

Multi-Country

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1. DEFINITIONS AND INTERPRETATION

In these Conditions:

1.1 the following terms have the following meanings:

"Affiliate" any persons that Control, are Controlled by or are under common Control with us from time to time; **"Change"** any mechanical, software or other change in design, manufacturing process, supply chain, specifications, materials or product standards (including part substitutions or internal relocation of parts) which affects or potentially affects performance, reliability, function, safety, appearance, quality, dimensions, tolerances or any other Specifications of Deliverables.

"Claims" claims or proceedings made, brought or threatened against us by any person;

"Confidential Information" any Contract and any information that relates to a party (or any of its Affiliates) disclosed to the other party in connection with the Contract, but excluding information received by the other party that: (i) is publicly available (other than through a breach of **Condition 11**); (ii) was received from a third party who did not acquire it in confidence; or (iii) is developed without any breach of the Contract;

"Contract" a contract for the supply of Deliverables by you to us incorporating these Conditions, including pursuant to a Framework Agreement, as formed under Condition 2.1;

"Control" in relation to a person, the power to direct or cause the direction of its affairs, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise and **"Controlled"** is construed accordingly;

"Deliverables" means Goods, Work Product and/or Services;

"Delivery" delivery of the Goods in accordance with **Condition 4**;

"Framework Agreement" a framework agreement in place between you and us for the supply of Deliverables incorporating these Conditions;

"Goods" the goods set out in the Order or any Specification or referred to in the Framework Agreement;

"IPR" all intellectual and industrial property rights of any kind including patents, trade secrets, supplementary protection certificates, rights in know-how, registered and unregistered trade marks and designs, models, rights to prevent passing off or unfair competition and copyright, database rights, topography rights, any rights in any invention, discovery or process, and applications for and rights to apply for any of the foregoing, in all countries in the world and together with all renewals, extensions, continuations, divisions, reissues, re-examinations and substitutions;

"IPR Claim" a Claim that the possession, use and/or sale of Deliverables by us, our Affiliate or our or their Customers infringes the IPR of any person;

"Liability" liability arising out of or in connection with a Contract, whether in contract, tort, misrepresentation, restitution, under statute or otherwise including any liability under an indemnity contained in a Contract and/or arising from a breach of, failure to perform, or delay in performing any of a party's obligations under a Contract, howsoever caused including if by negligence;

"Losses" all losses, liabilities, costs, demands, damages and expenses that are or will be incurred by us or our Affiliates including in respect of any Claims, including IPR Claims;

"Order" our written acceptance of your quotation for the supply of Deliverables to us AND/OR any purchase order submitted by us to you for Deliverables;

"Price" (i) the lower of the price for the Deliverables set out in the Order and your price for the Deliverables in force at the time of Delivery of Goods or completion of Services; or (ii) where there is a Framework Agreement in place, the price for the Deliverables as set out in the Framework Agreement;

"Services" the services set out in the Order or any Specification or referred to in the Framework Agreement;

"Specification" the specifications and requirements for the Deliverables set out or referred to in the Order or as defined in the Framework Agreement;

"we" or **"us"** or **"our"** the person named as the customer in the Order and/or referred to as "Customer" in a Framework Agreement;

"Work Product" any reports, documents, work product or other materials created for us by you, or on your behalf, arising from the Services;

"you" the person named as the supplier in the Order and/or referred to as the "Supplier" in a Framework Agreement;

1.2 headings are for ease of reference and do not affect the interpretation of these Conditions;

1.3 references to a "person" include any individual, body corporate, partnership, government authority, agency or department, state or any other entity (in each case whether or not having separate legal personality);

1.4 any words following the words "include", "in particular" or any similar expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them;

1.5 an obligation on a party to procure or make sure the performance or standing of another person will be construed as a primary obligation of that party;

1.6 a reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision; and

1.7 the English language version of these Conditions is the binding version as between you and us. Any translation has been prepared for convenience only. In the event of any conflict, ambiguity or inconsistency between the English language version of these Conditions and any translated version, the English language version shall prevail.

2. CONTRACT FORMATION

2.1 A Contract is formed when we accept any quotation issued by you (verbal or written) by issuing an Order (whether or not there is a Framework Agreement in place) OR where you perform any act consistent with fulfilling an Order submitted by us for Deliverables. We are not obliged to accept any quotation issued by you.

2.2 These Conditions are the only terms and conditions on which we will purchase Deliverables. They apply in place of any terms and conditions that you may seek to apply or which may otherwise be implied, including any which are endorsed on, delivered with or contained in your quotation, Order acknowledgement, on your website or other sales materials or media or on any delivery note ("Seller T&Cs") and you waive any rights to rely on any such Seller T&Cs. Delivery of Goods and/or commencement of performance of Services is conclusive evidence of your acceptance of these Conditions.

2.3 You may not cancel a Contract. Unless you notified us in writing before we placed an Order that we may not cancel it, we may cancel a Contract in whole or part any time before Delivery or completion of performance of Services. Our sole Liability will be to pay to you fair and reasonable compensation for work-in-progress at the time of cancellation provided that:

2.3.1 such compensation will not include any loss of profits OR any indirect or consequential loss; and

2.3.2 where Goods are not manufactured specifically for us to our Specification, our sole Liability will be to pay you a fair and reasonable restocking charge.

3. QUALITY CONTROL & TESTING

3.1 The quantity, description and Specification of Deliverables will be as set out in the Order. You must not make any Change to Deliverables without our prior written consent. You will carry out any reasonable Change that we request to any Deliverables. We will negotiate, in good faith, with you an agreed adjustment to the price, Delivery date or both as a result of a Change.

