

## HOWMET LIMITED TERMS AND CONDITIONS OF SALE

Rev. September 2017

### 1. Definitions.

"**Seller**" means Howmet Limited (company number 02659893) whose registered office is at 26a Atlas Way, Sheffield, S4 7QQ. "**Buyer**" means the individual, company or other legal entity that has submitted an Order to the Seller. "**Order**" means the Buyer's expressed desire, whether oral or written, to procure Goods from the Seller. "**Goods**" means all of the products, materials and related services that the Buyer desires to purchase from the Seller. These terms and conditions of sale apply to the sale of the Seller's Goods and/or services (the "**Terms and Conditions**").

### 2. Acceptance.

2.1 Any Order placed by the Buyer is subject to written acceptance by the Seller, which may include a sales order acknowledgement. These Terms and Conditions constitute the sole terms and conditions of any Order between the parties unless other written, mutually agreed, terms and conditions have been executed between the parties. The Order, the written acceptance, if any, and these Terms and Conditions shall be the complete and final agreement (the "**Agreement**") between the Seller and the Buyer with respect to the purchase and sale of Goods and/or services identified in the Order, to the exclusion of any other terms and conditions that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Seller's acceptance of any Order is expressly made conditional upon the application of these Terms and Conditions. The Seller objects to any additional or different terms and conditions proposed that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. The Seller will not be deemed to have waived these Terms and Conditions if the Seller fails to object to provisions contained in the Buyer's communications. The Buyer's acceptance of the Seller's Goods or services constitutes the Buyer's acceptance of these Terms and Conditions. No amendment to these Terms and Conditions shall have any effect unless approved in writing by a director or other authorised employee of the Seller.

2.3 In all cases, the Seller's acceptance of an Order is conditional for a period of up to three (3) business days to confirm the Buyer's creditworthiness.

2.4 The Seller reserves the right to decline any Order. Orders confirmed by the Seller cannot be cancelled except with the written consent of the Seller.

### 3. Price.

3.1 Unless otherwise agreed to in writing by the parties, pricing and charges will be as stated at the time the Seller accepts the Buyer's Order for Goods and/or services by sales order acknowledgement or as otherwise notified to the Buyer by the Seller in writing.

3.2 All prices and payments are in Sterling unless otherwise agreed. Quotations in a currency other than Sterling are based on the rate of exchange at the time of quoting and unless otherwise stated the price may be subject to revision up or down if any different rate of exchange is ruling at the date of invoice. The prices stated do not include any value added tax or any other tax or duty related to the manufacture, transportation, export, import, sale or delivery of the Goods and/or services and all such taxes in effect or hereafter levied are in addition to such prices and will be paid by the Buyer.

3.3 Where as a result of withdrawal of the United Kingdom from the European Union ("**EU Withdrawal**"), the Seller's costs of supplying the Goods and/or services are materially increased, the Seller shall be entitled to increase the prices for the Goods and/or services on thirty (30) days' written notice to the Buyer to reflect such increase to the Seller's costs.

Such increase to the prices shall apply from the date of the EU Withdrawal. For the purposes of this clause, an increase of 10% or more of the Seller's costs shall in all cases be deemed to be a "material" increase.

