and
  - (ii) any failure of Certuss to make any delivery shall not entitle the Customer to cancel or suspend any subsequent or other delivery or contract.

### 8. Passing of Risk and Retention of Title

- (a) Risk in Goods supplied passes to the Customer upon:
- (i) where Goods are installed by Certuss, the agreed sign-off by Certuss and Customer of the completion of commissioning; or
  - (ii) where Goods are supplied but not commissioned, delivery as defined at Clause 1(k).



- (b) Notwithstanding the provisions of Clause 8(a) as to the passing of risk, goods or materials supplied by Certuss shall remain its sole property until the Customer has paid in full the agreed price and all other sums due from the Customer to the Certuss whether under this Contract or otherwise (including any interest due). Notwithstanding such retention of title, Certuss shall be entitled to maintain an action for the price of the goods or materials as soon as payment falls due.
- (c) The Customer acknowledges that it is in possession of such goods or materials as bailee for Certuss until the sums due in clause 8(b) have been paid in full and shall:
- (i) insure such goods or materials to their full market value;
  - (ii) store or otherwise identify such goods or materials as to show that they retain the property of Certuss;
  - (iii) not mortgage, charge or otherwise encumber or dispose of the goods (save for sale in the normal course of its business) without the written permission of Certuss; and
  - (iv) give Certuss such information about the goods or materials as it may from time to time require.
- (d) The Customer agrees that if Certuss invokes its right to repossession of its goods under clause 4(d)(iv) Certuss shall not be liable for any damage or injury reasonably done in the course of so doing to any other property owned by or in possession of the Customer to which Certuss's goods have been attached or in which they have been incorporated.
- ### 9. Warranties and Liability
- (a) Certuss warrants that goods or materials will correspond to their specifications as at the time of confirmation of order and that commissioning or servicing of goods or equipment will be carried out with reasonable care and skill and to a good standard of quality.
- (b) Certuss will, for the Warranty Period, replace, re-work or give credit to the Customer for any goods, materials or work which do not comply with the warranty at clause 9(a) and which are accepted by Certuss for replacement, re-work or credit, such acceptance being conditional upon:
- (i) the work in question not having been carried out against the advice (written or verbal) of Certuss or any of its tradespeople;
  - (ii) goods or material not having been altered, re-worked, or subject to misuse, unauthorised repair or repair by a third party;
  - (iii) equipment having been used, maintained and stored in accordance with Certuss's instructions and good practice
  - (iv) such non-compliance with warranty arising from normal wear and tear or the use of hard or acidic feed water or impure fuel or combustion air; and
  - (v) for repair work, the Customer not having been informed by Certuss's tradesperson at the time of repair that, because of the age or quality of the item being repaired, no warranty will be provided.
- (c) No claim under clause 9(a) may be made unless:
- (i) any claim in respect of damaged or short delivery or non-compliance with description is notified within 48 hours of delivery;
  - (ii) any claim for non-delivery is notified within 7 days of the expected date of delivery;
  - (iii) any claim in respect of the specification of goods or materials is notified in writing within 7 days of their commissioning or use at the course of work carried out by Certuss;
  - (iv) any claim in respect of care, skill or quality of work is notified in writing within 6 months of acceptance of the work by the Customer; and
  - (v) Certuss and/or its insurer is permitted to verify the same within 7 days of notification of the claim; and
  - (vi) the Customer, if Certuss so requests, returns the Goods and any packing materials to Certuss, securely packed and at the Customer's expense.
- (d) Notification for the purposes of Clause (c) is to be in writing and must provide full details of the alleged defect, including part numbers where appropriate.
- (e) In the absence of notification in accordance with Clauses 9(c) and 9(d) the Customer shall be deemed to have accepted the goods, materials or work.
- (f) Other than as set out in clause 9(a) or as expressly confirmed in writing by Certuss:
- (i) no warranty condition or representation express or implied as to description, quality or suitability of any goods hereby sold is given by Certuss or deemed to have been given or implied and (to the extent permitted by statute) any statutory or other warranty condition or representation whether express or implied is hereby excluded;
  - (ii) Certuss accepts no liability whatsoever for any loss or damage whether consequential or direct and whether suffered by or occasioned to the Customer the employees or agents of the Customer or a third party which may arise after the delivery or installation of the goods.
  - (iii) Certuss accepts no liability whatsoever for defects in goods or materials supplied by the Customer for installation by Certuss.
  - (iv) Certuss accepts no liability whatsoever for any failure of supplied Plant to meet steam demand in excess of the Plant's rated output.
  - (v) If materials, goods or equipment supplied under the contract are supplied by a third party subject to that third party's warranty, the Customer's remedy for any defect lies against that third party rather than against Certuss. If the Customer requests Certuss to pursue such a remedy against that third party on the Customer's behalf, the Customer shall indemnify Certuss for any costs incurred in so doing.