3.2 You will maintain detailed quality control and manufacturing records for the shorter of any maximum

1. 定义和解释

在本条件中:

1.1 下列术语应具有下列含义:

"关联人" 指不时控制我方、受我方控制或与我方共同受控制的任何人员;

"改变" 指在设计、制造过程、供应链、规格、材料或产品标准方面影响或可能影响可交付成果的性能、可靠性、功能、安全性、外观、质量、尺寸、公差或任何其他规格的任何机械、软件或其他改变 (包括部件替换或部件内部迁移)。

"索赔" 指任何人针对我方提出、提起或扬言提起的索赔或程序;

"保密信息" 指任何合同和针对该合同向另一方披露的与该方 (或其任何关联人) 有关的信息, 但不包括另一方收到的下列信息: (i) 可公开获得的 (除违反**第11条**外); (ii) 从并非基于保密而获得该信息的第三方处获得的; 或 (iii) 在不违反合同的情况下开发的;

"合同" 指根据**第2.1条**订立的包含本条件的贵方向我方供应可交付成果的合同, 包括框架协议;

"控制", 就某人而言, 指指示或促使指示其事务的权力, 无论通过持有股份、拥有表决权、行使合同权力或其他方式, 且 **"受控"** 应做相应解释;

"可交付成果" 指货物、工作产品和/或服务;

"交付" 指根据**第4条**交付货物;

"框架协议" 指贵方和我方之间为提供可交付成果而订立的包含本条件的框架协议;

"货物" 指订单或任何规格中规定的或框架协议提及的货物;

"知识产权" 指任何种类的所有知识产权和工业产权, 包括专利、商业秘密、补充保护证书、专有知识、注册和未注册的商标和外观设计、模型、防止假冒或不正当竞争的专利和著作权、数据库权、拓扑权, 任何发明、发现或方法中的任何权利, 以及在世界上所有国家申请和有权申请前述任何权利, 连同所有续期、展期、延期、分立、重新签发、重新审查和替换;

"知识产权索赔" 指认为我方、我方关联人或我方或其客户持有、使用和/或销售可交付成果侵犯任何人知识产权的主张;

"责任" 由合同引起的或与合同有关的责任, 无论基于合同、侵权、虚假陈述、偿还、制定法或其他方面, 包括合同中赔偿条款项下的任何责任或/或由违反、未履行或迟延履行合同项下任何一方的义务, 不论如何产生, 包括由于疏忽造成的;

"损失" 指我方或我方关联人发生或将会发生的包括针对任何索赔 (包括知识产权索赔) 在内的所有损失、债务、成本、要求、损害赔偿和支出;

"订单" 指我方书面接受贵方向我方提供可交付成果的报价和/或我方向贵方提交的针对可交付成果的任何采购订单;

"价格" (i) 订单中规定可交付成果的价格和交付货物或完成服务时贵方针对可交付成果届时有效的价格, 以较低者为准; 或 (ii) 已有框架协议的情况下, 框架协议中规定的可交付成果的价格;

"服务" 指订单或任何规格中规定的或框架协议中提及的服务;

"规格" 指订单中规定或提及的或框架协议中定义的可交付成果的规格和要求;

"我方" 或 **"我方的"** 指在订单中被指定为客户和/或在框架协议中被称为客户的人;

"工作产品" 指由贵方或代表贵方为我方制作的产生于服务的任何报告、文件、工作产品或其他材料;

"贵方" 指订单中被指定为供应商和/或在框架协议中被称为供应商的人;

1.2 标题仅供参考之便, 不影响对本条件的解释;

1.3 对 **"人"** 的提述包括任何个人、法人团体、合伙、政府当局、机构或部门、州或任何其他实体 (在每种情况下无论是否具有独立法人资格);

1.4 前接 **"包括"**、**"具体地"** 或任何类似表述的任何词语将被解释为没有限制, 并且相应地不会限制在其之前词语的含义;

1.5 一方促成或确保另一方履行或资格的义务将被解释为该方的主要义务;

1.6 对制定法或制定法规定的提述是对经修订或重新颁布的制定法或制定法规定的提述。对制定法或制定法规定的提述包括根据该制定法或制定法规定制定的所有次级立法; 且

1.7 本条件的英文版本是贵方和我方之间具有约束力的版本。任何翻译仅为方便而备。如果本条件的英文版本与任何翻译版本之间有任何冲突、不明确或不一致之处, 应以英文版本为准。

2. 合同的订立

2.1 我方通过签发订单 (无论是否存在框架协议) 接受贵方 (口头或书面) 签发的任何报价, 或贵方实施与履行我方针对可交付成果提交的订单相一致的任何行为时, 合同成立。我方没有义务接受贵方签发的任何报价。

2.2 本条件是我方据以购买可交付成果的唯一条款和条件。其替代适用贵方寻求适用或贵方网站或其他销售材料或媒体或任何交付单上默示的任何条款和条件 (**"卖方条款和条件"**), 包括贵方报价、订单确认书中背书、交付或所含任何条款和条件, 且贵方放弃信赖任何该卖方条款和条件的权利。交付货物和/或开始履行服务是贵方接受本条件的确认性证据。

2.3 贵方不得取消合同。除非贵方在我方下单前书面告知我方不得取消合同, 否则我方可在交付或完成履行服务前任何时间全部或部分取消合同。我方的唯一责任是在取消时针对正在进行的工作向您支付公平合理的补偿, 但:

2.3.1 该补偿不包括任何利润损失或任何间接或结果产生的损失; 且

2.3.2 如果货物不是按照我方规格专为我方生产, 我方的唯一责任是向您支付公平合理的补货

period permitted by law and ten (10) years from the date of Delivery (or such other period of time as set out in a Framework Agreement or Order), which we or a third party on our behalf may inspect or receive copies of on demand.

3.3 We may inspect and test Goods at any time prior to Delivery. You will allow us and our representatives to enter your premises to carry out such inspection and testing and will provide us with all facilities reasonably required. If, following such inspection or testing, we are not satisfied that the Goods will comply with Condition 5.1, you will take all steps necessary to ensure compliance.

3.4 You will maintain a quality control system that meets any international standard as required by us, or which is otherwise approved by us and such test and inspection system as we may require.

3.5 You may not deliver the Goods by separate instalments without our prior written consent. Instalments will be invoiced separately by you.

4. DELIVERY OF GOODS / SUPPLY OF SERVICES

4.1 Unless otherwise specified in an Order, you will deliver the Goods DDP (Incoterms 2010) to the address specified in the Order during our normal business hours on the date specified in the Order. You will be responsible for off-loading the Goods from the delivery vehicle. Delivery of the Goods will occur when they have been off-loaded at the delivery address.

4.2 You will perform Services in accordance with the applicable timetable communicated to you or as set out in the Order to meet all Specifications.

