5.5 If BEAP accepts a variation without first having agreed the basis for charging, then the variation shall be valued on a fair and reasonable basis.

6. INFORMATION PROVIDED BY CUSTOMER AND ASSUMPTIONS

7. PRICES

3. SALES OF GOODS – DELIVERY AND ACCEPTANCE

3.1 This clause 3 shall apply in all cases where the contract is for the supply of goods and no installation services at the site are provided by BEAP under the contract notwithstanding other services may be provided by BEAP in connection with the goods.

3.2 The goods are delivered to the customer when BEAP makes them available to the customer or its agent (a carrier shall be the customer’s agent whoever pays its charges) at BEAP’s premises or other place of delivery agreed by BEAP.

3.3 Risk in the goods passes when they are delivered to the customer.

3.4 BEAP may at its discretion deliver the goods by instalments in any sequence.

3.5 When the goods are delivered by instalments no default or failure by BEAP in respect of any one or more instalments shall vitiate the contract in respect of the goods properly delivered or which remain undelivered.

3.6 Any dates quoted by BEAP for the delivery of the goods or if applicable for the provision or completion of the services are approximate only and shall not form part of the contract, and the customer acknowledges that in the performance expected of BEAP no regard has been paid to any quoted delivery dates.

3.7 If the customer fails to take delivery of the goods or any part of them on the due date or to provide any instructions or documents required to enable the goods to be delivered or collected by BEAP may on giving written notice to the customer store or arrange storage of the goods and on the service of the notice in the goods shall pass to the customer. Delivery of the goods shall be deemed to have taken place and the customer shall pay to BEAP all costs and expenses including storage and insurance charges arising from its failure.

3.8 BEAP shall not be liable for any penalty loss injury damage or expenses arising from delay through any cause at all, nor shall any such delay or failure entitle the customer to refuse to accept any delivery or performance or to repudiate the contract.

Acceptance and Notice of Complaint

3.9 The customer shall be deemed to be satisfied with and have accepted the goods on delivery UNLESS it shall have complied with the provisions of this Clause 3.

3.10 Any claim that the goods or any part of them have been delivered damaged or are not of the correct quantity or do not comply with their description shall be notified by the customer to BEAP by written endorsement on the delivery note in respect of such goods and in writing to BEAP within 48 hours of their delivery.

3.11 Any claim that the goods or any part of them have been lost in transit or are defective or in the case of services of a defect in workmanship shall be notified by the customer to BEAP within 7 days of delivery of the goods or completion of the services.

3.12 Any claim under this condition must be in writing and must contain full details including part numbers of the allegedly defective goods or part thereof.

3.13 BEAP shall be afforded reasonable opportunity and facilities to investigate any claims made under this Condition and the customer shall if so requested to in writing by BEAP promptly return any of the goods the subject of any claim and any packaging materials securely packed and carriage paid to BEAP for examination.

3.14 BEAP shall have no liability with regard to any claim in respect of which the customer has not complied with the claims procedure of these conditions.

4. SUPPLY OF GOODS AND SERVICES – TIME, ACCEPTANCE AND DEFECTS

4.1 This clause 4 shall apply in all cases where the contract is for the supply of goods and services including installation services by BEAP at the site.

4.2 The customer shall allow access to the site to enable BEAP to carry out and complete the contract works.

4.3 Any dates quoted by BEAP for delivery of goods or completion of any service are approximate only and shall not form part of the contract and the customer acknowledges that in the performance expected of BEAP no record has ever been paid to any such dates.

4.4 BEAP shall not be liable for any loss injury charge or expense arising from its failure to meet any dates referred to in Clause 4.3, nor shall any such failure entitle the customer to refuse to accept any delivery or performance or to repudiate the contract.

4.5 When BEAP considers it has completed supply of goods and installation services including testing and initial commissioning where appropriate, BEAP shall notify the customer that the contract works are complete.

4.6 On receipt of notice by BEAP under Clause 4.5 the customer shall forthwith inspect the works on site and the customer shall be deemed to be satisfied with and have accepted the contract work UNLESS it immediately notifies BEAP of its dissatisfaction in writing giving reasons.

4.7 In the event that BEAP does not agree with the customer that the works are not complete either party may refer the matter to adjudication as provided in this contract.

4.8 If any defect appears or becomes apparent within 6 months following the acceptance of the works the customer shall immediately notify BEAP and afford BEAP reasonable opportunity to inspect, to investigate the cause and to correct the defect.

5. VARIATIONS

5.1 All variations shall be in writing signed by both parties or shall be requested in writing by the customer and accepted expressly as a variation by BEAP.

5.2 No variation shall vitiate the contract.

5.3 BEAP may require the basis of charging any variation to be agreed in writing before any goods or service comprising a variation is provided to the customer.

5.4 In the event that the basis of charging a variation is not agreed BEAP may at its absolute discretion refuse to accept the variation or may require the subject of the proposed variation to be supplied under a separate contact.

5.5 If BEAP accepts a variation without first having agreed the basis for charging, then the variation shall be valued on a fair and reasonable basis.