- (vi) If materials, goods or equipment are supplied for a specific purpose of the Customer, no warranty is given by Certuss as to fitness for such purpose irrespective of knowledge of it.
- (vii) If materials, goods or equipment are lost or damaged in transit then, where the cost of carriage did not form part of the cost of the contract, the Customer agrees that its remedy lies against the carrier.
- (g) Certuss's liability to the Customer is limited to the total price paid for the goods, materials or installation work.
- (h) The Customer accepts (and indemnifies Certuss from) liability for any damage or loss arising from a breach of any part of Clause 8.
- (i) Certuss shall deliver repaired or replaced goods or materials at its premises or the delivery point for the original goods or materials.

### 10. Intellectual Property Rights

- (a) Unless agreed otherwise in writing by both Certuss and the Customer:
  - (i) any design, drawing, specification or other document (in written or electronic form) prepared or produced by Certuss shall remain the exclusive property of Certuss; and
  - (ii) the Customer shall not disclose any design, drawing, specification or other document (in written or electronic form) prepared or produced by Certuss to any third party.
- (b) Where the Customer provides Certuss with any design, drawing, specification or other document for the purpose of Certuss providing its services to the Customer, the Customer grants Certuss a non-exclusive, royalty-free, worldwide, non-transferable licence to copy and modify such material for the purpose of provision of such services.
- (c) The Customer shall not use any information provided in confidence by Certuss for any purpose other than to fulfil its obligations to Certuss, and indemnifies Certuss in respect of any and all loss or damage arising from a breach of this Clause.
- (d) The Customer agrees to indemnify Certuss in respect of any claim for infringement of any intellectual property right arising from the design or supply of any item to a specification provided by the Customer.
- (e) The Customer agrees to notify Certuss of any claim or notification of proposed claim arising from any asserted intellectual property right relating to the goods, and acknowledges and accepts that Certuss may conduct and at its own discretion settle such dispute.

### 11. Force Majeure

In the event of war, invasion, act of foreign enemy, hostilities (whether war has been declared or not), civil war, rebellion, revolution, military or usurped power, act of God, force majeure, epidemic, pandemic, or any

other matter or

occurrence beyond the control of Certuss or the failure on the Part of the Customer to make due and timely supply of all materials and/or data and specifications as may be required and agreed as terms of the acceptance of any order by Certuss, Certuss shall be relieved of all liabilities incurred under the contract wherever and to the extent to which the fulfilment of such obligations is prevented, frustrated or impeded as a consequence of any such event or by the Statute Rules regulations Orders or Requisitions issued by any Government Department Council or other duty constituted authority or from strikes, lock-outs or other withdrawal of labour force, breakdown of plant or any other causes (whether or not of a like nature) beyond Certuss's control.

### 12. Arbitration

- (a) Any dispute, difference, controversy or claim arising out of or in connection with this agreement, including any question regard its existence, validity or termination, shall be referred to and determined by arbitration.
- (b) The seat of the arbitration shall be at a venue within England and Wales as agreed by the parties, or in default of agreement shall be London.
- (c) The language of the arbitration shall be English.
- (d) The party commencing arbitration (the claimant) shall send to the other party (the respondent) a notice of arbitration, which shall include:
  - (i) a demand that the dispute be referred to arbitration;
  - (ii) the parties and their respective names and addresses;
  - (iii) a reference to this arbitration clause;
  - (iv) a description of the nature and circumstances of the dispute; and
  - (v) a statement of the relief sought.
- (e) The arbitral tribunal (the tribunal) shall consist of a sole arbitrator. If the parties fail to agree upon the identity of the sole arbitrator within 30 days of service of the notice of arbitration, the sole arbitrator shall be appointed by the President for the time being of the Institute of Mechanical Engineers, at the written request of either party.
- (f) As soon as practicable after its constitution, the tribunal shall convene a meeting with the parties and/or their representatives (either in person or by telephone) to determine the procedure to be followed in the arbitration.
- (g) The procedure shall be as agreed by the parties or, in default of agreement, as determined by the tribunal.
- (h) The tribunal shall hold a hearing before reaching any determination in respect of any jurisdictional objection or on the merits of the dispute, unless the parties agree otherwise in writing.
- (i) The tribunal's award shall be final and binding on the parties. The parties undertake to carry out any award

immediately and without delay, and the parties waive irrevocably their right to any form of appeal, review or recourse to any state court or other judicial authority insofar as such waiver may be validly made.

- (j) Without prejudice to the availability of such remedies in aid of arbitration as may be available under the jurisdiction of a competent court or other judicial authority, the tribunal shall have full authority to grant interim measures of protection and to award damages for failure by any party to comply with any such order.
- (k) By agreeing to arbitration under this clause, the parties shall not be precluded from seeking interim measures

of protection

from a court of competent jurisdiction or other judicial authority.

### **13. Law and Jurisdiction**

- (a) The contract is deemed to be made under and in accordance with English law.
- (b) Any dispute under the contract not subject to arbitration under Clause 12 shall be subject to the exclusive jurisdiction of the Courts of England and Wales.