



Thermal Detection Limited

Company registered in England under company number 01886771
Unit 6 Orde Wingate Way
Primrose Hill Industrial Estate
Stockton-on-Tees
TS19 0GA

Terms and Conditions for the Supply of Goods

1. INTERPRETATION

1.1 Definitions.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 13.3.

Confidential Information: all confidential information (in whatever form and however recorded or preserved) disclosed or made available, directly or indirectly, by the Supplier or its employees, officers, representatives or advisers to the Customer and its representatives whether before, on or after the date of this Contract, including:

- (a) any information that would be regarded as confidential by a reasonable business person relating to:
 - (i) the business, affairs, customers, clients, suppliers, plans, intentions, or market opportunities of the Supplier, and
 - (ii) the Specification or specifications, technical data, descriptions, manuals, flow-charts, operations, processes, product information, product constituent parts, know-how, designs, Intellectual Property Rights, trade secrets or software of the Supplier;
- (b) any information provided in documentary or by way of a model or in other tangible form which at the time of provision is marked or otherwise designated to show expressly or by necessary implication that it is imparted in confidence, including (but not limited to) any drawings and specifications provided to the Customer to help illustrative the design or composition of the Goods;
- (c) in respect of information that is imparted orally, any information that the Supplier or its employees, officers, representatives or advisers informed the Customer at the time of disclosure was imparted in confidence;

- (d) in respect of Confidential Information imparted orally, any note or record of the disclosure;
- (e) all information acquired by observation by the Customer or any of its relating to the Goods;
- (f) any information, analysis, compilations, studies, reports, results and other documents derived from the Confidential Information,

but not including any information that:

- (g) is or becomes generally available to the public other than as a result of its disclosure by the Customer in breach of this agreement or as a result of breach of any other undertaking of confidentiality addressed to the Customer, (except that any compilation of otherwise public information in a form not publicly known shall nevertheless be treated as Confidential Information); or
- (h) was lawfully in the possession of the Customer before the information was disclosed to it by the Supplier as evidenced by written records; or
- (i) the parties agree in writing is not confidential or may be disclosed.

Contract: the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

Credit Account: a designated and active credit account with and recognised by the Supplier through which an Order may be placed by the Customer having received express authorisation from the Supplier to do so and which requires payment on the production of an invoice by the Supplier (but which for the avoidance of doubt such credit account may be withdrawn by the Supplier at any time).

Pro Forma: the default payment requirement of the Supplier requiring payment in full and cleared funds by the Customer prior to manufacture, delivery or provision of the Goods and to enable the Supplier to process the Order.

Customer: the person or firm who purchases the Goods from the Supplier.

Expense: for the avoidance of doubt, expenses the Customer is responsible for shall include any out of pocket costs incurred by the Supplier in fulfilling an Order, including without limitation, the following: -

- (j) postage, packaging, carriage, freight and handling charges;
- (k) insurance;
- (l) currency conversion and banking charges applicable to the payment method used;
- (m) value added tax or any other applicable sales tax in the country in which the Supplier is resident; and

- (n) any customs, import or other duties charged in respect of the sale and importation of Goods into the country in which the Customer is resident or the Delivery Location is situated.

Force Majeure Event: an event or circumstance beyond a party's reasonable control,

Goods: the goods (or any part of them) set out in the Order.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) 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.

Order: the Customer's order for the Goods, as set out in the Customer's purchase order form together with a purchase order number, subject to a minimum Order value of £50.00 in respect of the cost of the Goods.

Specification: any specification for the Goods, including any related plans and drawings, that is agreed by the Customer and the Supplier.

Supplier: Thermal Detection Limited (registered in England and Wales with company number 01886771).

1.2 Interpretation:

- (a) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (b) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (c) a reference to **writing** or **written** includes emails.

2. BASIS OF CONTRACT

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the

Order and any applicable Specification submitted by the Customer are complete and accurate.

