



# Supplier Conduct Charter

AMG Advanced Metallurgical Group N.V. is a global company operating in a global market. Our supplier-customer relationships are essential in building economic value, but are also important in promoting social and environmental best practices

Essential elements of our supplier-customer relationship will include specifications, price, quality, service level and technology. AMG will also take into account environmental and social impact in assessing supplier quality and will preferentially deal with partners who are able to demonstrate commitment in the following areas, based upon the relevant principles of AMG's Code of Business Conduct:

## **Human Rights**

- o AMG's Suppliers should:
  - Support and respect the protection of internationally proclaimed human rights and ensure they are not complicit in human rights abuses.

## **Labor**

- o AMG's Suppliers should:
  - Uphold the freedom of association and the effective recognition of the right to collective bargaining; support the elimination of all forms of forced and compulsory labor; support the effective abolition of child labor; and support the elimination of discrimination in respect of employment and occupation.
  - Have programs in place to protect the health and safety of your staff, subcontractors and local residents, preferably through a documented safety management system.

## **Environment**

- o AMG's Suppliers should:
  - Support a precautionary approach to environmental challenges and act to promote greater environmental responsibility.
  - Comply with all local environmental laws and regulations in the locations in which you operate and hold all required permits.
  - Have procedures in place to prevent environmental incidents and response plans to mitigate the effects should such an incident occur, preferably through a documented environmental management system.

## **Anti-Corruption**

- o AMG's Suppliers should:
  - Not tolerate corruption in any of its forms, including extortion and bribery.
  - Comply with laws and regulations in the locations in which they operate.
  - Uphold high standards of personal and business ethics.

AMG will engage with its suppliers in a respectful and ethical way, encompassing fairness and honesty and will select suppliers on the basis of specifications, price, quality, service level and technology, but also Human Rights, Labor, Environment and Anti-Corruption approach, as outlined in this charter.

AMG Suppliers are expected to respond promptly to inquiries from AMG procurement professionals with respect to compliance with these principles and accept that they may be required to perform selfassessment questionnaires.

# CONDITIONS OF PURCHASE

## 1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions (unless the context otherwise requires), the following words and phrases shall have the following meanings:

"Buyer" means AMG Superalloys UK Limited a company registered in England and Wales under number 345279 whose registered office is at Fullerton Road, Rotherham, South Yorkshire S60 1DL, UK;

"Change of Control" means, in respect of any corporate body, any change in the entity or entities having control of that corporate body;

"Conditions" means these terms and conditions of purchase;

"Confidential Information" means information concerning the business, affairs, product, specifications, customer, clients or suppliers including information relating to the Intellectual Property Rights, operations, processes, plans, product information, software, financial information and market opportunities of the Buyer;

"Contract" means a contract for the purchase of Goods and/or Services as defined in the Purchase Order, made by or on behalf of the Buyer with a Supplier in accordance with these Conditions;

"Delivery" means completion of delivery of an order in accordance with condition 5;

"Delivery Location" means the location specified for delivery as set out in the relevant Purchase Order;

"Goods" means all items, materials and equipment to be supplied by the Supplier that are specified in the Purchase Order;

"Incoterms" means Incoterms 2010; a set of international rules for the interpretation of trade terms devised by the International Chamber of Commerce as the same may be amended from time to time;

"Intellectual Property Rights" means all patents, rights to inventions, utility models, rights to inventions, copyright and neighbourhood and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, know-how and trade secrets, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

"Purchase Order" means the Buyer's purchase order form for the Goods and/or Services and any other documentation which is specified in it;

"Services" means any services to be provided by the Supplier as specified in the Purchase Order;

"Supplier" means any individual, firm or corporation or other entity that is to supply the Goods or perform the Services specified in the Purchase Order; and

"Working Day" means any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory holiday in England.