#### **4. Payment.**

- 4.1 The Buyer will make payment pursuant to the Seller's invoices at the prices provided therein subject to any applicable agreement between the parties such as material re-pricing or alloy cost adjustments or labour or utilities cost adjustments.
- 4.2 The Buyer shall submit with each payment a statement, which clearly states, without commingling, the Seller's invoice numbers, quantity of Goods purchased and the amount being paid.
- 4.3 The Buyer's obligation to make full and timely payment of amounts due under the Agreement shall be without rights of abatement, counterclaim, deduction or set-off. In the event that the Buyer fails to pay the Seller's invoices when due, the Buyer will be obliged to pay the Seller, on all amounts so unpaid, interest, at the higher of the maximum permissible rate for overdue accounts or the rate of five percent (5%) per annum over base rate of the Bank of England prevailing from day to day, from the date such payment was due until the date paid by the Buyer and shall be compounded monthly on the amount overdue until payment thereof. Such interest will be due and payable without demand by the Seller.
- 4.4 Unless agreed otherwise in writing by the Seller, payment terms are net thirty (30) days from the date of the Seller's invoice. Notwithstanding the foregoing, should the Buyer experience a deterioration in its creditworthiness or other reasonable grounds for insecurity arise with respect to the Buyer's ability to timely pay, the Seller may demand different terms of payment and may, orally or in writing, demand assurance of the Buyer's ability to timely pay. The Seller may, upon the making of such demand, stop production and suspend shipment hereunder. If, within the period stated in such demand, the Buyer fails or refuses to agree to such different terms of payment or fails or refuses to give adequate assurance of the Buyer's ability to timely pay, the Seller may, at its option, treat such failure or refusal as a repudiation of the portion of the Agreement which has not been fully performed, or may resume production and may make shipment under reservation of possession of a security interest and may demand payment against tender of documents of title.
- 4.5 The Seller retains all rights at law pertaining to collection of unpaid amounts owed by the Buyer under the Agreement, and the Buyer shall reimburse the Seller for all costs associated with such collection activities including reasonable legal and professional fees.
- 4.6 Time of payment by the Buyer shall be of the essence of the Agreement.

#### **5. Delivery and Title.**

- 5.1 All delivery or shipping dates are estimates only. Unless otherwise agreed to in writing by the Seller, all Goods are sold EXW Seller's facility Incoterms® 2010. Risk of loss or damage to the Goods will pass to the Buyer at the delivery point.
- 5.2 Until the Seller has been paid in full (in cash or cleared funds) for the Goods and until all other monies due or which become due from the Buyer to the Seller on any account whatsoever have been paid in full (in cash or cleared funds), the following provisions shall apply:
- (a) legal and beneficial ownership of such Goods shall remain with the Seller;
  - (b) the Buyer shall have a right to possession (but not ownership) of such Goods and shall ensure that the Goods shall be clearly marked and identifiable as being the Seller's property;

- (c) the Seller may recover all or any part of such Goods at any time from the Buyer if they are in the Buyer's possession and any of the events in Condition 14.2 has occurred and for that purpose the Seller, its agents and representatives may enter upon any land or building upon or in which such Goods are situated;
- (d) the Buyer has a right to dispose of such Goods (as between it and its customers only) as principal in the ordinary course of its business;
- (e) the Seller shall package the Goods in accordance with applicable industry standards; and
- (f) even if legal title to the Goods has not passed to the Buyer, the Seller may nevertheless maintain an action against the Buyer for the purchase price and all other monies in relation to the Goods notwithstanding Section 49 of the Sale of Goods Act 1979.

5.3 If before title to the Goods passes to the Buyer, the Buyer becomes subject to any of the events listed in Condition 14.2 then, without limiting any other right or remedy the Seller may have, the Buyer's right to resell the Goods or use them in the ordinary course of its business shall cease immediately (without notice).

## **6. Delays.**

The Seller will use commercially reasonable efforts to fulfil the relevant Agreement in accordance with the estimated delivery or shipping date, but the Seller will not be responsible for any delays in fulfilling the Agreement nor liable for any losses or damages resulting from such delays. The Agreement will not be subject to cancellation for any such delays.

## **7. Force Majeure.**

The Seller will not be liable for delays in fulfilling the Agreement or failure in the performance of any of its obligations under this Agreement caused by accidents, labour disputes or disruptions, strikes, shortages of labour, materials, fuel or power, fires, floods or other acts of God, acts of terrorism or war, acts or omissions of the Buyer, delays in transportation or lack of transportation facilities, priorities required, requested or granted for the benefit of any government authority, restrictions imposed by law or any rules or regulations thereunder, or any cause, whether similar to or dissimilar from those set forth above, beyond the Seller's reasonable control. In the event of any such circumstances causing a delay in delivery then the Seller shall be entitled to serve written notice of such circumstances on the Buyer and should the situation prevail for a period exceeding ninety (90) days from the date of such notice then either party shall be entitled within a further period of ten (10) days to cancel the Agreement or that part of the Agreement still outstanding.

