

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following words shall have the following meanings:-

"Buyer" means the person, firm or company placing an Order for Goods with the Seller; "Conditions" means the standard terms and conditions of sale set out in this document and includes any special conditions agreed in Writing between the Buyer and the Seller in accordance with this document; "Contract" means any contract between the Seller and the Buyer for the sale of Goods (which shall incorporate these Conditions); "Goods" means any goods agreed in the Contract to be supplied by the Seller to the Buyer (including any part or parts of them); "Group Company" means any subsidiary or holding company of and any subsidiary of such holding company (in each case from time to time) (and the terms "subsidiary" and "holding company" shall have the meanings given to them by Sections 736 and 736A (Companies Act 1985)); "Intellectual Property" means any patent, copyright, database right, moral right, design right, registered design, trade mark, service mark, domain name, know-how, utility model, unregistered design or, where relevant, any application for any such right or other industrial or intellectual property right subsisting in any part of the world; "Order" means an order placed on the Seller by the Buyer for the supply of Goods (in accordance with these Conditions as amended from time to time); "Seller" means NTN Bearings (UK) Limited; "Specification" means the specification and any additional drawings, information or recommendations relating to the Goods and/or Tooling; "Tooling" means all dies, moulds, patterns, tools or similar items used in the manufacture of the Goods; "Warranty Period" means a period of 12 months from the date of delivery of the Goods or such other period as may be agreed between the Buyer and the Seller in a separate warranty agreement; "Working Day" means any day of the week except Saturday, Sunday or a bank, public or statutory holiday; "Writing" includes letter, cable, facsimile transmission, e-mail and all comparable means of communication.

1.2 In these Conditions references to a gender include every gender, reference to persons include an individual, company, corporation, firm or partnership and reference to the singular include the plural and vice versa as the context admits or requires.

1.3 Headings are for ease of reference only and shall not affect the construction or interpretation of these Conditions.

2. FORMATION OF CONTRACT

2.1 All quotations, offers and tenders are made and all Orders are accepted subject to these Conditions (including any terms or conditions which the Buyer purports to apply under any Order, confirmation of Order, specification or other document whatsoever and whenever). Except as otherwise provided in these Conditions, all other terms and conditions are excluded from any Contract between the Seller and the Buyer unless expressly accepted in Writing by the Seller and is executed by a duly authorised representative of the Seller.

2.2 If there is a conflict between these Conditions and any other terms of the Seller's quotation, tender or acknowledgement of Order, these Conditions shall prevail.

2.3 Quotations shall be valid for a maximum period of 30 days from date of issue and may be withdrawn by the Seller by written or oral notice to the Buyer at any time prior to the Seller's acceptance.

2.4 Each Order for Goods by the Buyer from the Seller shall be deemed to be an offer by the Buyer to purchase Goods subject to these Conditions. It is the Buyer's obligation to ensure that the terms of its Order and any applicable specification are complete and accurate.

2.5 Acceptance of an Order by the Seller will only be effective where it is made on the Seller's Order acceptance form signed by an authorised representative of the Seller and posted or delivered to the Buyer or (if earlier) the Seller commences the manufacture of the Goods, their appropriation to the Buyer's Order or despatch of the Goods to the Buyer. Any Order shall be accepted entirely at the discretion of the Seller.

2.6 If any statement or representation has been made to the Buyer by the Seller or its officers, employees or agents (other than in the document(s) enclosed with the Seller's quotation or acknowledgement of Order), upon which the Buyer wishes to rely it shall only be entitled to do so if the statement or representation is attached to or endorsed on the Buyer's Order and then only if the Seller subsequently confirms in Writing to the Buyer that the Buyer is entitled to rely on the statement or representation.

2.7 Prices are quoted by the Seller on the basis of the limitations of liability set out in these Conditions. The Buyer may request the Seller to agree a higher limit of liability and the Seller may in its complete discretion agree to this whilst also quoting a revised price taking account of, amongst other things, any increased insurance premium to be borne by the Seller. For the avoidance of doubt the Seller shall be under no obligation to accept any increased level of liability.