4.3 Time is of the essence for performance of your obligations under the Contract. If you are late performing your obligations under the Contract, you will pay to us a sum equal to 1.5% of the Price for each week of delay up to a maximum of 15% of the Price. You and we agree that this amount is reasonable and proportionate AND the most effective way of compensating us for part or all of our losses arising from late performance. However, you and we intend that we should be able to recover general damages as well as such sums in circumstances where we have suffered loss in excess of such sums as a result of your late performance. Therefore, our rights to any such sums under this **Conditions 4.3** is without prejudice to any other rights which we may have under the Contract or otherwise in respect of late performance, including the right to sue for damages or other relief and/or to terminate the Contract. A claim for general damages for late performance will be reduced by the amount of such sums under this **Conditions 4.3** actually applied or paid in respect of such late performance.

4.4 Services will be accepted by us when we are satisfied that the Services comply with the Specifications.

4.5 You will make sure that the Goods are marked in accordance with our instructions and any applicable laws, rules and regulations and are properly packed and secured; marked with information on their origin; Delivery is accompanied by a prominently displayed delivery note showing the Order number, date of Order, type and quantity of Goods, and any special storage instructions; and delivered with all operating and safety instructions, clearly displayed warning notices and such other information as may be necessary for the proper use, maintenance and repair of the Goods.

4.6 If you fail to deliver the Goods on time we may terminate the Contract immediately by giving you notice, in which case you will refund any monies already paid by us in relation to the Goods that have not been delivered and indemnify us and our Affiliates against our Losses as a result of your failure to supply Goods, including obtaining substitute goods from another supplier.

4.7 We will have a reasonable period of time following Delivery to inspect Goods. We may reject Goods which do not meet Specifications. We can also reject Goods which are more or less than the quantity or type Ordered or delivered prior to the date specified on the Order. Rejected Goods will be returned at your cost and expense. If we accept Goods delivered prior to the date specified on the Order we may charge you the cost of storing them until the actual specified Delivery date.

4.8 Risk in the Goods passes to us on the later of acceptance and Delivery. Ownership of the Goods passes to us on the earlier of payment of the Price and Delivery.

4.9 You will notify us in writing as soon as you are aware that any Goods or the product support for the Goods are to be discontinued or made of "end of sale" or "end of life". At our request, you and we will agree in good faith a reasonable period of time during which you will keep agreed spare parts available for us for any discontinued, desupported, end of life or end of sale Goods.

5. YOUR OBLIGATIONS

5.1 You will make sure that the Goods will:

5.1.1 be of satisfactory quality, comprise genuine, new materials (which are not used, refurbished, reconditioned, remanufactured, counterfeit or of such age as to impair usefulness or safety) and be fit for any purpose notified by us to you;

5.1.2 conform to, satisfy and be capable of the Specifications;

5.1.3 be free from defects in design, materials and workmanship;

5.1.4 be sold to us with full and unencumbered title and not infringe the IPR of any third party;

5.1.5 comply with all (i) applicable laws, (ii) regulatory requirements and (iii) standards and requirements of relevant statutory and regulatory bodies; and

5.1.6 be safe and without risk to health.

5.2 In respect of Services, You will:

5.2.1 perform Services with the best care, skill and diligence in accordance with best practice;

5.2.2 use personnel (and sufficient number of personnel) who are suitably skilled and experienced to perform the Services;

5.2.3 make sure that the Services conform with our reasonable instructions, comply with Specifications, are performed to meet the purposes notified by us to you and do not infringe the IPR of any third party;

5.2.4 provide all equipment, tools and vehicles and other items required to provide the Services;

5.2.5 obtain and at all times maintain all licences and consents required for the provision of the Services;

5.2.6 comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply to the provision of the Services; and

5.2.7 not do or omit to do anything which may cause us or our Affiliates to lose any licence, authority, consent or permission required for our or their business.

5.3 You will observe all health and safety rules and regulations and any other security requirements that apply at any of our premises and ensure that your personnel are insured against all risks while working on our premises.

5.4 Without affecting any of our other rights or remedies, if you materially breach any of these Conditions OR any Goods (whether or not accepted in whole or in part) do not conform with **Condition 5.1** during the longer of (i) your warranty period for the Goods and (ii) 12 months following Delivery OR any Services breach **Condition 5.2**, then we may:

5.4.1 terminate the Contract and any other existing Contracts immediately with notice;

5.4.2 require you, at our option, to promptly repair or replace the relevant Goods or reperform the relevant Services free of charge;

5.4.3 reject the Deliverables (in whole or in part) and require you to refund the Price for the relevant Deliverables;

5.4.4 accept the Deliverables subject to an equitable Price reduction; or

5.4.5 at your expense, repair or have a third party repair the Goods or reperform or have a third party reperform the Services and you will indemnify us and our Affiliates against our Losses (including from any IPR Claims) arising from such breach.

5.5 **Condition 5.4** will apply to any repaired or replacement Goods supplied under **Condition 5.4.2**.

5.6 If, as a result of any Goods not conforming with **Condition 5.1** or Services not conforming with **Condition 5.2** or otherwise representing an unreasonable risk of harm to the public or the environment, we determine a recall, removal or correction campaign ("campaign") is necessary or are required to carry out a campaign, we may implement such campaign and you will indemnify us and our Affiliates against all Losses incurred as a result of any such campaign.

费用。

3. 质量检验和测试

3.1 可交付成果的数量、描述和规格将在订单中列出。未经我方事先书面同意，贵方不得对

“可交付成果”作出任何更改。贵方将执行我方针对任何可交付成果提出的任何合理更改。我方将诚意与您就因更改而产生的价格、交货日期或两者的调整达成一致。

3.2 贵方将保存详细的质量检验和生产记录，保存时间为法律允许的最长时间和自交货之日起十(10)年(或框架协议或订单中规定的其他时间期间)，以较短者为准，我方或代表我方的第三方可以查看或应要求获得文本副本。

3.3 我方可在交货前任何时间检验和测试货物。贵方将允许我方和我方代表进入贵方营业场所进行该检验和测试，并将向我方提供合理要求的所有设施。如果在该检验或测试后，我们认为货物不符合第5.1条规定，贵方将采取一切必要措施确保其符合规定。