## **8. Packaging and Transportation.**

Unless otherwise agreed by the parties in writing, the Seller shall package the Goods in accordance with applicable industry standards. The agency and method of transportation of the Goods and the routing of the Goods to the delivery point will be designated by the Seller. If the Seller complies with the Buyer's request with respect to the use of any agency or method of packaging or transportation or any routing other than that which would otherwise be designated by the Seller, all packing, marking, shipping, transportation and other charges which are in excess of the charges which would otherwise be incurred by the Seller will be for the Buyer's account and the Buyer agrees to pay such amounts in accordance with the payment terms in these Terms and Conditions.

## **9. Instalments; Product Weights.**

9.1 The Seller reserves the right to make the Goods available in instalments, and to invoice instalments separately. Each instalment shall constitute a separate Agreement. Any delay or defect in any

instalment will not entitle the Buyer to cancel any other instalment. If the Buyer shall make default in payment of any monies payable to the Seller in relation to any delivery or any pre-payment under an Agreement for delivery by instalments, then the Seller shall be entitled within its discretion summarily to terminate the then outstanding balance of the Agreement by serving notice to that effect upon the Buyer.

- 9.2 The Seller's product weights as shown on the packaging will govern for each product. Should the Buyer dispute the product weight of any product, the Buyer will promptly notify the Seller in writing of the reasons for such dispute and provide to the Seller all necessary documents to substantiate the difference. The parties agree that if the quantity of Goods, as determined by actual weight, is within five percent (5%) of the quantity shown on the packaging, the Buyer shall be deemed to have received the quantity shown on the packaging, and the Buyer shall pay for such amount.

## **10. Inspection.**

- 10.1 Within seven (7) days after the Seller's delivery of the Goods or completion of services, the Buyer must inspect the Goods or services and notify the Seller of any non-conformity. Unless the Seller receives such notice of non-conformity within seven (7) days after the Seller's delivery of the Goods or services, the Goods or services shall be deemed to have been accepted by the Buyer.
- 10.2 If the Buyer notifies the Seller of non-conforming Goods or services within the time period noted above, the Seller will, at its option, repair, correct or replace at no cost to the Buyer any such non-conforming Goods or services, provided that the Buyer (i) complies with Condition 10.1 above and (ii) returns the non-conforming Goods to the Seller in accordance with this Condition. All non-conforming Goods shall be returned pursuant to the Seller's return material authorisation process set out in Condition 20, and the Seller shall bear the transportation costs associated with the Buyer's return of non-conforming goods. The Seller may at its option, participate in the failure investigation of any allegedly non-conforming Goods or services on the Buyer's property or wherever the Goods or result of the services are located and shall be entitled to repair, correct or replace non-conforming Goods or services at such site or at the Seller's designated facility.
- 10.3 Repair, correction or replacement in the manner provided above shall constitute the Buyer's sole remedies and the Seller's sole obligations with respect to non-conforming Goods or services. The Seller shall have no liability for other direct, special, indirect, incidental or consequential damages, including, but not limited to, tear down or rebuild of engines or other higher assemblies and machining or other value add services.
- 10.4 The Seller will not accept return of any Goods without its prior agreement. Any Goods which are authorised to be returned will remain at the risk of the Buyer during transportation.

## **11. Warranty.**

- 11.1 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Agreement.
- 11.2 The Seller warrants that the Goods delivered to the Buyer will conform in all material respects to the agreed upon specifications included in the Agreement for a period of twelve (12) months from the date the Seller delivers the Goods to the Buyer. The Seller warrants that any services provided to the Buyer or for the Buyer's benefit will conform in all material respects to the agreed upon specifications included in the Agreement for a period of ninety (90) days from the date of the Seller's completion of the services.
- 11.3 Notwithstanding any longer statute of limitations, if the Buyer has a warranty claim under this Condition 11, the Buyer must provide written notification to the Seller of the warranty claim (i) promptly (but no later than ten (10) days) after discovering the warranty claim and (ii) within the

warranty period specified in Condition 11.2. The Buyer's failure to adhere to the foregoing timing requirements shall preclude the Buyer from any remedies for such warranty claim. The Buyer must also return the non-conforming Goods to the Seller in accordance with the Seller's return material authorisation process set out in Condition 20. The Seller shall bear the transportation costs associated with the Buyer's return of non-conforming Goods. The Seller may at its option, participate in the failure investigation of any allegedly non-conforming Goods or services on the Buyer's property or wherever the Goods or result of the services are located and shall be entitled to repair, correct or replace non-conforming goods or services at such site or at the Seller's designated facility.