1.2 In these Conditions (unless the context otherwise requires):

1.2.1 construction of these Conditions shall ignore the headings (all of which are for reference only);

1.2.2 any reference to any legislative provision shall be deemed to include any subsequent reenactment or amending provision;

1.2.3 if these Conditions are translated into any language other than English and there is any conflict or ambiguity between the English language version and the other version(s) the English version shall prevail;

1.2.4 a reference to a statute or statutory provision is a reference to it as amended, extended or reenacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision and any comparable and applicable legislation in any other jurisdiction;

1.2.5 unless the context otherwise requires any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in the Contract but if there is any conflict between the provisions of Incoterms and the Contract, the latter shall prevail;

1.2.6 a reference to writing or written includes email; and

1.2.7 any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English legal term in that jurisdiction.

## 2. APPLICATION

All Purchase Orders are placed subject to the Conditions set forth or referred to in these Conditions, which will apply to the Contract notwithstanding and to the exclusion of any other provisions that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing (whether or not inconsistent with these Conditions) .

## 3. ACCEPTANCE OF A PURCHASE ORDER

3.1 The Purchase Order constitutes an offer by the Buyer to purchase the Goods and/or Services in accordance with these Conditions.

3.2 The Buyer is not liable for any Purchase Order unless it has been placed on behalf of the Buyer by its duly authorised representative and the Supplier confirms its acceptance of such Order and these Conditions as set out in condition 3.3 .

3.3 The Purchase Order shall be deemed to be accepted on the earlier of the Supplier issuing a written acceptance of the Purchase Order and the Supplier doing any act consistent with fulfilling the Purchase Order, at which point the Contract shall come into existence.

#### 4. MANUFACTURING, QUALITY AND PACKING

4.1 The Supplier warrants that in addition and without prejudice to all other conditions and warranties (express or implied):

4.1.1 the Goods (including without limitation any labels, cartons, packaging and literature) and Services shall conform to all applicable specifications, drawings, samples or other descriptions requirement specified or referred to in the Purchase Order as to quantity, quality and description and any other specifications, requirements or instructions made known to the Supplier;

4.1.2 the Goods shall be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended), fit for any purpose, held out by the Supplier or made known to the Supplier by the Buyer expressly or by implication and in this respect the Buyer relies on the Supplier's skill and judgement and of good material and workmanship;

4.1.3 the Goods shall be free of all liens and encumbrances on title;

4.1.4 the Goods shall be free from defects in design, material and workmanship and remain so for not less than 12 months after delivery or such longer period as may be agreed in the Contract or specified by law or warranted by the Supplier or the manufacturer of such Goods;

4.1.5 the design, construction and quality of the Goods and provision of the Services will comply with any relevant statutory rules or regulations in force at the time of delivery or performance, including UK safety standards and British Standards or any other industry or generally recognised standard; and

4.1.6 it will provide the Services in accordance with the terms of the Purchase Order, with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade and using properly experienced and qualified people.

4.2 The above warranties shall apply notwithstanding any delivery of Goods, acceptance by the Buyer of Goods or Services and payments under the Contract and shall survive expiry or termination of any Contract. The benefit of such warranties shall accrue to the Buyer, its successors, assigns, purchasers and to users of its products.

4.3 The Supplier shall ensure that:

4.3.1 any Goods are properly packaged and packed so as to prevent damage to the Goods in the course of delivery at its own cost;

4.3.2 each delivery of Goods is labelled and marked to identify contents without opening and accompanied by a delivery note which shows the order number, the type and quantity of the Goods, special storage instructions (if any); and

4.3.3 the Goods shall be labelled in a manner suitable for protection against damage in transit and storage in accordance with the Buyer's instructions as set out in the relevant Purchase Order;

4.4 The Buyer accepts no liability for packaging materials unless expressly agreed in advance.

4.5 The Supplier will pass on to the Buyer the benefit of any additional warranties secured from the Supplier's own suppliers.