3.4 贵方将维持符合我方要求的任何国际标准的质量检验体系，或者由我方以其他方式同意的质量检验体系，以及我方可能要求的检验和测试。

3.5 未经我方事先书面同意，贵方不得分期分批交付货物。分期分批货物将由贵方单独开具发票。

4. 交付货物/提供服务

4.1 除非订单中另行明确规定，贵方应在订单中指定日期正常营业时间期间将货物按照完税后交货(DDP, Incoterms 2010)交付至订单中指定的地址。贵方将负责从运输工具上卸载货物。货物在交付地址卸货后，视为交付货物。

4.2 贵方将根据传达给贵方或订单中规定的相关时间表履行服务，以符合所有规格。

4.3 时间对履行贵方在合同项下的义务至关重要。如果贵方延迟履行贵方在合同项下的义务，贵方每延迟一周将向我方支付价格1.5%的金额，但最高为价格的15%。贵方和我方同意该金额是合理和相称的，并且是赔偿我方部分或全部因延迟履行而遭受损失的最有效方式。然而，贵方和我方意欲，如果我方因贵方延迟履行而遭受的损失超过该金额，我方应该能够获得该金额和一般损害赔偿。因此，我方根据本**第4.3条**获得任何该等金额的权利不会影响我方针对延迟履行根据合同或其他而享有的任何其他权利，包括起诉获得损害赔偿或其他救济和/或终止合同。因延迟履行而主张获得的一般损害赔偿，将扣除根据**第4.3条**针对该延迟履行实际适用或支付的金额。

4.4 我方信纳服务符合规格时，视为我方接受服务。

4.5 贵方应确保货物根据我方指示和任何相关法律、法规和规章进行标示，且妥善包装和保管；标示有关其原产地的信息；交货应附有突出显示的交货单，表明订单编号、订单日期、货物类型和数量，以及任何特殊存储说明；交货应附有所有操作和安全说明、清晰显示的警告，以及正确使用、维护和修理货物所需的其他信息。

4.6 如果贵方未能按时交付货物，我方可通知贵方立即终止合同，在该情况下，贵方将退还我方针对未交付货物已支付的任何款项，并赔偿我方和我方关联人因贵方未提供货物而遭受的损失，包括从其他供应商处获得替代货物。

4.7 交货后我方可在合理期间内检查货物。我方可拒绝不符合规格的货物。我们亦可拒绝大于或小于订购质量或类型的货物，或在订单规定日期前交付的货物。拒绝货物的返还将由贵方承担费用和支出。如果我方接受订单指定日期前交付的货物，我方可向贵方收取实际规定交付日期前产生的存放费用。

4.8 货物风险在验收和交付(以较迟发生者为准)后转移至我方。货物的所有权在付款和交付(以较早发生者为准)时转移至我方。

4.9 如果贵方获悉将中断任何货物或产品支持或“停止销售”或“停止生产”，贵方应尽快以书面方式告知我方。应我方要求，贵方和我方将善意约定一段合理期间，在此期间贵方将针对任何中断、不提供支持、停止销售或停止生产的货物向我方提供约定的备件。

5. 贵方义务

5.1 贵方将确保货物:

5.1.1 质量令人满意，含有全新材料(不是已使用、翻新、修复、再制造、假冒或具备损害使用性或安全性的陈旧程度)，且适合我们告知贵方的任何用途；

5.1.2 符合、满足且具备规格；

5.1.3 在设计、材料和工艺上没有缺陷；

5.1.4 出售给我方时具有完全且无负担的产权，不侵犯任何第三方的知识产权；

5.1.5 遵守所有(i)相关法律，(ii)监管要求和(iii)相关法定和监管机构的标准和要求；且

5.1.6 安全且无健康风险。

5.2 就服务而言，贵方将:

5.2.1 根据最佳实践，尽最大注意、技能和勤勉履行服务；

5.2.2 使用具有适当技能和经验的人员(和足够数量的人员)履行服务；

5.2.3 确保服务遵守我方合理指示，符合规格，其履行符合我方告知贵方的用途，且不会侵犯任何第三方的知识产权；

5.2.4 提供服务所需的所有设备、工具和车辆以及其他物品；

5.2.5 获取并始终维持提供服务所需的所有许可证和同意书；

5.2.6 遵守可能适用于提供服务的所有相关法律、法规、监管政策、准则或行业准则；且

5.2.7 不从事或忽略从事任何可能导致我方或我方关联人丧失我方或其业务所需的任何许可、权限、同意或准许。

5.3 贵方将遵守我方任何经营场所适用的所有健康和安法规则和规章以及任何其他安全要求，并确保贵方人员针对在我方经营场所工作的所有风险投保。

5.4 在不影响我方任何其他权利或救济的情况下，如果贵方在下列期间实质性违反本条件任何规定或任何货物(无论是否全部或部分接受)不符合**第5.1条**规定:(i)贵方针对货物的保证期；和(ii)交货后或任何服务违反**第5.2条**规定后12个月(以较长者为准)，我方可:

5.4.1 通知贵方立即终止合同和任何其他现有合同；

5.4.2 根据我方选择要求贵方及时修理或更换相关货物或免费重新提供相关服务；

5.4.3 拒绝可交付成果(全部或部分)，并要求贵方退还相关可交付成果的价格；

5.4.4 接受可交付成果，但应扣除合理金额；

5.4.5 由贵方承担费用，修理或由第三方修理货物或重新履行或由第三方重新履行服务，且贵方将针对我方因该违约产生的损失(包括因任何知识产权主张产生的损失)对我方和我方关联人进行赔偿。

5.5 **第5.4条**将适用于根据**第5.4.2条**提供的任何修理或更换货物。

5.6 如果由于任何货物不符合**第5.1条**或服务不符合**第5.2条**或以其他方式呈现对公众或环境造成不合理危害的风险，我方认为有必要或被要求进行召回、移除或更正活动(“活动”)

”，我方可实施该运动，且贵方将针对因任何该活动造成的所有损失赔偿我方和我方关

6. OUR PROPERTY

6.1 All patterns, dies, moulds or other tooling or materials, supplied by us or prepared or obtained by you for us at our cost ("Tooling"), will be marked with our name or as otherwise specified by us and will be and remain our exclusive property returnable in good condition on demand.

6.2 You will insure against all risks any Tooling and also any of your own tooling or property which may be kept on our premises for the purposes of providing Deliverables. You will keep all Tooling safe and in good condition while in your custody and/or under your control. All Tooling will be kept separately from your stock and other inventory.