- 11.4 The Seller shall have no liability whatsoever in respect of any claims arising from (i) the Buyer's specifications, (ii) ordinary wear and tear, (iii) wilful damage by the Buyer or its customers, (iv) negligence on the part of the Buyer or its customers, (v) abnormal working conditions at the Buyer's or any of its customer's facilities, (vi) the Buyer's or any of its customer's failure to follow the Seller's instructions (whether oral or in writing), (vii) the Buyer's or any of its customer's misuse or alteration or repair of Goods sold hereunder without the Seller's prior written approval, or (viii) if the Buyer makes further use of the Goods after having discovered the non-conformity.
- 11.5 EXCEPT TO THE EXTENT SUCH EXCLUSION IS PREVENTED BY LAW, THE WARRANTIES SET FORTH IN CONDITION 11 ARE EXCLUSIVE AND IN LIEU OF ANY OTHER WARRANTIES, WHETHER EXPRESS, STATUTORY OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT TO THE EXTENT SUCH EXCLUSION IS PREVENTED BY LAW, NO WARRANTY IS OFFERED BY THE SELLER ON ANY GOODS OR SERVICES WHICH ARE DEVELOPMENTAL OR SAMPLES. ANY SUCH GOODS AND RELATED SERVICES PROVIDED HEREUNDER ARE PROVIDED "AS IS, WITH ALL FAULTS." The Seller makes no warranty whatsoever with respect to Goods manufactured by third party suppliers. Warranties with respect to such Goods are limited to those which are offered by such suppliers and are transferable to the Buyer.
- 11.6 If the Buyer adheres to the requirements in this Condition 11, the Seller will, at its option, repair, correct or replace (or in the case of services re-perform) at no cost to the Buyer any Goods or services which prove to be non-conforming with the warranty in Condition 11.2.
- 11.7 Repair, correction, re-performance or replacement in the manner provided above shall constitute the Buyer's sole remedies and the Seller's sole obligations under this warranty. The Seller shall have no liability for other direct, special, indirect, incidental or consequential damages, including, but not limited to, tear down or rebuild of engines or other higher assemblies and machining or other value add services.

## **12. Limitation of Liability.**

- 12.1 In no event shall the Seller be liable to the Buyer in contract, tort (including negligence or breach of statutory duty) or otherwise for any of the following losses or damages, whether direct or indirect, arising out of, or in connection with, the supply, non-supply or delay in supplying the Goods and/or services or otherwise in connection with any Agreement:
- (a) any direct damages beyond those stipulated under Conditions 10 and 11;
  - (b) loss or damage incurred by the Buyer as a result of third party claims;
  - (c) loss of actual or anticipated profits;
  - (d) loss of actual or anticipated projects;
  - (e) loss of business opportunity;

- (f) loss of anticipated savings;
- (g) loss of goodwill;
- (h) injury to reputation; or
- (i) any incidental, consequential or special loss or damages howsoever caused.

12.2 In any event, the Seller's liability to the Buyer shall not exceed the purchase price of the Goods and/or services on which such liability is based. Except to the extent such exclusion is prevented by law, the Buyer assumes all other liability for any loss, damage or injury to persons or property arising out of, connected with or resulting from the use of the Goods and/or services, either alone or in combination with other products or services.

12.3 Nothing in these Terms and Conditions shall exclude or limit the Seller's liability for (i) death or personal injury caused by the Seller's negligence, or the negligence of its employees, agents or subcontractors (ii) fraud or fraudulent misrepresentation or (ii) any other liability that cannot be lawfully excluded or limited.

### **13. Indemnity.**

The Buyer agrees to indemnify and hold the Seller harmless from third party product liability claims, losses, damages, or expenses (including reasonable costs of defending any proceedings) arising out of or resulting from (i) the design, testing or machining of the Goods and/or services by the Buyer or third parties (including the Buyer's responsibility to test the Goods after machining by the Buyer or the Buyer's designated machining subcontractors) or (ii) the Goods and/or services having been altered, modified or improperly installed, operated, used or maintained by the Buyer or the Buyer's customers or any third party except in each case where such claim relates to death or personal injury caused by the Seller's negligence, or the negligence of its employees, agents or subcontractors.