#### 5. DELIVERY

5.1 All details of the purchase set out in the Purchase Order including the price, delivery, date, time and place and specification shall be observed strictly by the Supplier. The Supplier shall deliver the Goods or perform the Services at the time, date and Delivery Location specified on the relevant Purchase Order. The time of Delivery or performance of a Contract is of the essence.

5.2 For the avoidance of doubt, the Supplier shall be liable for all loss or destruction or of damage to the Goods during the course of delivery.

5.3 Delivery of an order shall be complete when the relevant Goods are delivered in accordance with the Incoterm specified in the Purchase Order and if no such term is specified, delivery shall be DDP (Incoterms 2010) to Rotherham, South Yorkshire, United Kingdom.

5.4 If any Goods are not delivered on the specified Delivery date or Services not performed on the due date for performance or, in either case, otherwise in accordance with this condition 5, then, without limiting any other right or remedy the Buyer may have, the Buyer may:

5.4.1 refuse to take any subsequent attempted delivery of the same order; and

5.4.2 terminate the Contract with immediate effect;

5.4.3 have any sums paid in advance refunded;

5.4.4 obtain substitute products or services from another supplier and recover from the Supplier any costs and expenses reasonably incurred by the Buyer in obtaining such substitute products or services; and

5.4.5 claim damages for any other losses resulting from the Supplier's failure to deliver the Goods or Services specified in the Purchase Order on the Delivery date or date for performance and/or any liquidated damages agreed as payable, set out in the Purchase Order,

provided that the Supplier shall not be liable for any failure or delay in delivering Goods or performing the Services specified in the Purchase Order to the extent that such failure or delay is caused by the Buyer's failure to comply with its obligations under the Contract.

5.5 If the Goods are delivered to the Buyer in excess of the quantities ordered, the Buyer shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier's risk and shall be available for collection at the Supplier's expense within 3 months. Thereafter, the Buyer may dispose of such excess Goods at the Supplier's expense.

5.6 Unless otherwise agreed in writing by the Buyer, the Supplier shall unload the Goods immediately on their arrival at the Buyer's premises or other agreed location for delivery.

5.7 The Supplier shall not deliver the Goods in instalments without the Buyer's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Buyer to the remedies set out in condition 6.

5.8 The Supplier shall be responsible for obtaining all relevant export licences and consents for the Goods.

5.9 Unless otherwise agreed, the Buyer shall be responsible for obtaining all relevant import licences for the Goods.

## 6. ACCEPTANCE

6.1 The Supplier will grant the Buyer and its authorised representatives, agents or customers access to its premises (or the premises of any permitted subcontractor) for the purpose of inspecting or testing the Goods at any reasonable time. Such inspection does not relieve the Supplier of any liability or imply that the Supplier has accepted the Goods.

6.2 The Buyer shall not be deemed to have accepted any Goods until it has had a reasonable time to inspect them following Delivery, or, in the case of a latent defect in the Goods, until a reasonable time after the latent defect has become apparent.

6.3 Without limiting any other right or remedy that the Buyer may have, if the Goods or any part of them (whether or not inspected or tested by the Buyer) do not comply with the requirements of the relevant Contract, the Buyer may elect to:

6.3.1 repair such Goods at the Supplier's expense; or

6.3.2 accept the Goods and adjust the price payable for them to reflect the value actually supplied; or

6.3.3 reject such Goods by giving the Supplier notice of such rejection and, if not picked up by the Supplier within 14 days, returning the rejected Goods to the Supplier at the Supplier's risk and expense. The Supplier shall be liable for any resultant costs and responsibilities arising from the rejection of the Goods by the Buyer.

6.4 If the Buyer rejects any Goods the Supplier will replace them with Goods which are in all respects in accordance with the Contract. If the Supplier fails to replace such rejected Goods and/or Services within 5 Working Days, the Buyer may, at its option and without prejudice to any other remedies it may have:

6.4.1 request a refund from the Supplier of any money paid in respect of such rejected Goods; or

6.4.2 purchase replacement Goods from an alternative source at the Supplier's cost

6.5 Failure to respond to a request by the Buyer under condition 6.4.1 within the specified timeframe shall entitle the Buyer to set off the full price of the rejected Goods against any outstanding balance which is payable by the Buyer to the Supplier under any Purchase Order.