2.8 The Buyer may from time to time issue schedules of its anticipated requirements for Goods over a specified period ("Schedule Period"). In respect of the first 180 days to which each schedule refers ("Fixed Period"), the Buyer shall provide precise information detailing the type and quantity of and delivery dates for Goods required by the Buyer during that Fixed Period. The Fixed Period of any schedule shall constitute a binding Order from the Buyer. For the period immediately following the Fixed Period in any Schedule Period, the Buyer shall provide a forecast of its likely requirements for Goods.

2.9 The Buyer acknowledges and agrees that the Seller may be making up-front investments and commitments in order to satisfy the Buyer's anticipated requirements (including any forecasts given by the Buyer for the Schedule Period pursuant to Clause 2.8 above) for Goods. In the event that such investments and commitments are made by the Seller and the Buyer fails to purchase the quantities of Goods necessary to enable the Seller to recover those investments and commitments, the Seller shall be entitled to claim an amount equal to the unrecovered investments and commitments from the Buyer by submission of an invoice for that amount to the Buyer, provided that the Seller shall at the time of making the investment and entering into the commitments, have notified the Buyer in Writing of such investments and commitments and the assumptions against which such investment and commitments are made.

3. PRICES

3.1 Unless otherwise agreed in Writing the price for the Goods shall, subject to the remaining provisions of this Condition 3 be the price quoted by the Seller and all prices are quoted net ex-works exclusive of valued added tax ("VAT") or other similar taxes or levies and all costs or charges in relation to packaging, labelling, loading, unloading, carriage, freight and insurance all of which amounts the Buyer will pay, where appropriate, in addition when it is due to pay for the Goods. If the Seller agrees to deliver the Goods otherwise than at its premises the Buyer shall pay all packaging, transportation and insurance costs and other charges incurred by the Seller in making or arranging such delivery.

3.2 Where the Seller delivers or arranges delivery of the Goods, the Buyer shall be liable to the Seller for carriage costs and any demurrage costs incurred by the Seller if vehicles are unduly delayed at the place of delivery.

3.3 Quoted prices are subject to fluctuation in the event of any increase in the cost of labour or in the cost of materials or overheads affecting the cost of supplying the Goods. Any increase in such costs will be added to the price. The Seller also reserves the right to make an additional charge to cover any increase in transport costs occurring before the date of delivery.

3.4 Where, at the Buyer's request, Tooling or materials are manufactured or purchased by the Seller to enable the Seller to perform its obligations under the Contract, the Buyer shall, unless otherwise agreed in Writing, be responsible to pay for the same in accordance with these Conditions.

3.5 If the Seller invests in any Tooling or equipment to enable it to supply the Goods under this Contract and the Buyer specifically agrees to purchase a minimum quantity of Goods to justify such investment by the Seller, then the Seller may charge more (up to the actual cost of such Tooling or equipment) if the Buyer Orders or takes delivery of a smaller quantity of Goods than previously agreed by the Buyer but shall make an appropriate reduction in the price of any Goods ordered in excess of such minimum quantity.

4. PAYMENT

4.1 Unless otherwise agreed by the Seller in Writing, payment shall be due and payable in cleared funds 30 days after the end of the month in which the invoice is submitted and shall be made without any set-off, withholding, counterclaim, abatement, deduction or otherwise whatsoever unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Seller to the Buyer. In the event that the Buyer disputes any amounts due under an invoice, the Buyer shall be entitled to withhold payment of the specific amount in dispute only provided that the Buyer has notified the Seller in writing within 7 days of the date of the Seller's invoice and such notification sets out in detail the nature of the Buyer's dispute. The Seller will then investigate the dispute and the Buyer and the Seller will work together to seek to resolve the dispute promptly. In the event that the Buyer seeks to withhold payment of amounts which are not notified to the Seller in accordance with this Condition, the Seller reserves the right to exercise its rights under Condition 4.8 below.

4.2 The Seller shall be entitled to submit its invoice with its delivery advice note or at any time afterwards except that where delivery has been postponed at the request of, or by the default of, the Buyer, the Seller may submit its invoice at any time after the Goods are ready for delivery or would have been ready in the ordinary course but for the Buyer's request or default.

4.3 The time for payment shall be of the essence of the Contract.

4.4 Where Goods are delivered by instalments the Seller may invoice each instalment separately and the Buyer shall pay such invoices in accordance with these Conditions.