### **14. Termination.**

14.1 The Buyer may not terminate any Agreement without the prior written consent of the Seller. If the Seller consents to such termination, reasonable termination charges computed by the Seller will be assessed in connection with such termination, and shall be due and payable by the Buyer not later than thirty (30) days after submittal of said termination charges.

14.2 Without liability to the Buyer, the Seller may terminate any Agreement, contract or Order or related Orders in the event that the Buyer breaches the Agreement (including, but not limited to, any failure to pay any debt due and payable to the Seller) and fails to remedy any such breach within ten (10) days of the Seller's transmission to the Buyer of written notification describing the breach or becomes or enters into any composition or arrangement (including a voluntary arrangement) with its creditors or, being a body corporate, has passed a resolution for voluntary winding up except where solely for the purpose of reconstruction or if a petition has been presented for an order for its winding up or for a receiver (including an administrative receiver) or for an administrator to be appointed or if any such order or appointment is made or if, being an individual or partnership, the Buyer suspends payment of his or their debts in whole or in part or if an application has been made for an interim order or a petition has been presented for a bankruptcy order or if any such order is made or if the Buyer, whether or not a body corporate, shall carry out or be subject to any analogous act or proceedings under any law.

### **15. Changes.**

Any changes requested by the Buyer as a condition of entering into any Agreement or subsequent to entry into an Agreement which change the basis of the Seller's quote, including these Terms and

Conditions, will be subject to the prior written consent of the Seller and subject to an equitable price or delivery adjustment, or both, as determined by the Seller in its absolute discretion.

**16. Confidentiality.**

Unless otherwise agreed to in a non-disclosure agreement executed by the parties, (i) the Seller will not be bound by any obligations of confidentiality or non-disclosure and (ii) all information disclosed by the Seller to Buyer is confidential information and the Buyer agrees to protect such information for a period expiring two (2) years following the Seller's last shipment of Goods and/or provision of services to the Buyer.

**17. Intellectual Property & Infringement.**

17.1 **Intellectual Property.** No right, title, or interest in and to any development, invention, or work of authorship, conceived or developed by the Seller during the course of performance of the Agreement, is conveyed to the Buyer. The Seller does not grant to the Buyer, and nothing contained in the Agreement will obligate or be construed to obligate the Seller to grant to the Buyer, any licence under any patents or other intellectual property owned by the Seller or its suppliers. Except for data that the Seller has agreed to provide as a deliverable, or data customarily provided by the Seller for quality control purposes (which the Buyer must keep confidential and use solely for such purposes), the Seller shall not be required to deliver any data concerning its manufacturing processes.

17.2 **Infringement.** The Buyer agrees to defend, indemnify and hold harmless the Seller, its officers, employees or agents from any liability, damages, costs or expenses (including court costs and reasonable legal and professional fees) arising out of any actual or alleged infringement of any third party copyright, patent, trade secret, trademark, or other intellectual property right arising out of the Seller's use of any design, drawing or specifications provided or approved by the Buyer.

**18. Tooling.**

Title to and ownership of any tooling listed as a deliverable in a line item in an Agreement and paid for by the Buyer shall vest in the Buyer and the Buyer shall be responsible for funding replacement tooling when the normal life of the tooling is exhausted. If the Seller does not receive an Order from the Buyer for Goods and/or services requiring the use of such tooling for a period of one (1) year, the Seller may, by written notice to the Buyer at the Buyer's last known address, request the Buyer to make disposition thereof at the Buyer's expense. If the Buyer fails to issue disposition instructions to the Seller within forty-five (45) days of such notice, the Seller may make any use or dispose of such tooling in its sole discretion without liability or obligation to the Buyer. The Seller may remove any embedded intellectual property which it either owns or is controlled under applicable export control laws prior to returning any Buyer owned tooling.