6.3 We reserve the right to charge to you the cost of any Tooling if it is destroyed or damaged or rendered unfit for the purpose for which it was originally manufactured while under your control.

6.4 You will not dispose of any Tooling other than in accordance with our prior written instructions. You will not, at any time, use Tooling, nor will you allow Tooling to be used by anyone else for any purpose other than the supply of the Deliverables unless we have previously provided our consent in writing.

6.5 We will have the right to enter your premises and remove Tooling at any time without being liable for trespass or for damages of any sort.

7. ASSIGNMENT OF IPR

7.1 This Condition 7 will apply if the Goods are to be made, modified or redesigned to our Specification. Any bespoke Specification or Work Product you create or have created for us will be treated as "Goods" for the purposes of this Condition 7.

7.2 We will own all present and future IPR (together with all economic and proprietary rights) in the Goods and our specification. Accordingly, you will not use our specification other than to manufacture the Goods for us. With full title guarantee, you:

7.2.1 assign to us all IPR in the Goods which subsist as at the date of the Contract;

7.2.2 assign to us (by way of present assignment of the future copyright) all future copyright in the Goods immediately upon its creation; and

7.2.3 agree to assign to us all other IPR in the Goods immediately upon its creation.

7.3 You will:

7.3.1 at your own cost, execute all such documents and do all such acts and things as we may request from time to time in order to secure our full right, title and interest in the IPR in the Goods; and

7.3.2 obtain the waiver of all moral rights (and any broadly equivalent rights) in the Goods.

7.4 The exception to Condition 7.2 above is that any IPR in existing products, materials or data used to create Goods ("Existing Materials") will continue to belong to you (or your suppliers). You grant (and, where applicable, will ensure that your suppliers grant) to us, our Affiliates and our and their end customers a nonexclusive, perpetual, royalty-free, irrevocable licence to use and to have used Existing Materials which form part of any Goods.

8. PRICE AND PAYMENT

8.1 As long as you perform your obligations in accordance with the terms of the Contract, we will pay the Price to you in accordance with Condition 8.

8.2 The only sums of money we will pay in connection with the supply of the Deliverables are the Price which will be inclusive of all costs and expenses incurred by you including all packaging, insurance, carriage, duties and delivery costs.

8.3 Any sum payable under the Contract is exclusive of value added tax, sales tax and/or goods and services tax (and any other similar or equivalent taxes, duties, fees and levies imposed from time to time by any government or other authority) upon any supply made to us which will be payable in addition to that sum in the manner and at the rate prescribed by law from time to time but inclusive of all other taxes, fees and levies imposed from time to time by any government or other authority.

8.4 You may invoice us for the Price for the Goods following Delivery and for Services following completion.

8.5 Other than as set out in Conditions 8.7 and 8.9, each invoice will be payable by us within 60 days following the date on which the invoice is received by us. You will send invoices to the address specified in the Order.

8.6 No payment made by us will constitute acceptance by us of any Deliverables or otherwise affect any rights or remedies which we may have against you including the right to recover any amount overpaid or wrongfully paid to you.

8.7 We may withhold payment of any disputed sum until the dispute is settled.

8.8 If any undisputed sum payable under the Contract is not paid when due you may charge us interest daily on that sum at 3% per year subject to any maximum or minimum rate of interest on overdue invoices specified by applicable law, from the due date until the date of payment (whether before or after judgment).

8.9 We may set-off, deduct or withhold any liability which you have to us against any liability which we have to you.

9. TERMINATION

9.1 Without limiting any other right we may have to terminate a Contract, if you commit a material breach of these Conditions we may terminate the Contract and any other existing Contracts immediately with written notice. Any breach of Conditions 11, 12 or 15.9 will be deemed to be a material breach.

9.2 Without limiting any other right we may have to terminate a Contract, we may terminate the Contract immediately by giving you written notice if you (a) have a receiver, administrator or liquidator (provisional or otherwise) appointed; (b) are subject to a notice of intention to appoint an administrator or any other resolution on insolvency; (c) pass a resolution for your winding-up; (d) have a winding up order made by a court in respect of you; (e) enter into any composition or arrangement with creditors; (f) cease to carry on business; (g) are the subject of anything similar or equivalent to that set out in (a) to (f) under any applicable laws; or (h) you are subject to any change of Control and you will notify us immediately upon the occurrence of any such event or circumstance.

9.3 Following expiry or termination of the Contract:

9.3.1 any Conditions which expressly or impliedly continue to have effect after expiry or termination of the Contract will continue in force; and

9.3.2 all other rights and obligations will immediately stop but will not affect any of your or our rights, obligations, claims and liabilities which may exist prior to the date of expiry or termination; and

9.3.3 each party will immediately stop using the other party's Confidential Information and will as soon as reasonably possible, if requested to do so, return to the other party all of the other party's Confidential Information (including all copies and extracts) in its possession or control or confirm its secure destruction; and

9.3.4 each party may keep any of the other party's Confidential Information which it has to keep to comply with any applicable law and Condition 9.3.3 will not apply to such Confidential Information. Condition 11 will continue to apply to retained Confidential Information.

9.4 If we terminate a Contract, we may require you to deliver to us any supplies, materials or drawings produced or acquired by you for the terminated part of the Contract and we will agree, in good faith, on the amount payable for the same.

10. LIABILITY AND INSURANCE

10.1 You will indemnify us and our Affiliates against all our and their Losses arising from your breach of or negligent performance of or your failure to perform or delay in performing any part of these Conditions. We may, at our discretion, control the defence of any claim in respect of which you are required to indemnify us under a Contract.

10.2 Subject to Condition 10.3, we will not have any Liability to you for any (i) loss of profit, goodwill or revenue; or (ii) any indirect, consequential or special loss.