6.6 The Buyer's rights and remedies under this condition 6 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into the Contract by the Sale of Goods Act 1979 or other equivalent legislation of any relevant jurisdiction.

6.7 All risk in and title to Goods returned under this condition 6 shall revert to the Supplier upon dispatch by the Buyer.

6.8 Without limiting any other right or remedy that the Buyer may have, if the Services or any part of them (whether or not inspected or tested by the Buyer) do not comply with the requirements of the relevant Contract, the Buyer may elect to ;

6.8.1 require the Supplier to promptly use best endeavours to perform the Services which are in all respects in accordance with the Contract to the Buyer's satisfaction; or

6.8.2 accept the Services and adjust the price payable for them to reflect the value actually supplied; or

6.8.3 require the Supplier to credit or refund the Buyer the price as specified in the Purchase Order for such non-conforming Services; or

6.8.4 purchase replacement Services from an alternative source at the Supplier's cost.

## 7. RISK AND TITLE

7.1 Unless otherwise specified by the relevant Incoterm used for the supply title in the Goods and the risk therein shall pass to the Buyer either:

7.1.1 when delivery is made at the premises of the Buyer; or

7.1.2 in any other case, when Goods are delivered on the instruction of the Buyer to a third party or agent or carrier of such third party.

This is without prejudice to any right of rejection which may accrue to the Buyer under the Conditions or otherwise.

7.2 If the Supplier postpones delivery for any reason, title to the Goods will pass to the Buyer on the date on which such Goods should have been delivered but risk will not pass until the date of actual delivery.

7.3 The Supplier shall be liable for any loss of or damage to any of the Goods in transit but the Buyer shall be under obligation to notify the Supplier of any loss or damage within one month of the Goods in question arriving at the premises of the Buyer or, in the case of purchases of scrap material, within 7 Working Days of arrival.

## 8. PRICE

8.1 The price for each of the Goods and Services to be supplied under a Contract shall be the price specified in the Purchase Order and include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services, including associated charges such as value added taxes, insurance, inspection and the cost of packaging and transportation (including shipment or other carriage and where the Goods and Services are subject to VAT, the amount legally due will be specified as a separate item of account.

8.2 If the Buyer places an Purchase Order on a "price to be agreed" basis, the Supplier will obtain the Buyer's confirmation of the price to be paid before invoicing the Buyer for the Goods and Services.

8.3 There shall be no increase in price unless agreed and confirmed by the Buyer in writing before the Goods are despatched and the Services performed. The currency of the price of the Goods shall be as specified in the Purchase Order.

8.4 The settlement of invoices will be subject to all details on the invoice being consistent with the relevant Purchase Order and the invoice complying with any invoicing requirements notified to the Supplier.

8.5 If the Supplier's quoted prices for the Goods or Services covered by a Purchase Order are reduced (whether by refund, price reduction, close-out, rebate, allowances or additional discounts offered to anyone) at the time of any shipment or performance, the Supplier agrees that the price to the Buyer for such Goods or Services will be reduced accordingly and invoiced at such reduced prices.

## 9. PAYMENT

9.1 The Buyer will pay only for the Goods and Services specified in the Purchase Order.

9.2 The Supplier will ensure that the Buyer receives the invoice relating to a Contract within 7 Working Days of delivery of the Goods and Services specified in the Purchase Order that relates to that Contract or, in the case where the price is to be agreed, within 7 Working Days of the price being agreed.