4.5 If payments received from the Buyer are not stated to refer to a particular invoice, the Seller may appropriate such payment to any outstanding invoice addressed to the Buyer from the Seller.

4.6 No indulgence granted by the Seller to the Buyer concerning the Buyer's obligations under this Clause 4 shall be or be deemed to be a credit facility but if any such facility is granted to the Buyer by the Seller, the Seller may withdraw it at its sole discretion at any time.

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- 4.7 No disputes arising under the Contract nor delays (other than delays acknowledged by the Seller in Writing), shall interfere with prompt payment in full by the Buyer.
- 4.8 If the Buyer defaults in payment in this Contract or any other contract between the Seller and the Buyer, then all sums then owing to the Seller by the Buyer shall become due and payable immediately and the Seller shall be entitled, without prejudice to any other right or remedy, to do all or any of the following:-
- 4.8.1 to cancel or suspend any or all further deliveries under the Contract and under any other contract or contracts between the Seller and the Buyer then current, without notice;
  - 4.8.2 to charge interest on a daily basis any amount outstanding at the rate of 4% per annum above the base rate of the Bank of England, such interest being charged as a separate, continuing obligation not merging with any judgment together with any statutory debt recovery costs;
  - 4.8.3 to serve notice on the Buyer requiring immediate payment for all Goods supplied by the Seller under this and all other contracts with the Buyer whether or not payment is otherwise due; and/or
  - 4.8.4 to sue for the price of the Goods even though (in the case of the Goods) title may not have passed to the Buyer.

5. **DELIVERY**

- 5.1 Delivery of the Goods shall be given and taken at the Seller's premises during the Seller's normal business hours unless the Seller has specifically agreed in Writing to arrange transport for the Goods in which case delivery shall occur when the Goods arrive at the designated place of delivery.
- 5.2 Time for delivery of the Goods is given as accurately as possible but is not guaranteed. The Buyer shall have no right to damages or to cancel the Contract for failure for any cause to meet any delivery time stated nor shall the Buyer be entitled to make, or to purport to make, time for delivery of the essence of the Contract. If no date or time for delivery is stated, delivery will be in a reasonable time.
- 5.3 The date for delivery of the Goods shall in every case be dependent upon prompt receipt of all necessary information, final instructions or approvals from the Buyer and in the event of the Buyer delaying in providing such information, final instructions and approvals the time of delivery shall be extended accordingly.
- 5.4 The Seller reserves the right to deliver the Goods in instalments where, in its complete discretion, it deems that such delivery by instalments is appropriate. Failure by the Buyer to take delivery of any one or more instalments of Goods delivered in accordance with the Contract shall entitle the Seller to either:
- 5.4.1 store the Goods until they are ready for collection and charge the Buyer for the cost of the storage; or
  - 5.4.2 sell the Goods on to an alternative Buyer at a price to be determined by the Seller;
- and for the avoidance of doubt, neither of the above options shall preclude the Seller's right to exercise any of its other rights or remedies under this Contract.

- 5.5 The Seller shall endeavour to comply with reasonable requests by the Buyer for postponement of delivery of the Goods but shall be under no obligation to do so. Where delivery is postponed, otherwise than due to default by the Seller then, without prejudice to all other rights and remedies available to the Seller, the Buyer shall pay all costs and expenses, including a reasonable charge for storage and transportation so occasioned.
- 5.6 The Seller shall not be liable for unloading the Goods at the place of delivery or for placing them in position on site except by prior agreement in Writing, and if the Seller does participate in the unloading (whether with or without such prior agreement) the Buyer will indemnify the Seller in respect of claims brought against the Seller relating to its participation in such unloading.
- 5.7 The quantity of any consignment of Goods as recorded by the Seller upon despatch from the Seller's premises shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.
- 5.8 Section 32(2) of the Sale of Goods Act 1979 shall not apply. The Seller shall not be required to give the Buyer the notice specified in Section 32(3) of that Act.
- 5.9 Goods, once delivered, may not be returned for credit unless their return is agreed in advance in Writing by the Seller.

6. **PACKING**

- 6.1 Unless otherwise agreed in Writing, the price of cases and other packing materials, when charged for, will be credited if the items are returned to the Seller's premises within 14 days of the date of invoice, carriage paid and in good condition.