6. INFORMATION PROVIDED BY CUSTOMER AND ASSUMPTIONS

6.1 Where in BEAP quotation any information or document is identified as provided by the customer, BEAP shall be entitled to rely on such information or document for the purpose of discharging its obligations under the contract.

Assumptions made by BEAP

6.2 Where in BEAP quotation it is stated that an assumption has been made, the goods and/or services specified and the prices therefore included in the contract price are based on such an assumption being correct.

6.3 If at any time any said assumption is found to be incorrect and correction would affect the performance of the contract works in any way whatsoever, any resulting effect on the contract works shall be carried out by BEAP and shall be treated as though it were a variation.

7. PRICES

7.1 The contract price is based on prices and rates, terms and duties applying at the time of BEAP quotation.

7.2 If after the date of BEAP quotation BEAP costs are increased by any increase in the prices or rates to BEAP of material, plant, equipment, transport, labour and any part of BEAP overhead costs, or if there is any increase in the rate of any existing tax or duty, BEAP shall be entitled to be reimbursed by the customer the amount of its said increased costs.

7.3 The contract price and all prices contained in BEAP quotation are nett and no provision is made for the customer to be allowed discount.

8. PAYMENT AND SET OFF

Payment (supply only)

8.1 If the contract does not include installation of the goods by BEAP at the site:
(a) BEAP may invoice for goods immediately after delivery. If the contract provides for delivery in instalments, BEAP may invoice for the relevant goods immediately after delivery of each instalment.
(b) All invoices for the price of the goods and services are payable without discount of any kind in pounds sterling within 30 days of date of invoice at BEAP’s premises stated on the invoice and in no circumstances shall the customer be entitled to make any deduction or withhold payment for any reason at all.
9.7 If the goods are affixed to any land or building in performance of the contract, BEAP’s rights to possess the goods and any obligations in respect thereof shall be the same as if
9.6 The customer must ensure that if the goods are or become affixed to any land or building they shall be capable of being identified as the property of BEAP and removed
9.8 The customer’s right to possession of the goods shall cease if it does anything or fails to do anything which would entitle an administrator or administrative receiver to take
9.3 Until the title to the goods passes to the customer the entire proceeds of sale of the goods shall be held in trust for BEAP and shall be held in a separate designated account
9.2 BEAP may at any time before title passes and without any liability to the customer repossess and dismantle and use or sell any of the goods and by doing so terminate the
10.4 If the customer establishes that any of the goods are defective, BEAP shall at its option replace with similar goods or repair any defective goods or rectify any defective
10.5 Clause 10.4 shall not apply unless:
10.6 Clause 10.4 shall not apply to plumbing work or repair of faults caused by failure or stoppage in power supply or defects or blockage in draining system or defects in water
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12. SERVICES

12.1 This clause shall apply if the contract is for the supply of goods and services including installation services by BEAP at the site.

12.2 BEAP shall be entitled to carry out the services during normal working hours. If the customer requests BEAP to perform services outside normal working hours such request shall be a variation.

12.3 Unless otherwise provided expressly in BEAP’s quotation the services shall exclude the following:
   (a) All electrical mains power supplies and cables necessary for the services, suitably rated fused switch isolator between the incoming mains distribution board and BEAP’s tools plant and equipment.
   (b) Any specialist builders work of a structural nature including but not limited to drilling of holes through reinforced walls, specialist support slabs, walls and cutting and weatherproofing of roofs, painting, redecorating and making good the premises after BEAP installation work, removal and refitting of interlock design ceiling tiles and all remaining to be accomplished by accidental damage of any of the foregoing or by accidental break of glass during the carrying out of the services.
   (c) All necessary Planning Approvals or other consents required for the performance of the services.
   (d) Any craneage, hoisting gear, scaffold, ladders and movable platforms.

12.4 Goods delivered to site which remain unfilled and goods installed and work carried out in connection therewith shall at all times be at the sole risk of the customer and if any part thereof is lost damaged or destroyed through any cause whatsoever BEAP shall be entitled to treat and charge for the cost of restoration of any goods or services so lost damaged or destroyed as a variation. The customer shall insure and keep insured in the joint names with such reputable insurers as BEAP shall approve the full value of the goods and/or the services, including BEAP’s tools plant and equipment on site and the cost of any relevant professional fees or services against every kind of loss damage or destruction. The customer shall produce to BEAP on demand the policy or policies under which such insurance is effected together with the latest premiums receipts. If the customer shall default in effecting insurance BEAP may effect the same on behalf of the customer and the cost thereof shall be reimbursed by the customer to BEAP on demand.