9.3 Time for payment of invoices shall not commence until all required documents have been received by the Buyer in accordance with condition 5. If the Goods and Services have been accepted by the Buyer in accordance with these Conditions, unless otherwise agreed between the parties and all documents have been received, the Buyer shall make all payments due to the Supplier under the Contract within 90 days of the date of receipt of the relevant invoice. Payment shall be made to the bank account nominated in writing by the Supplier.

9.4 The Buyer reserves the right to delay payment (but without forfeiting any prompt payment discount) if the Buyer disputes any invoice or other statement of monies due or the Supplier fails to:

9.4.1 send a separate advice note and invoices on the date of despatch for each delivery of Goods or performance of Services; or

9.4.2 mark the Purchase Order number clearly on each consignment package, packing notes, invoices and any other relevant correspondence.

9.5 The Buyer may offset any amount owing to it from the Supplier against any amount owed to the Supplier by the Buyer.

9.6 If a party fails to make any payment due to the other under a Contract by the due date for payment and the amount remains outstanding for a further 14 days, then the defaulting party shall pay interest on the overdue amount at the rate of 2% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the end of the 14 day period until actual payment of the overdue amount, whether before or after judgement. This condition shall not apply to the payments the defaulting party disputes in good faith. The Supplier is not entitled to suspend deliveries of the Goods and/or Services as a result of monies being outstanding.

9.7 The Buyer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Buyer against any liability of the Buyer to the Supplier.

## 10. ANTI-CORRUPTION

10.1 The Supplier shall not offer or use, directly or indirectly, any money, property or anything of value received by the Supplier under or pursuant to the Contract to influence improperly or unlawfully any decision, judgement, action or inaction of any official, employee or representative of any government or agency or instrumentality thereof, or

any government owned or partially owned government entity, or any other person or entity, in connection with or relating to the subject matter of the Contract or any supplement hereto.

10.2 No payment shall or transaction shall be made or entered into in connection with the Contract that is illegal, improper or is intended to unduly or improperly influence any third party, including without limitation by means of extortion, any kickback or bribery.

10.3 Without prejudice to the generality of the forgoing Supplier shall, and shall ensure that all of its employees and any persons performing services on its behalf shall, fully comply with the Bribery Act 2010. If the Supplier or any person performing services on its behalf breaches the terms of this provision, the Buyer may immediately terminate the Contract without any liability.

## 11. INTELLECTUAL PROPERTY RIGHTS

11.1 If the Supplier or its employees or agents design the Goods or perform the Services pursuant to a commission from the Buyer (whether to fulfil a Purchase Order or otherwise), any Intellectual Property Rights created in relation to such Goods or Services shall vest in the Buyer and the Supplier shall do or procure the doing of all such further acts and execute or procure the execution (as a deed or otherwise) of all such documents as may from time to time be necessary to give full effect to this condition 11.

11.2 Any tooling or other items that are supplied by the Buyer to the Supplier to provide the Goods or Services are on loan. The Supplier agrees to keep such items in good repair, to use them solely for the Buyer's benefit and at the Buyer's discretion and to return them to the Buyer upon the Buyer's request

## 12. INSURANCE

12.1 The Supplier shall at its own cost, effect and maintain for the duration of any Contract (and thereafter in compliance with good industry practice and applicable laws) insurance in an adequate amount as may be reasonably expected to be maintained by a competent supplier of Goods and Services and keep itself insured with a reputable insurance company against all insurable liabilities under any Contract and in respect of the Goods and Services including, without limitation public liability and product liability insurance. The Supplier shall provide a copy of the certificate of insurance giving details of the cover and the receipt for the current year's premium in respect of each insurance, to the Buyer upon request.

12.2 The Supplier will provide all facilities, assistance and advice requested by the Buyer or the Buyer's insurers for the purpose of contesting or dealing with any action, claim or matter arising out of the Supplier's performance or non-performance of a Contract.