10.3 Nothing in these Conditions or any Contract will operate to exclude or restrict one party's Liability

联系人。

6. 我方财产

6.1 由我方提供或由贵方为我方获得但由我方承担费用的图案、模具、模型或其他工具或材料 ("工具"), 将以我方名称或我方另行规定的方式标示, 并将是且持续是我方的独家财产, 应要求应在良好状态下返还。

6.2 贵方将针对任何工具和我方为了提供可交付成果而在我方经营场所存放的贵方工具或财产投保一切险。贵方应负责在贵方保管和/或控制之下的所有工具始终处于安全和良好状态。所有工具将与贵方库存和其他存货分开存放。

6.3 如果任何工具在贵方控制期间发生毁损灭失或不适合其最初制造的目的, 我方保留针对任何工具向贵方收取任何费用的权利。

6.4 除非按照我方事先书面指示, 贵方不得处置任何工具。除非我们事先书面同意, 贵方不得在任何时间基于除提供可交付成果外的任何其他目的使用或允许其他人使用工具。

6.5 我们有权随时进入贵方营业场所并移除工具, 无需承担侵权责任或任何形式的损害赔偿赔偿责任。

7. 知识产权的转让

7.1 如果需根据我方规格制造、修改或重新设计货物, 适用本第7条规定。贵方为我方制作的

的任何预定规格或工作产品, 就本第7条而言, 均被视为 "货物"。

7.2 我方将对货物和我方规格拥有所有现时和未来的知识产权 (连同所有经济和所有权利)。因此, 除了为我方制造货物外, 贵方不得使用我方规格。具备完整所有权保证, 贵方:

7.2.1 向我方转让在订立合同时存在于货物的所有知识产权;

7.2.2 在创作时立即向我方转让在货物中的所有未来版权 (通过现时转让未来版权的方式); 且

7.2.3 同意在创作后立即向我方转让货物中的所有其他知识产权。

7.3 贵方将:

7.3.1 自行承担费用, 签署我方不时可能要求的所有文件并作出我方不时可能要求的一切作为及事情, 以确保我方对货物中知识产权享有全部权利、产权和利益; 并

7.3.2 获得对货物所有精神权利 (以及任何广泛对等的权利) 的放弃。

7.4 上述第7.2条的例外情况是, 用于创建货物的现有产品、材料或数据 ("现有材料") 中的任何知识产权将继续属于贵方 (或贵方的供应商)。贵方向我方、我方关联人和

我方或其终端客户授予 (并视情况而定确保贵方的供应商向授予) 非独占、永久、免特许使用费、不可撤销的许可, 以使用或允许他人使用构成任何货物一部分的现有材料。

8. 价格与支付

8.1 只要贵方按照合同条款履行义务, 我方将根据第8条向贵方支付价款。

8.2 我方针对供应可交付成果应支付的金额仅为价格, 其中包括贵方产生的所有费用和支出, 包括所有包装、保险、运输、关税和交付费用。

8.3 合同项下应支付的任何金额不包括针对向我方供应货物征收的增值税、销售税和/或服务税 (以及任何政府或其他机构不时征收的任何其他类似或相当的税收、关税、费用和征费), 该等税费应另行按照法律不时规定的方式和费率支付, 但应包括任何政府或其他机构不时征收的所有其他税费、费用和征费。

8.4 贵方可交付货物后和完成服务后针对货物和服务的价格向我方开具账单。

8.5 除第8.7条和第8.9条规定外, 我方应在收到账单之日后60日内支付账单。贵方应将账单发送至订单中指定的地址。

8.6 我方付款不构成我方对任何可交付成果的接受或以其他方式影响我方可能对贵方享有的任何权利或救济, 包括追偿向贵方多付或错付金额的权利。

8.7 我方可在纠纷解决前扣留任何争议款项。

8.8 如果根据合同应支付的任何无争议金额到期未予支付, 贵方可自到期日至付款日 (无论在判决前还是判决后) 按3%的年利率按日向我方收取利息, 但以相关法律规定的逾期账单的任何最高或最低利率为限。

8.9 我方可从我方欠贵方的任何债务中抵销、扣除或扣留贵方欠我方的任何债务。

9. 终止

9.1 在不限制我方终止合同的其他权利的情况下, 如果贵方严重违反本条件, 我方书面通知贵方立即终止合同和任何其他现有合同。对第11、12或15.9条的违反将被视为重大违约。

9.2 在不限制我方终止合同的其他权利的情况下, 发生下列任一情况时, 我方书面通知立即终止合同: (a) 获任命财产接管人、财产管理人或清算人 (临时或其他); (b) 有意就任命财产管理人或任何其他破产决议发出通知; (c) 通过决议解决清算问题; (d) 法院针对贵方签发清算令; (e) 与债权人达成任何债务和解或安排; (f) 停止营业; (g) 根据任何相关法律类似或等同于 (a) 至 (f) 项所列任何情况的客观; 或 (h) 贵方发生任何控制权变更, 发生任何该等事件或情况时, 贵方应立即告知我方。

9.3 合同到期或终止后:

9.3.1 任何明示或默示在合同到期或终止后继续有效的条件将继续有效;

9.3.2 所有其他权利和义务将立即停止, 但不会影响到期或终止日期之前可能存在的贵方和我方的任何权利、义务、索赔和债务;

9.3.3 各方将立即停止使用另一方的保密信息, 并在合理可能的情况下尽快 (如被要求) 将其持有或控制的另一方的保密信息 (包括所有副本和摘录) 返还另一方, 或确认其安全销毁; 且

9.3.4 各方可保留其遵守任何相关法律应保留的另一方的任何保密信息, 第 9.3.3条不适用于该等保密信息。第11条将继续适用于保留的保密信息。

9.4 如果我方终止合同, 我方要求贵方针对合同已终止部分向我方交付由贵方生产或获得的任何物资、材料或图纸, 我方将善意约定为此应支付的金额。

10. 责任和保险

10.1 对于因贵方违约、疏忽履行或未履行或延迟履行本条件任何部分而对我方和我方关联人产生的损失, 贵方将赔偿我方和我方关联人。我方可自行酌情控制贵方根据合同应向我方作出赔偿的任何索赔的抗辩。

10.2 在不违反第10.3条规定的情况下, 我们针对以下损失对贵方不承担任何责任: (i) 利润、商誉或收入损失; 或 (ii) 任何间接、结果或特殊损失。

10.3 本条件或任何合同中的任何规定均不得排除或限制一方针对以下内容向另一方承担的责任 (如果有) (包括其承担替代责任的人):

10.3.1 因过失导致的死亡或人身伤害;

10.3.2 因欺诈或欺诈性虚假陈述;

(if any) to the other (including for a person for whom it is vicariously liable):

10.3.1 for death or personal injury resulting from its negligence;

10.3.2 for its fraud or fraudulent misrepresentation; or

10.3.3 for any matter for which it is not permitted by law to exclude or limit its liability.