7. **RISK AND TITLE**

- 7.1 Risk in the Goods shall pass to the Buyer (so that the Buyer is then responsible for all loss or deterioration of the Goods or for any damage occurring) at the time when the Goods leave the premises of the Seller (or should have left the premises of the Seller in cases where the Buyer delays in taking delivery).
- 7.2 Title to the Goods shall only pass to the Buyer if the Buyer has paid to the Seller all sums (including any default interest) due from it to the Seller (a) under this Contract and under all other contracts between the Seller and the Buyer (including any sums due under contracts made after this Contract) whether or not the same are immediately due and payable and (b) under all contracts between the Seller and any company under the ultimate control of the same parent company as has ultimate control of the Buyer.
- 7.3 The Seller may recover Goods in respect of which title has not passed to the Buyer at any time and the Buyer irrevocably licences the Seller, its officers, employees, sub-contractors and agents to freely enter upon any premises of the Buyer, with or without vehicles, for the purpose either of satisfying itself that Condition 7.4 below is being complied with by the Buyer or of recovering any Goods in respect of which title has not passed to the Buyer.
- 7.4 Until title in the Goods has passed to the Buyer under these Conditions the Buyer shall possess the Goods as fiduciary agent and bailee of the Seller. The Buyer shall store the Goods separately at its premises in a proper manner in conditions which adequately protect and preserve the Goods and shall insure them, without any charge to the Seller and not tamper with any identification upon the Goods or their packaging and shall ensure that they are stored separately from other goods that they are clearly identifiable as belonging to the Seller.
- 7.5 The Seller may at any time, on demand and without prior notice, require the Buyer to deliver the Goods up to the Seller and the Seller may repossess and resell the Goods if any of the events specified in Condition 14 occurs or if any sum due to the Seller from the Buyer under the Contract or on any other account or under any other contract is not paid when due.
- 7.6 The Seller shall be entitled to maintain an action against the Buyer for the price of the Goods notwithstanding that legal, equitable and beneficial title to and property in the Goods has not passed to the Buyer.
- 7.7 The Seller hereby authorises the Buyer to use and/or sell the Goods in the normal course of the Buyer's business and to pass good title in the Goods to its customers, if they are purchasers in good faith without notice of the Seller's rights. This right shall automatically cease on the occurrence of any event set out in Condition 14 and/or if any sum owed to the Seller by the Buyer is not paid when due. If the Buyer sells the Goods prior to paying the full price thereof the Buyer shall hold the proceeds of sale on trust for the Seller and shall immediately pay the proceeds of the sale into a separate bank account. At the Seller's request, the Buyer shall assign to the Seller all claims that the Buyer may have against purchasers of the Goods from the Buyer.
- 7.8 The Seller's rights and remedies set out in this Condition 7 are in addition to and shall not in any way prejudice, limit or restrict any of the Seller's other rights or remedies under the Contract or in law or equity.

8. **CANCELLATION**

- 8.1 Cancellation may only be agreed to by the Seller in its complete discretion and, if agreed to, only on condition that all costs and expenses incurred by the Seller up to the time of cancellation and all loss of profits and other loss or damage resulting to the Seller by reason of such cancellation will be paid immediately by the Buyer to the Seller. Any such cancellation and the Seller's agreement to it must be evidenced in Writing and signed by an authorised representative of the Seller.

9. **VARIATIONS**

- 9.1 No variations to the Goods required by the Buyer shall be binding on the Seller unless agreed by the Seller and the Buyer in Writing, including, as part of such agreement, any change to the price arising in consequence of the variation to the Goods. If the Seller shall vary the Goods in accordance with the Buyer's requirements without agreement having been reached as to a consequential change in the price, the price shall be varied by reference to the extra costs incurred by the Seller in making the variation plus an appropriate profit margin.
- 9.2 If the Seller agrees to any such variation, any dates quoted for delivery of the Goods shall be extended accordingly.