## 13. DISPUTE RESOLUTION

13.1 If a dispute arises out of or in connection with any Contract including any non-contractual disputes or claims or any question regarding its existence, validity or termination ("Dispute") and any non-contractual disputes or claims, then :

13.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars ("Dispute Notice"), together with relevant supporting documents. On service of the Dispute Notice, the Supplier and the Buyer shall attempt in good faith to resolve the Dispute;

13.1.2 if the Supplier and the Buyer are for any reason unable to resolve the Dispute within thirty (30) days of service of the Dispute Notice, and the Dispute relates to Goods that have been imported into the United Kingdom or Services provided outside of the United Kingdom, such Dispute shall be referred to and finally resolved by arbitration under the Rules of Arbitration and Conciliation of the International Chamber of Commerce, which rules are deemed to be incorporated by reference into this condition. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London. The language to be used in the arbitral proceedings shall be English. Where the Dispute relates to any other matter the Supplier or the Buyer may refer the matter to the courts in accordance with condition 27.

#### 14. COMPLIANCE WITH RELEVANT LAWS AND POLICIES

14.1 In performing its obligations under the Contract, the Supplier shall:

14.1.1 comply with all applicable laws, statutes, regulations from time to time in force;

14.1.2 comply with any Buyer policies made known to the Supplier from time to time; and

14.1.3 comply with Section 1502 of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act.

#### 15. TERMINATION

15.1 The Buyer may terminate a Contract and/or any individual Purchase Order in whole or in part at any time by written notice with immediate effect, where;

15.1.1 the Supplier breaches any material obligation under a Contract;

15.1.2 any proceedings are commenced in relation to the Supplier under any law, regulation or procedure relating to the reconstruction or adjustment of its debts, or the Supplier obtains any moratorium or any arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them is agreed, sanctioned or entered into by or in relation to the Supplier;

15.1.3 a meeting is convened, a petition presented, an order made, an effective resolution passed, or notice is given for the Supplier's winding up or dissolution (other than for the sole purpose of amalgamation and reconstruction); or

15.1.4 an application is made for, or any meeting of the Supplier's directors or members resolves to make an application for an administration order in relation to it or any party gives or files notice of intention to appoint an administrator of it or such an administrator is appointed; or

15.1.5 an incumbrancer takes possession, or a receiver or manager or administrative receiver is appointed, of the whole or any part of the Supplier's assets; or

15.1.6 the Supplier ceases or suspends payment of any of its debts or is unable to pay its debts as they fall due within the meaning of section 123 of the Insolvency Act 1986;

15.1.7 a proposal is made for a composition in satisfaction of the Supplier's debts or a scheme or arrangement of its affairs including a voluntary arrangement within the meaning of part I of the Insolvency Act 1986;

15.1.8 any similar action is taken in any court of competent jurisdiction outside the United Kingdom;

15.1.9 there is a Change of Control of the Supplier to which the Buyer has not given its prior written consent; or

15.1.10 the Supplier attempts or purports to assign any of its rights or obligations under the Contract without the Buyer's written consent.

15.2 Where the Buyer cancels or terminates a Contract the Supplier shall discontinue all work on the Contract and the Buyer shall pay the Supplier:

15.2.1 for conforming Goods accepted and Services properly performed as of the date of such termination; and

15.2.2 fair and reasonable compensation for any work in progress on the Goods or Services at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.

15.3 Upon the expiration or termination of any Contract, the Supplier shall return or destroy at the Buyer's option and upon the Buyer's request, all information, documents, manuals and other materials belonging to the Buyer as specified in the request.