10.4 The exclusions from and limitations of liability contained in these Conditions will apply after as well as before the date of expiry or termination of any Contract.

10.5 The exclusions from, and limitations of, liability set out in this **Condition 10** will be considered severally. The invalidity or unenforceability of any one sub-clause or clause will not affect the validity or enforceability of any other sub-clause or clause and will be considered severable from each other.

10.6 You will have satisfactory insurance cover with a reputable insurer to cover your obligations to us, including public liability insurance cover, cover for any potential liabilities arising from a Contract and any insurances required by law. You will provide evidence of your insurance coverage at our request.

11. CONFIDENTIALITY

11.1 Except as set out in Condition 11.2, each party will:

11.1.1 only use the other party's Confidential Information for the purpose of performing its obligations and exercising its rights under the Contract;

11.1.2 keep the other party's Confidential Information secret, safe and secure; and

11.1.3 not disclose the other party's Confidential Information to any other person.

11.2 Each party may disclose the other party's Confidential Information:

11.2.1 to the extent required by law, any court of competent jurisdiction or the rules of any government, public or regulatory body or any stock exchange; and

11.2.2 to its officers, directors, employees and professional advisers and, in our case, our Affiliates, agents and sub-contractors, who need the Confidential Information in order for that party to perform its obligations and exercise its rights under the Contract. A party disclosing the other party's Confidential Information under **Condition 11.2.2** will make sure that each person to whom it discloses that Confidential Information is bound by obligations of confidentiality no less onerous than those set out in this **Condition 11**.

11.3 Each party acknowledges and agrees that damages alone would not be an adequate remedy for breach of **Condition 11** by that party. Accordingly, the other party will be entitled, without having to prove special damages, to injunctive relief, equitable relief and/or specific performance for any breach or threatened breach of **Condition 11** by the first party.

12. ETHICAL CONDUCT

12.1 You will conduct your business ethically and lawfully and in accordance with our Supplier Code of Business Ethics (<http://www.smiths.com/responsibility-supplier-code-of-business-ethics.aspx>) or an equivalent code of ethics.

12.2 You represent and warrant that you and your sub-contractors and suppliers do not use or permit unacceptable labour practices, such as child or forced labour, or unsafe working conditions and comply with all applicable labour and employment laws, regulations, standards and conventions, including the UN's Guiding Principles on Business & Human Rights and the International Labor Organization's Conventions and any similar or equivalent laws applying in the jurisdiction in which we are registered.

12.3 You hereby acknowledge that you are aware of, and agree to comply with all applicable anti-bribery and anti-corruption laws, including but not limited to the Foreign Corrupt Practices Act (FCPA) (and related regulation and guidance) and any similar or equivalent laws applying in the jurisdiction in which we are registered.

12.4 You represent and warrant that you only supply minerals to us and our Affiliates from sources that do not (i) contribute to conflict; and/or (ii) benefit or finance armed groups in the Democratic Republic of Congo or any adjoining country. You have adopted, and require your suppliers of minerals to adopt, conflict mineral policies and management systems.

12.5 You will permit us, and any person nominated by us, to have such access to your premises, personnel, systems, books and records as we may require to verify your compliance with this **Condition 12**. We also reserve the right to inquire and investigate your conduct to satisfy ourselves of your compliance with this **Condition 12** and to discontinue a business relationship with you if you or any of your officers, directors or employees is found to have breached any part of this **Condition 12**.

13. NOTICE

13.1 Notices and other communications provided for the purposes of a Contract will be in writing, and delivered by courier or by hand to the relevant party's address as specified on the Order (or such other address which is notified to the other party in writing from time to time), in the case of a notice to us, marked for the attention of such person as we specify.

14. EXPORT / IMPORT / ECONOMIC SANCTIONS CONTROLS

14.1 You agree to comply with all applicable export controls and import and economic sanctions laws and regulations, including those of your country of incorporation, from where the Goods will be supplied, where the Goods will be received and any other relevant jurisdiction. You will also obtain, as required, and comply with all applicable government authorizations and their provisos in supplying the Goods. Without limiting the foregoing, you will not transfer any export controlled item, data or services provided by us in relation to the Contract, to include transfer to any persons, including those persons employed by or associated with, or under contract to you or your lower-tier suppliers, without the authority of an applicable licence, exemption or exception.

14.2 You will provide to us all information necessary to support any regulatory or government authorization requirements we have regarding the Goods.

14.3 You will indemnify us and our Affiliates for all Losses arising out of any breach by you of this Clause 14.

15. GENERAL

15.1 The Contract constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of its subject matter and, subject to **Condition 10.3**, neither party has entered into the Contract in reliance upon, and it will have no remedy in respect of, any misrepresentation, representation or statement (whether made by the other party or any other person and whether made by the first party or any other person) which is not expressly set out in the Contract.

15.2 A party's delay in exercising, partial exercising or failure to exercise a right or remedy under the Contract will not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and signed by the party giving it.

15.3 If any term of the Contract is found by any court or body or authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term will be deemed to be severed from the Contract and this will not affect the remainder of the Contract which will continue in full force and effect.

15.4 Except to the extent otherwise specified in these Conditions, variations to the Contract must be agreed in writing and signed by both parties.

15.5 No partnership, agency or joint venture between the parties will be created by the Contract.

15.6 Each party agrees that it is an independent contractor and is entering into the Contract as principal and not as agent for or for the benefit of any other person.

15.7 Each of our Affiliates will be entitled to enforce in their own capacity the terms of any Contract under which that Affiliate receives a benefit.