10. **SPECIFICATION**

- 10.1 The Seller reserves the right to alter the dimensions or composition of the Goods supplied to conform to applicable standards or laws or otherwise within reasonable limits having regard to the nature of the Goods.
- 10.2 The information contained in the advertising, sales and technical literature issued by the Seller is provided for guidance purposes only. Likewise, any illustrations, performance details, examples of installations and methods of assembly and all other technical data in such literature are based on experience and upon trials under test conditions and are provided for general guidance only. No such information or data shall form part of the Contract unless the Buyer shall have complied with Condition 2.6 relating to statements and representations and the Seller shall have given the confirmation referred to in that Condition.
- 10.3 Where the Buyer is responsible for providing the Specification, the Buyer shall be solely responsible for ensuring that all Specifications, or other drawings, information, advice and recommendations given to the Seller, either directly or indirectly by the Buyer or by the Buyer's consultants or advisers, are accurate, correct and suitable unless, and then only to the extent that, the Seller agrees in Writing signed by an authorised representative of the Seller to accept responsibility. Examination or consideration by the Seller of such drawings, information, advice or recommendations shall not of itself limit the Buyer's responsibility.
- 10.4 The Buyer shall indemnify the Seller from and against all actions, claims, costs and proceedings which arise due to the manufacture of the Goods or Tooling by the Seller being in accordance with the Specifications provided by the Buyer if such Specifications are inaccurate or contain design defects or if they infringe or are alleged to infringe the Intellectual Property rights of a third party or any other right of any third party.

11. **QUALITY**

- 11.1 The Seller warrants that, for the Warranty Period, the Goods will:-
- 11.1.1 in all material respects, be free from defects as a result of materials or faulty workmanship; and
- comply, in all material respects, with the Specification.
- 11.2 The Seller shall not be liable for a breach of the warranty in Condition 11.1 unless:-
- 11.2.1 the Buyer gives notice in Writing of the defect in the Goods to the Seller (if the defect is as a result of damage in transit, to the carrier), within 7 days of:-
- (a) the date of delivery of the Goods (where the defect would be apparent to the Buyer upon a reasonable inspection); or
- (b) the date when the Buyer knew or ought reasonably to have known of the defect in the Goods (where the defect or failure would not be apparent to the Buyer upon a reasonable inspection);
- and in either case the Seller is given a reasonable opportunity after receiving the notice to examine such Goods and the Buyer (if asked to do so by the Seller) returns such Goods to the Seller for the examination to take place.
- 11.3 The Seller shall not be liable for a breach of the warranty in Condition 11.1 if:-
- 11.3.1 The defect in Goods arises because of fair wear and tear, wilful damage, abnormal working conditions, negligence or the Buyer failed to follow the Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
- 11.3.2 If the Buyer makes any further use of the Goods after giving notice in accordance with Clause 11.2;
- 11.3.3 If the total price for the Goods has not been paid by the due date for payment;
- 11.3.4 the Buyer alters or repairs such Goods without the prior consent in Writing of the Seller; or
- 11.3.5 the defect in the Goods arises from any design defect in any drawing, design, materials or Specification or any defects in material supplied or approved by the Buyer.
- 11.4 If the Buyer makes a valid claim against the Seller based on a defect in the quality of the Goods, the Seller shall, at its option:-
- 11.4.1 repair or make good such defect or failure in such Goods free of charge to the Buyer (including all costs of transportation of any Goods or materials to and from the Buyer for that purpose);
- 11.4.2 replace such Goods with Goods which are in all respects in accordance with the Contract; or
- 11.4.3 issue a credit note to the Buyer in respect of the whole or part of the price of such Goods as appropriate having taken back such Goods.
- 11.5 If the Seller complies with Condition 11.4 it shall have no further liability for a breach of the warranty in Condition 11.1 in respect of the quality of the Goods.
- 11.6 Any Goods replaced will belong to the Seller and any repaired or replacement Goods will be warranted on these Conditions for the unexpired portion of the Warranty Period.
- 11.7 The obligations stated above represent the Seller's quality commitments. Any terms which may otherwise be implied by statute or common law as to description, quality or fitness for purpose of the Goods are excluded to the fullest extent permitted by law.

12. **LIABILITY**

- 12.1 This Clause 12.1 set(s) out the entire liability of the Seller (including any liability for the acts or omissions of its sub-contractors and any member of its Group Companies) in respect of:-
- 12.1.1 any breach of this Contract; and
- 12.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 12.2 The Seller does not exclude liability arising under Section 12 Sale of Goods Act 1979 or for death or personal injury caused by its negligence or for fraudulent misrepresentation.