- 2.3 Should the Customer require a Certificate of Conformance in respect of the Goods this shall be provided by the Supplier free of charge provided it is expressly requested on the Order. Any request by the Customer after the Order has been acknowledged by the Supplier will be payable by the Customer. Material Certificates will be provided for a fee payable by the Customer but must again be expressly requested on the Order.
- 2.4 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order in the form of an order acknowledgment form, at which point the Contract shall come into existence.
- 2.5 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions. In the event of any inconsistency between this Contract and the Customer's own terms and conditions, this Contract (constituting the Supplier's terms and conditions) shall prevail.
- 2.6 Any samples, drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.7 A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of thirty (30) days its date of issue unless otherwise stated on the quotation form and shall be subject to clause 8.2 below.

3. GOODS

- 3.1 The Goods are described in both the Supplier's brochure, data sheets and quotations, as modified by any applicable Specification.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the Supplier's use of the Specification.

4. INTELLECTUAL PROPERTY OF THE SUPPLIER

- 4.1 The Supplier reserves all rights in its Confidential Information. The Customer expressly acknowledges and confirms that ownership of the Confidential Information including all Intellectual Property Rights in the Confidential Information remains vested in and under the control of the Supplier. No rights in respect of the Supplier's Confidential Information (including in respect of such Intellectual Property Rights) are granted to the Customer.
- 4.2 The Customer shall not make any inventions or developments or patent applications using or based on the Supplier's Confidential Information, and if any such inventions or developments or patent applications are made, the Customer shall assign all rights in them to the Supplier or its nominee.
- 4.3 The Customer shall not attempt to replicate the Supplier's Confidential Information nor to investigate detailed aspects of the Supplier's Confidential Information that were not disclosed by the Supplier.
- 4.4 The Customer acknowledges that damages alone would not be an adequate remedy for the breach of any of the provisions of clauses 4.2 and 4.3. Accordingly, without prejudice to any other rights and remedies it may have, the Supplier shall be entitled to the granting of equitable relief (including injunctive relief) concerning any threatened or actual breach of any of the provisions of this agreement.
- 4.5 The Customer shall indemnify and keep fully indemnified the Supplier at all times against all liabilities, costs (including legal costs on an indemnity basis), expenses, damages and losses including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and other costs and expenses suffered or incurred by the Supplier arising from any breach of this Contract by the Customer and from the actions or omissions of any representative.
- 4.6 The above clauses 4.1 to 4.5 shall survive termination of the Contract, however arising.
- 4.7 Tools made for the manufacture of Goods shall remain the property of the Supplier, notwithstanding that the Supplier may have been debited with any sum in respect of their costs.
- 4.8 The colour of any plastic mouldings delivered by the Supplier shall be subject to reasonable variation. The Supplier shall not be entitled to reject samples which comply objectively with the Specification or the requirements of the Customer, on aesthetic or subjective grounds.

- 4.9 Items supplied by the Customer for the purposes of the Contract shall be of suitable quality and shall be provided free of charge in sufficient quantities and at times reasonably required by the Supplier. Any defect in items provided by the Customer shall not entitle the Customer to rescind the Contract, reject the Goods, make deductions from the Order or claim damages in respect of such defect and the Customer shall indemnify and keep indemnified the Supplier from and against all actions, demands, claims, proceedings, losses or costs arising from the supply of defective items by the Customer.
- 4.10 The Supplier reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.
- 4.11 The Supplier shall make every effort to ensure the accuracy of technical data or literature relating to the Goods, but the Supplier accepts no liability for any damage or injury (other than death or personal injury) arising directly or indirectly from any error or omission in such technical data or literature.

5. DELIVERY

- 5.1 The Supplier shall ensure that:
- (a) each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, the contract number, all relevant Customer and Supplier reference numbers (to the extent that a Customer reference number has been provided), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- 5.2 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree, including at the Supplier's premises (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready.
- 5.3 The Supplier may suspend provision or delivery of the Goods under any Order if at any time it becomes apparent to the Supplier that the Customer has failed to discharge any sums due to the Supplier in respect of any previous invoice or Order(s).
- 5.4 Delivery of the Goods to the Delivery Location will be arranged by the Supplier upon request by and at the Expense of the Customer. Acceptance of any change to the Delivery Location requested by the Customer shall be at the Supplier's sole discretion and the Customer shall be liable for any additional Expense incurred by the Supplier as a result of such change. The Supplier shall arrange for suitable transport to the Delivery Location. On delivery, the Supplier (or its appointed carrier) shall provide the

Customer with such export documents as are necessary (subject to clause 2.3) and which the Customer is unable to prepare together with a delivery note.