15.8 Save as provided in **Condition 15.7**, the parties do not intend that any term of a Contract will be

10.3.3 法律不允许排除或限制责任的任何事项。

10.4 本条件规定的责任排除条款和责任限制将在任何合同到期或终止之后以及之前适用。

10.5 本**第10条**规定的责任排除和限制将分别予以考虑。任何条款无效或不可强制履行均不会影响任何其他条款的有效性或可强制履行性，且将被视为可相互分割。

10.6 贵方应向有信誉的保险人购买令人满意的保险，承保贵方针对我方的义务，包括公共责任险、潜在在合同责任险和法律规定的任何保险。应我方要求，贵方应提供保险证据。

11. 保密性

11.1 除第11.2条规定外，各方将：

11.1.1 仅为了履行其在合同项下的权利和义务而使用另一方的保密信息；

11.1.2 使对方的保密信息处于保密、安全、有保障的状态；且

11.1.3 不向任何其他人士披露对方的保密信息。

11.2 在下列情况下，各方可披露对方的保密信息：

11.2.1 在法律、任何有管辖权的法院或任何政府、公共或监管机构或任何证券交易所的规章所要求的范围内；和

11.2.2 向需要保密信息以履行其在合同项下权利和义务的其高级职员、董事、雇员和专业顾问，以及就我方而言，我方关联人、代理人 and 分包商。一方根据**第11.2.2条**披露另一方保密信息时，应确保披露保密信息的每个人受保密义务约束的程度，不低于本**第11条**规定的程度。

11.3 各方承认并同意，损害赔偿本身并不足以成为该方违反**第11条**行为的充分救济。因此，另一方将有权在无需证明特别损害赔偿的情况下，针对前者违反或可能违反**第11条**规定的行为获得禁令救济、衡平救济和/或强制履行。

12. 道德行为

12.1 贵方应遵守我方的“供应商商业道德准则” (<http://www.smiths.com/responsibility-supplier-code-of-business-ethics.aspx>) 或相应的道德准则，以合乎道德且合法的方式开展业务。

12.2 贵方陈述和保证，贵方和贵方的分包商和供应商不会使用或允许不可接受的劳动行为，如童工或强迫劳动或不安全的工作条件，遵守所有相关劳动和职业法律、法规、标准和惯例，包括联合国的《工商企业与人权问题指导原则》和国际劳工组织的各项公约，以及适用于我方登记所在司法管辖区的任何类似或同等法律。

12.3 贵方特此确认，贵方了解并同意遵守所有相关的反贿赂和反腐败法律，包括但不限于《海外反腐败法》(FCPA) (及相关法规和指南) 以及适用于我方登记所在司法管辖区的任何类似或同等法律。

12.4 贵方陈述和保证，贵方向我方和我方关联人供应矿产的来源不得 (i) 导致冲突；和/或 (ii) 使刚果民主共和国或任何相邻国家的武装团体获得利益或资助。贵方已采纳并要求贵方矿产供应商采纳冲突矿产政策和管理体系。

12.5 贵方将允许我方及我方任命的任何人获取我方要求的权限，查看贵方的经营场所、人员、系统、账簿和记录，以验证贵方是否遵守本**第12条**。我方亦保留对贵方行为进行查询和调查的权利，以纳纳贵方遵守本**第12条**规定，且如果贵方或贵方任何高级职员、董事或员工被认定违反本**第12条**任何部分，**我方有权终止与贵方的业务关系。**

13. 通知

13.1 为合同目的提供的通知和其他通讯应书面做成，通过快递或亲自交付至订单指定的相关方地址 (或不时书面告知另一方的其他地址)，如向我方发出通知，请注明收件人为我方指定人员。

14. 出口/进口/经济制裁控制

14.1 贵方同意遵守所有相关出口管制及进口和经济制裁的法律法规，包括贵方公司成立地、货物供应地、收货地和任何其他相关司法管辖区的法律法规。贵方还应获得并遵守所有相关政府授权和其针对供应货物的附带条件。在不限制前述规定的情况下，如果不存在任何相关许可、豁免或例外情况，贵方不得转让我方针对合同提供的任何出口管制物品、数据或服务，包括向任何人转让，包括受雇于贵方或贵方下级供应商或与贵方或贵方下级供应商有关联或有合同关系。

14.2 贵方将向我方提供所有必要信息，以支持我方满足针对货物的任何监管或政府授权要求。

14.3 因贵方违反本第14条而产生的任何损失，贵方将向我方和我方关联人进行赔偿。

15. 一般规定

15.1 合同构成双方之间针对其标的的完整协议，取代任何先前协议或安排，且除**第10.3条**规定外，任何一方订立合同均未信赖合同未明确规定的任何虚假陈述、陈述或声明 (无论由另一方或任何其他人士作出或由该方或任何其他人士作出)，且不会对此享有任何救济。

15.2 一方延迟履行、部分履行或未履行合同项下的权利或救济不构成对该权利或任何其他权利或救济的放弃，阻止或限制今后对该权利或任何其他权利或救济的行使。对任何权利、救济、违约、不履行义务的弃权，只有在书面做成，并经弃权方签署方生效力。

15.3 如果合同任何条款被任何具有管辖权的法院或机构或当局认定为不合法、非法、无效或不可强制履行，则该条款将被视为从合同中分割，且不会影响合同剩余部分继续完全有效。

15.4 除本条款另行明确规定外，变更合同必须经双方书面同意并签字。

15.5 合同不会在双方之间设立任何合伙、代理或合资关系。

15.6 各方同意其为独立缔约方，以本人而非作为代理人代表任何他人或为任何他人利益订立合同。

15.7 我方各关联人将有权以自身能力强制履行该关联人获得利益的任何合同条款。

15.8 除**第15.7条**规定外，双方并未意图使非合同当事人的任何人强制履行该合同的任何条款。

15.9 贵方不得转让、让与、设定担保、为任何人信托持有或以任何其他方式处理贵方在合同项下的任何权利，亦不得转包贵方在合同项下的任何义务。我们可向我方关联人转让合同。

16. 管辖法律和管辖权

16.1 合同和针对合同产生的任何非合同义务受我方注册或成立公司所在司法管辖区的法律管辖。该司法管辖区的法院 (如果适用于相关司法管辖区，我方注册所在区) 具有专属管辖权，可裁定与合同有关的任何争议。

enforceable by any person who is not a party to it.

15.9 You may not assign, transfer, charge, hold on trust for any person or deal in any other manner with any of your rights under the Contract or sub-contract any of your obligations under the Contract. We may assign a Contract to our Affiliates.

16. GOVERNING LAW AND JURISDICTION

16.1 The Contract and any non-contractual obligations arising in connection with it are governed by the law of the jurisdiction in which we are registered or incorporated. The courts of such jurisdiction (and if applicable to the relevant jurisdiction any district in which we are registered) have exclusive jurisdiction to determine any dispute arising in connection with the Contract.