- 12.3 Notwithstanding any other provision of these Conditions but without prejudice to Condition 12.2, the Seller shall not have any liability whatsoever and whether arising in contract, tort (including negligence), breach of statutory duty or otherwise for any:- (i) loss of profit; (ii) loss of anticipated savings; (iii) loss of business; (iv) loss or damage to goodwill (v) increased production costs; (vi) any costs or work related to the removal of defective Goods and the installation of repaired or replacement Goods; and (vii) any indirect, special or consequential losses or damages.
- 12.4 Without prejudice to Conditions 12.2 and 12.3, the Seller's maximum total liability to the Buyer, whether in respect of one claim or a series of related claims and whether arising in contract, tort (including but not limited to negligence), breach of statutory duty or otherwise, shall not exceed an amount equal to the price paid for the Goods giving rise to the claim.
13. **CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY RIGHTS**
- 13.1 All drawings, documents, confidential records, computer software, Specifications, Intellectual Property and other information supplied by the Seller, whether produced by itself or a third party, are supplied on the express understanding that ownership is reserved to the Seller (or the third party) and that the Buyer will not, without the written consent of the Seller, give away, loan, exhibit or sell any drawings, documents, records, software, Specifications, Intellectual Property or other information or extracts from them or copies of them or use them in any way except in connection with the Goods in respect of which they are issued. In addition, any design right or copyright created in relation to the Goods will vest in the Seller where the Goods are commissioned by the Buyer, whether or not for a separate fee.
- 13.2 All claims for alleged infringement by the Seller's Intellectual Property rights received by the Buyer relating to the Goods must be notified immediately to the Seller. If requested by the Seller, the Seller shall be entitled to have conduct of any proceedings relating to any such claim in such manner as the Seller thinks fit and the Buyer will provide to the Seller such reasonable assistance as the Seller may request. The cost of any such proceedings will be borne by the Seller.
- 13.3 If any allegation shall be made against the Buyer to the effect that the supply of such of the Goods as are manufactured by the Seller infringes the Intellectual Property rights of any third party or the Seller has reason to believe that any such allegation is likely to be made, the Seller may at its option and expense modify or replace the Goods so as to avoid the infringement (but without adversely affecting the overall performance of the Goods), or obtain for the benefit of the Buyer the right to continue to use the Goods, or repurchase the Goods at the Contract price as reduced by a reasonable provision for depreciation. If the Seller pursues any of these such options, the Buyer will have no rights or remedies against the Seller arising directly or indirectly out of the alleged infringement.
14. **TERMINATION**
- 14.1 The Seller shall (without prejudice to any rights or remedies available to the Seller) be entitled to terminate a Contract without liability if:-
- 14.1.1 if the Buyer or any member of the Buyer's Group Companies becomes bankrupt or shall be deemed to be unable to pay its debts for the purposes of Section 123 of the Insolvency Act 1986 or shall enter into an arrangement with its creditors or if a resolution shall be passed or proceedings shall be commenced for the administration or liquidation of the Buyer or any member of the Buyer's Group Companies (other than for a voluntary solvent winding up for the purposes of reconstruction or amalgamation), or if a receiver or manager shall be appointed of all or any part of the Buyer's assets or undertaking or the assets or undertaking of any member of the Buyer's Group Companies, or if anything analogous to the foregoing occurs under the laws of any jurisdiction or if the Seller reasonably anticipates that any of the foregoing events are likely to occur; or
- 14.1.2 if the Buyer commits or allows to be committed any breach of the Contract.
- 14.2 In the event of termination (howsoever arising) all amounts owing to the Seller shall become immediately due and payable including, for the avoidance of doubt, the price for all Goods supplied and all unrecovered investments and commitments notified to the Buyer pursuant to the provisions under Condition 2.
15. **FORCE MAJEURE**
- The Seller shall be under no liability for any failure to perform any of its obligations under the Contract if and to the extent that the failure is caused by, without limitation, any Act of God, fire, flood, lightning, revolution, act of terrorism, riot, civil commotion, failure of power supply, fuel, transport, raw materials, governmental restriction, condition or control or by reason of any act done or not done pursuant to a trade dispute, shortages of labour or materials or breakdown of machinery or any other matter (whether or not similar to the foregoing) outside the control of the Seller provided that, if the event of force majeure continues for a continuous period in excess of 30 days the either party shall be entitled to give notice in Writing to the other party to terminate this Contract.