#### 16. INDEMNITY

16.1 The Supplier shall keep the Buyer indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Buyer as a result of or in connection with:

16.1.1 any claim made against the Buyer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the supply or use of the Goods and/or Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

16.1.2 any claim made against the Buyer by a third party for death, personal injury or damage to the property arising out of or in connection with defects in Goods and/or Services, to the extent that the defects in the goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors but excluding any loss, liability or cost arising directly from the Buyer's negligence;

16.1.3 any claim made against the Buyer by a third party arising out of or in connection with the supply of Goods and/or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors but excluding any loss, liability or cost arising directly from the Buyer's negligence; and

16.1.4 any act or omission in the performance or nonperformance of or in connection with the obligations undertaken by the Supplier pursuant to a Contract, whether due to the negligence of the Supplier, its agents, employees or subcontractors or otherwise,

16.2 The Supplier is liable for damage to or loss of the Buyer's property arising from the performance or nonperformance of the Supplier's obligations under any Contract.

16.3 If a payment due from the Supplier under this clause is subject to tax (whether by way of direct assessment or withholding at its source), the Buyer shall be entitled to receive from the Supplier such amounts as shall ensure that the net receipt, after tax, to the Buyer in respect of the payment is the same as it would have been were the payment not subject to tax.

16.4 The rights and remedies of the Buyer provided in these Conditions are cumulative and are not exclusive of any rights or remedies provided at law or in equity.

16.5 Condition 16 shall survive termination of the Contract.

## 17. CONFIDENTIALITY

The Supplier shall treat all product, business information, specifications submitted by the Buyer to the Supplier as confidential and shall not disclose them to third parties without the Buyer's prior written consent. The Supplier may disclose the Buyer's Confidential Information to its employees, officers, agents, consultants or subcontractors ("Representatives") on a need-to-know basis, provided that the disclosing party takes all reasonable steps to ensure that its Representatives comply with the confidentiality obligations contained in this condition. This condition does not apply to information which is at the date of disclosure or becomes at any time thereafter publicly known other than by the Supplier's breach of these Conditions; or can be shown to the Buyer's satisfaction to have been known by the Supplier before disclosure by the Buyer to the Supplier; or is or becomes available to the Supplier otherwise than from the Buyer and free of any restrictions as to its use or disclosure; or is required to be disclosed by law.

## 18. LICENCES AND CONSENTS

If a licence or consent of any government or other authority is required for the supply or carriage of the Goods or performance of the Services, the Supplier will obtain such licence or consent at its own expense and produce evidence of it to the Buyer on demand.

## 19. ASSIGNMENT

19.1 The Supplier shall not assign, transfer, mortgage, charge, declare a trust over or deal in any way with all or any part of the benefit of, or its rights or benefits under, a Contract without the prior written consent of the Buyer (which consent shall not be unreasonably withheld or delayed).

19.2 The Supplier may not subcontract the performance of the whole or any part of a Contract without the prior written consent of the Buyer.

## 20. SUBCONTRACTING

The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Buyer. If the Buyer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

## 21. ENTIRE AGREEMENT

The Contract will constitute the entire agreement between the parties and will supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

## 22. NOTICES

22.1 Any notice, approval, request, authorisation, direction or other communication required to be served under the Contract shall be in writing and may be served personally or by registered letter and shall be deemed to have been served in the case of personal delivery: upon delivery, in the case of registered post: within two days (UK) and within seven days (outside the UK) .

22.2 Unless otherwise notified to the other party, the notice address shall be the address for the parties shall be as set out in the Contract.

22.3 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. SEVERANCE

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deleted of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

## 24. THIRD PARTIES

A person who is not party to a Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of such Contract. This condition does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

## 25. WAIVER

The rights and remedies provided by any Contract may be waived only in writing and specifically, and any failure to exercise or any delay in exercising a right or remedy by the Buyer shall not constitute a waiver of that right or remedy or of any other rights or remedies. A waiver of any breach of any of the terms of a Contract or of a default under a Contract shall not constitute a waiver of any other breach or default and shall not affect the other terms of such Contract.

## 26. VARIATION

No variation or alteration of any of the provisions of a Contract or these Conditions shall be effective unless it is in writing and signed by or on behalf of each party.

## 27. GOVERNING JURISDICTION

Each Contract, 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 Contracts between the Buyer and the Supplier. Subject to condition 13 each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

March 2019