- 5.5 Delivery is completed on the completion of unloading of the Goods at the Delivery Location. The Supplier retains the right to supply one invoice and one packing note for each consignment of Goods notwithstanding that the consignment may comprise more than one package.
- 5.6 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.7 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.8 If the Customer fails to accept delivery of the Goods within five (5) Business Days of the Supplier notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Supplier notified the Customer that the Goods were ready; and
 - (b) where relevant the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 5.9 Where the Goods comprise of any wire or cable, if the Supplier delivers up to and including 10% more or less than the quantity of such wire or cable ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Goods was delivered, a pro rata adjustment shall be made to the Order invoice.
- 5.10 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

6. QUALITY

6.1 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (**warranty period**), the Goods shall:

- (a) be free from material defects in design, material and workmanship; and
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- (c) be fit for any purpose held out by the Supplier.

6.2 Subject to clause 6.3 and 6.4 below, if:

- (a) the Customer gives notice in writing to the Supplier during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 6.1;
- (b) the Supplier is given a reasonable opportunity of examining such Goods; and
- (c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

6.3 In the interests of health and safety the Supplier shall not accept return of any Goods from the Customer where those Goods are supplied to the pharmaceutical, healthcare and biotechnology sector and are contaminated or have been exposed to a risk of contamination given the nature of their intended use. In each case the Customer will be aware of any Goods which may fall into this category on the basis that the Supplier will supply a contamination record form to the Customer which the Customer must complete and return to the Supplier. The Supplier will issue a Returns Note number to the Customer, which should be clearly displayed on the outer packaging of the returned Goods. Any Goods returned without a completed contamination record or not clearly showing the Returns Note number on the outer packaging will be rejected.

6.4 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 6.1 in any of the following events:

- (a) where the Goods are not manufactured by the Supplier;
- (b) where the Goods or any constituent part or component of the Goods is disposable or single-use in nature, including but not limited to validation thermocouples, sealants and gaskets;
- (c) the Customer makes any further use of such Goods after giving notice in accordance with clause 6.2;

- (d) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, distortion, contamination, light fastness, protection, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (e) the defect arises as a result of the Supplier following any drawing, design or Specification supplied by the Customer;
- (f) the Customer alters or repairs such Goods without the written consent of the Supplier;
- (g) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions;
- (h) where the Customer is silent as to any aspect of the design, function, performance, tolerances, quality or characteristics of the Goods and subsequent to delivery asserts that the Goods do not conform to its own intended purpose or specification (provided the Goods otherwise comply with clause 6.1); or
- (i) the Goods differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

- 6.5 The Customer shall inspect the Goods and notify the Supplier of any defects or non-conformance within five (5) Business Days from the date of delivery.
- 6.6 Where any Goods are returned pursuant to clause 6.2 the Goods will be subject to a testing charge payable by the Customer equivalent to 15% of the Order value (or a minimum charge of £30.00 where the Order value is less) together with VAT thereon where applicable.
- 6.7 Except as provided in this clause 6, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 6.1. The Supplier reserves the right to make reasonable design changes provided that such changes shall not reduce the performance of the Goods, affect the mechanical interchangeability of the Goods or increase the price.
- 6.8 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 Contract.
- 6.9 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier save that the Supplier shall only be required to repair or replace the defective constituent part of the Goods and shall apply only to the extent that the original warranty period to those repaired or replaced Goods. The Supplier makes no representation and gives no warranty in respect of the sources or origin of manufacture or production of the goods or any part thereof unless otherwise agreed.