16. **FREE ISSUE MATERIALS AND TOOLING**
- 16.1 Title to and property in the Buyer's Tooling which is loaned to the Seller for the purpose of performing this Contract shall at no time pass to the Seller unless the Buyer specifically agrees otherwise in Writing. Where reasonably practicable, the Buyer's Tooling shall be identified as such. The Seller shall not be liable in respect of wear and tear, damage to or the destruction of such Tooling. The Buyer shall remain responsible for insuring all such Tooling at all times.
- 16.2 Where Tooling is bought by the Seller for the purpose of performing this Contract (whether or at the request of the Buyer), title in such Tooling shall be held by and remain with the Seller notwithstanding that the Buyer may have paid for, in part or in whole, or be liable to pay for, in part or in whole, the cost of the Tooling under Condition 3.
- 16.3 Where Tooling is manufactured by or on behalf of the Seller in accordance with the Specifications provided by the Buyer to the Seller Conditions 10.3 and 10.4 shall apply.
- 16.4 Where materials are supplied by the Buyer to the Seller, such materials shall remain at the risk of the Buyer at all times and the Seller shall not be liable for the loss of, or damage to, any material during fabrication by the Seller or whilst stored on the premises of the Seller or whilst in transit to or from the premises by the Seller. For the purposes of this condition the "Seller" includes any sub-contractor employed by the Seller.
- 16.5 An allowance for material lost as process scrap is (where applicable) included in the price and no such losses shall be the subject of any claim by the Buyer.
- 16.6 Where materials or Tooling are supplied by, or on behalf of, the Buyer to the Seller, the Buyer shall be responsible for ensuring that the material or Tooling is of satisfactory quality and fit for purpose and shall indemnify the Seller against any loss, damage, injury or expense arising directly or indirectly from any actual or alleged fault in or incorrect specification of such materials or Tooling.
17. **ATTENDANCE ON SITE**
- If the Seller attends, or arranges for an attendance to be made, at the Buyer's premises or the premises of any third party for any reason connected with the Contract, the Buyer shall indemnify the Seller in respect of all claims made or proceedings taken against the Seller (and associated legal costs incurred by the Seller) by any person, firm or company, including employees of the Seller, or of the Buyer or of any contractor employed by the Buyer (or their personal representatives), whether in respect of death, personal injury or damage to property arising directly or indirectly from the attendance at such premises.
18. **ASSIGNMENT AND SUB-CONTRACTING**
- The Contract is entered into between the Seller and the Buyer as principals and the Buyer shall not be entitled to assign the benefit or burden of it or of any interest in it without the prior written consent of the Seller. The Seller shall be entitled to sub-contract the whole or part of its obligations under the Contract and to assign its interest in the Contract.
19. **SEVERABILITY**
- If these Conditions shall be or become void in whole or in part, the other provisions shall remain valid and enforceable.
20. **WAIVER**
- 20.1 A failure by the Seller to exercise, or a delay in exercising, any right or remedy under this Contract, or any waiver by the Seller of a breach by or default of the Buyer under any terms of this Contract shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies which the Seller may otherwise have or a waiver of any subsequent breach or default and no single or partial exercise of any right or remedy under this Contract shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy and shall not affect the other terms of this Contract.
21. **GENERAL**
- 21.1 The Contract sets out the entire agreement and understanding between the Buyer and the Seller in connection with the sale of the Goods and shall supersede and replace all documentation previously issued by the Seller purporting to set out its terms and conditions of sale of the Goods.



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22. **THIRD PARTY RIGHTS**

22.1 A person who is not a party to the Agreement (a "third party") shall have no rights pursuant to the Contracts (Rights of Third Parties) Act 1999 (the "Act") to enforce any of these Conditions. Any right or remedy of a third party which exists or is available apart from the Act is not affected.

23. **LAW AND JURISDICTION**

The parties agree that this Contract and any disputes arising or in any way connected with the subject matter of this Contract (whether of a contractual or tortious nature or otherwise) shall be subject to the laws of England and in the case of proceedings issued against the Seller shall be subject to the jurisdiction of the English courts only.