**19. Trade Compliance.**

The Buyer warrants that it will comply with all applicable laws in the United Kingdom and Europe and also any applicable United States federal, state and local laws and regulations including import and export laws and regulations and will all applicable export and import licences and their provisos. The Seller's supply of Goods to the Buyer is conditional upon the Seller securing any necessary export authorisations or licences, and the Buyer shall cooperate with the Seller in obtaining such export authorisations or licenses at the Seller's request. The Seller shall have no liability to the Buyer in the event that an export authorisation or license is delayed, not approved or is later withdrawn or suspended. The Buyer agrees to provide the Seller any documentation the Seller reasonably requests to comply with applicable laws and regulations. Each party acknowledges that in no event shall the Seller be obliged to take any action that the Seller believes, in good faith, would cause it to be in violation of any laws, regulations, rules, decrees or directives applicable to the Seller or the Buyer. Should the Buyer's actions, or the actions of its owners, directors, officers, employees,

representatives, consultants or agents, result in the assessment of any fine, penalty or disgorgement of profits against the Seller for violation of any applicable laws, the Buyer hereby agrees to indemnify the Seller therefore. If any breach of this Condition 19 is suspected or known by the Buyer, they must notify the Seller immediately.

**20. Return Material Authorisation Process.**

All requests by the Buyer to return Goods to the Seller must be initiated through the Seller's responsible account representative as notified to the Buyer from time to time. If the Buyer has provided the appropriate information to the Seller, the Seller will issue a return material authorisation ("RMA") number to the Buyer within five (5) working days of the Seller's receipt of the appropriate information from the Buyer. The parties will agree to any special instructions associated with the return of such Goods at the time the RMA number is issued by the Seller.

**21. Insurance.**

The Buyer shall at all times carry sufficient, relevant insurance coverage to cover potential claims at its own expense, including public liability insurance with coverage of no less than £5 million per occurrence for death, bodily injury, and property damage and product liability insurance covering products and services for the aerospace industry, if applicable, in an amount not less than £10 million per occurrence and not less than £10 million per grounding. The Seller retains the right to require a reasonable increase, consistent with industry standards, in the above stated insurance limits at any time. Unless otherwise approved by the Seller such policies shall be written by an insurer with an A.M. Best rating of A, Class VIII. At the Seller's request, the Buyer shall provide the Seller with a certificate of insurance evidencing such coverage currently in force, and will provide updated certificates, in a timely fashion, as policies are renewed thereafter.

**22. Anti-corruption.**

22.1 The Buyer acknowledges that it has had the opportunity to review the Seller's written anti-corruption policy, a copy of which is available at the following web address: <http://www.arconic.com/global/en/investors/anti-corruption-policy.asp> and on request from the Seller (the "**Policy**"). The Buyer represents and certifies that it fully understands the Policy, agrees to take no action that might be a violation of the Policy and will ensure that it, its officers, directors and employees act in compliance with the Policy.

22.2 The Buyer will comply with, and ensure that all of its officers, directors and employees comply with all applicable legal and regulatory anti-bribery and corruption obligations (including but not limited to the Bribery Act 2010 and the US Foreign Corrupt Practices Act).

22.3 In the event of a breach of this Condition 22, the Seller may, in its sole discretion and in addition to any other remedies it may have under law or these Terms and Conditions, cancel or terminate any Agreement without notice, and any claims for payment by the Buyer with regard to Agreements or transactions under these Terms and Conditions, including claims for services previously performed, shall be automatically terminated and cancelled, and any payments previously paid by the Seller shall be refunded to the Seller by the Buyer. The Buyer shall further indemnify and hold the Seller harmless against any and all claims, losses or damages arising from or related to such breach and/or termination of the Agreements.

22.4 If any breach of this Condition 22 is suspected or known the Buyer will notify the Seller immediately.

22.5 The Buyer hereby agrees that it will indemnify the Seller for any loss or damage suffered by the Seller (including but not limited to any fines or penalties incurred by the Seller) as a result of any breach by the Buyer of this Condition 22.