7. TITLE AND RISK

- 7.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 7.2 Title to the Goods shall not pass to the Customer until:
- (a) In the case of a Customer with a Pro-Forma account, the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; or
 - (b) in the case of a Customer with a Credit Account, the Supplier receives payment in full and in cleared funds within 30 days of the date of the invoice, in each case payment shall be made to the bank account nominated in writing by the Supplier.
- 7.3 Until title to the Goods has passed to the Customer, the Customer shall where delivery has taken place:
- (a) ensure that the Goods remain readily identifiable as the Supplier's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 9.1; and
 - (e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- 7.4 Where carriage has been arranged by the Supplier the Customer shall immediately notify the Supplier and the carrier of any loss or damage in transit.
- 7.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 9.1, then, without limiting any other right or remedy the Supplier may have:
- (a) the Supplier may at any time:
 - (i) require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
 - (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

8. PRICE AND PAYMENT

- 8.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date of delivery, subject to clause 8.2 below.
- 8.2 The Supplier may, by giving notice to the Customer at any time up to five (5) Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- (a) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
 - (c) any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 8.3 The price of the Goods:
- (a) excludes amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice. For any Order received outside of the UK, where no valid VAT number is stated, VAT at the prevailing rate will be applied; and
 - (b) excludes Expenses, the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.
- 8.4 A Customer with a Credit Account is required to pay all sums due in respect of the Goods as set out in clause 8.3 within 30 days of an invoice being raised by the Supplier.
- 8.5 A Customer with a Pro Forma account shall be required to pay all sums due in respect of the Goods as set out in clause 8.3 in advance and prior to delivery before the Order is processed by the Supplier.
- 8.6 In the case of a Credit Account Customer, the Supplier may invoice the Customer for the Goods on or at any time after the completion of delivery.
- 8.7 If a Credit Account Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 8% per annum above Barclays Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual

payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

- 8.8 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

9. TERMINATION

- 9.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
- (b) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

- 9.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 9.1(a) to clause 9.1(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment. Nothing in this clause shall prevent the Supplier from suspending the provision or delivery of goods in the event that clause 5.3 applies.

- 9.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment.

- 9.4 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and in any event shall be responsible for payment of all sums due proportionate to the extent of work undertaken by the Supplier for the purposes of fulfilling the Order on behalf of the Customer with such payment calculated as a percentage of work undertaken at the time of termination.
- 9.5 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.
- 9.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

10. LIMITATION OF LIABILITY

- 10.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
 - (d) defective products under the Consumer Protection Act 1987; or
 - (e) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.
- 10.2 Subject to clause 10.1:
- (a) the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
 - (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the price of the Goods.

11. FORCE MAJEURE

Force majeure. Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for a period eight (8) weeks, the party not affected may terminate this Contract by giving 14 days' written notice to the affected party.

12. IMPORT LICENCES

12.1 The Customer is responsible for obtaining, at its own cost, such import licences and other consents in relation to the products as are required from time to time and, if required by the supplier, the customer shall make those licences and consents available to the supplier prior to the relevant shipment.

13. GENERAL

13.1 Assignment and other dealings.

- (a) The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

13.2 Entire agreement.

- (a) This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

13.3 **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13.4 **Waiver.** A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

- (a) waive that or any other right or remedy; nor
- (b) prevent or restrict the further exercise of that or any other right or remedy.

13.5 **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 deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

13.6 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or email.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in *clause 13.6(a)*; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

13.7 Third party rights. No one other than a party to this Contract shall have any right to enforce any of its terms.

13.8 Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales. The international rules for the interpretation of trade terms prepared by the International Chamber of Commerce 2010 (Incoterms 2010), as stated in each case on the Order or order acknowledgment form (and in the case of any change in Incoterm, whichever Incoterm appears later), shall apply but where they conflict with this agreement, this agreement shall prevail.

13.9 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation. Nothing in this clause shall limit the right of the Supplier to take proceedings against the Customer in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdiction preclude the Supplier from taking proceedings in any other jurisdiction, whether concurrently or not, to the extent permitted by the law of such jurisdiction.

13.10 Language. This agreement is drafted in the English language. If this agreement is translated into any other language, the English language version shall prevail. Any

notice given under or in connection with this agreement shall be in the English language. All other documents provided under or in connection with this agreement shall be in the English language.