12.5 If the services are to be performed at the premises of the customer or at its request at the premises of any other person then the customer warrants and undertakes to BEAP throughout the term of the contract as follows:
   (a) That the customer has the full power and authority to enter into the contract and to permit BEAP to perform the services and all necessary Planning Approvals or other consents authorising the services have been obtained.
   (b) To grant to BEAP’s employees agents and contractors full and unrestricted safe access to the site as BEAP shall from time to time require in order to discharge its obligations under the contract.
   (c) To make available free of charge at the site such facilities as BEAP shall reasonably require to enable the services to be performed safely expeditiously and without any interruption by any activity of the customer including but without limitation adequate and safe working space, storage, office furniture equipment and all electrical mains power and/or other fuel supplies and cables necessary for the services, suitably rated fused switch isolator between incoming mains distribution board and BEAP’s tools plant and equipment, any craneage hoisting and/or lowering gear specialist lifting tackle scaffolding ladders and movable platforms.
   (d) To provide adequate protection of all the goods tools plant and equipment and materials on site.
   (e) To provide prior to commencement of installation and at the customer’s cost all builder’s work including but without limitation foundations, drilling of holes through reinforced walls, special support slabs, cutting and weathering of roofs, cutting away and making good as required and ready availability of all plant and equipment so as to ensure that the premises are in a fit state for the contract works.

12.6 Without prejudice to any other right or remedy it possesses under the contract, BEAP may claim the amount of any loss and/or expense incurred by it resulting from any breach by the customer of its obligations under Clause 12.1 to 12.5.

13. CONFIDENTIALITY

13.1 The customer shall not at any time whether before or after completion or termination divulge or use any unpublished technical information deriving from BEAP or any other confidential information in relation to BEAP’s affairs or business.

14. CANCELLATION BY CUSTOMER

14.1 Orders for goods which have been made specially for the customer and/or for which BEAP has placed an order with a manufacturer will be charged in full unless written notice of cancellation is received not less than 8 weeks before the delivery date notified to the customer, and providing manufacture of such goods or any components has not commenced at the date of that notice. Orders for stock items may be cancelled by written notification of an appointment of an Adjudicator shall be served on both parties.

14.2 The customer shall not at any time whether before or after completion or termination divulge or use any unpublished technical information deriving from BEAP or any other confidential information in relation to BEAP’s affairs or business.

15. STATUTORY COMPLIANCE

15.1 The customer shall obtain every necessary licence or permit or approval required and give every necessary notice or declaration and/or comply with any legal requirement for or relating to the use or installation of the contract works.

16. FORCE MAJEURE

16.1 BEAP shall not be responsible for any failure in performance of any of its obligations under the contract caused by factors outside its control.

17. NOTICES

17.1 To be served effectively any notice or communication in writing shall in the case of a notice or communication to BEAP be sent to its address on BEAP’s quotation and shall in the case of a notice or communication to the customer be sent to the customer at its registered office or to the address of the customer last known to BEAP. Any such notice or communication may be given by registered or recorded delivery post or facsimile transmission. To prove service in the case of notice given by facsimile transmission it shall be sufficient to show that it was despatched to the correct facsimile number. Service shall be deemed to have been affected 24 hours after despatch by post or facsimile transmission.

18. GENERAL

18.1 BEAP may subcontract the performance of the contract in whole or in part.

18.2 The customer shall not assign or sublet the contract in whole or in part, without first obtaining BEAP’s written consent which consent shall not be unreasonably withheld.

18.3 All tools, patterns, materials, drawings, specifications and other data provided by BEAP shall remain its property and all technical information patentable or impatentable copyright and registered design arising out of or in connection with its performance of the contract, shall be the property of BEAP, save to the extent that the contract works described on BEAP’s quotation expressly provides otherwise.

18.4 If any provisions contained in these conditions shall be deemed to be invalid for any reason the condition shall be read as if the provision had to that extent been deleted therefore and the validity of the remaining provisions of these conditions shall be affected thereby.

19. SETTLEMENT OF DISPUTES

19.1 Should any dispute or difference arise between the parties under the contract at any time including after its completion and whether before or after the termination, abandonment or breach of the contract then either party shall have the right to refer that dispute or difference for adjudication in accordance with the following conditions.

19.2 If any such dispute or difference arises then one party ("The Applicant") may serve upon the other ("the Respondent") a notice ("the notice") which shall state in sufficient detail the nature of the dispute, the remedy sought together with a request to refer the dispute for adjudication.

19.3 The notice under Clause 19.2 shall also be served forthwith by the Applicant on the Adjudicator either upon his identity being agreed or upon him being appointed under Clause 19.4 below as the case may be.

19.4 The parties shall within four days of the Notice being served upon the Respondent agree upon a suitable Adjudicator. Failing agreement the Applicant shall and the Respondent may apply for an appointment to the Academy of Construction Adjudicators (whilst at the same time serving a copy of the application on the other party) whose written notification of an appointment of an Adjudicator shall be served on both parties.

20. ADJUDICATION

20.1 The Adjudication is to be carried out in accordance with BEAP rules for Adjudication-Construction Projects (a copy of which shall be provided on request) and with the object of securing the appointment of and the referral of the dispute to the Adjudicator within seven days and requiring a Decision by him within twenty eight days of such referral.

21. LAW

21.1 The contract shall be governed by English law and the customer consents to the exclusion jurisdiction of the English courts in matters regarding the contract except to the extent that BEAP invokes the jurisdiction of the Courts of any other country.