## 23. Miscellaneous.

- 23.1 **Assignment.** The Buyer shall not assign, transfer, mortgage, charge, declare a trust over or deal in any way with all or part of the benefit, or its rights or benefits under, an Agreement without the prior written consent of the Seller.
- 23.2 **Waiver.** The rights and remedies provided by any Agreement may be waived only in writing and specifically, and any failure to exercise or delay in exercising a right or remedy by the Seller shall not constitute a waiver of that right or remedy or of any other rights or remedies. No provision hereof and no breach of any provision will be deemed waived by reason of any previous waiver of such provision or of any breach thereof.
- 23.3 **Notices.** Any notice, approval, request, authorisation, direction or other communication required to be served under an Agreement shall be in writing and may be served personally or by prepaid letter or by facsimile communication system and shall be deemed to have been served in the case of personal delivery: upon delivery, in the case of post: within two (2) days (UK) and within seven (7) days (outside the UK) and in the case of facsimile: upon confirmation of successful facsimile transmission. Unless otherwise notified to the other party, the notice address shall be the address for the parties as set out in the relevant Agreement. This Condition does not apply to the service of any proceedings or other documents in any legal action, or other method of dispute resolution.
- 23.4 **Third party rights.** A person who is not party to an Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of such contract, except that an Agreement may be performed, and all rights thereunder may be enforced against the Buyer, by the Seller or any subsidiary, parent or affiliate of the Seller. This Condition does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under an Agreement are not subject to the consent of any other person.
- 23.5 **Variation.** These Terms and Conditions may be modified only in writing and signed by an authorised representative of each of the parties.
- 23.6 **Severance.** The invalidity, illegality or unenforceability, in whole or in part, of any provision of this Agreement will not affect the remainder of such provision or any other provision. If any provision or part-provision or application of any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, then it shall be deemed modified to the minimum extent necessary to carry out, so far as may be valid, legal and enforceable, the intent and purpose of the Agreement including the invalid or unenforceable provision. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted.
- 23.7 **Survival.** Provisions which expressly or by implication survive termination, cancellation or expiration of an Agreement shall continue in full force and effect, including but not limited to the following Conditions: 11 (Warranty.); 12 (Limitation of Liability.); 13 (Indemnity.); 14 (Termination.); 16 (Confidentiality.); 17 (Intellectual Property & Infringement.); 19 (Trade Compliance.); 22 (Anti-corruption.); and 23 (Miscellaneous.).
- 23.8 **Dispute resolution and governing law and jurisdiction.** Each Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the laws of England and Wales. The United Nations Convention on Contracts for the International Sale of Goods will not apply to any Agreement between the Buyer and the Seller. Subject to the provisions of Condition 23.9 each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

- 23.9 If the Agreement forms an international supply contract as defined by section 26 of the Unfair Contract Terms Act of 1977 and the Buyer has its place of business or habitual residence in a country outside the European Union then any dispute, difference or question which shall at any time arise between the parties as to the construction, meaning or effect of these Terms and Conditions or the rights and liabilities of the parties or otherwise howsoever arising relating thereto shall be referred to the decision of a single arbitrator to be nominated in the event of a disagreement between the parties by the President for the time being of the London Chamber of Commerce such arbitration to take place in London in accordance with International Chamber of Commerce Rules and this Condition shall be deemed to be an arbitration agreement within the meaning of the Arbitration Act 1996. The provisions of this Condition shall not prevent the Seller from enforcement of debts due to the Seller by the Buyer through the courts or seeking legal or equitable relief, including an injunction, upon breach of an Agreement.
- 23.10 **Access.** The Buyer may enter the Seller's facility(ies) which are performing an Agreement only on reasonable notice and during normal business hours, subject at all times to the Seller's health and safety rules and rules pertaining to limitations necessary to comply with any applicable import and export regulations and protection of the confidential and proprietary information of the Seller or its customers.
- 23.11 **Entire agreement.** The Agreement shall constitute the entire agreement between the parties and shall supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether oral or written, with respect to its subject matter. Each party confirms that it has not relied upon, and shall have no remedy in respect of, any agreement, warranty, statement, representation, understanding or undertaking made by any party unless that warranty, statement representation, understanding or undertaking is expressly set out in the Agreement. Neither party shall be entitled to the remedies of rescission or damages for misrepresentation arising out of, or in connection with, any agreement, warranty, statement, representation, understanding or undertaking whether or not it is set out in the Agreement.