

Daikin Applied (UK) Limited
STANDARD CONDITIONS OF SALE

1. GENERAL

- 1.1 This Contract, as defined herein, shall govern the Seller's contractual relationship with the Buyer. This Contract supersedes any conflicting or previous oral or written agreement between the parties relating to its subject matter. The Buyer's terms and conditions (if any) are expressly excluded, and no term or condition of the Buyer shall have any legal effect unless expressly accepted in writing by the Seller and signed by an authorised signatory.
- 1.2 Save as permitted herein, no amendment, modification, instruction, variation, waiver, exclusion, omission or other change shall have effect unless in writing and signed on behalf of the Seller by an authorised signatory.
- 1.3 Any notice required or permitted to be given by either party to the other further to the Contract shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Any notice or communication shall be deemed to have been received:
 - 1.3.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address.
 - 1.3.2 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.
 - 1.3.3 if sent by email, at 9.00 am on the next Business Day after transmission.
- 1.4 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 1.5 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 that 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 shall not affect the validity and enforceability of the rest of these Conditions.
- 1.6 The Seller shall be entitled at any time to assign, mortgage, charge, subcontract, delegate, or deal in any other manner with any or all of its rights and obligations under the Contract.
- 1.7 The Buyer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without the prior written consent of the Seller.
- 1.8 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 1.9 The Contract shall be governed by the laws of England and Wales and the courts of England and Wales shall have exclusive jurisdiction over any dispute arising out of or in connection with the Contract or its subject matter or formation.
- 1.10 Any dispute in relation to this Contract may be referred to adjudication.

2. DEFINITIONS AND INTERPRETATION

- 2.1 "Agreed Purposes": to enable the Seller to provide the Goods in accordance with the Contract.
- 2.2 "Applicable Laws" shall mean:
 - 2.2.1 any law, statute, regulation, rule, ordinance, order, treaty, judgment, decree, code, directive or governmental restriction or any similar form of decision, determination, or adjudication having the force of law of any governmental authority, court, or agency, that is applicable to this Contract, including but not limited to the laws of England and Wales
- 2.3 "Buyer" means the person or legal entity with whom the Seller enters into the Contract and from whom the purchase order is received.
- 2.4 "Business Day" means a day other than a Saturday, Sunday, or public holiday in England, when banks in London are open for business.
- 2.5 "Confidential Information" means any information of a confidential nature concerning the business, affairs, customers, clients, or suppliers of the Buyer.
- 2.6 "Conditions" means these Conditions of Sale.
- 2.7 "Contract" means the contract for the sale of the Goods and Services (where applicable) entered into by the Buyer and Seller which incorporates the Quotation, Purchase Order, Order Acknowledgement, the Conditions, and all documents referred to therein or attached thereto by the Seller and any additional conditions, instructions or documents issued by the Seller in connection therewith, provided always that in the event of conflict these Conditions prevail.
- 2.8 "Data Protection Legislation" shall mean:
 - 2.8.1 To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of Personal Data.
 - 2.8.2 To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Buyer or Seller is subject, which relates to the protection of personal data.
- 2.9 "EU GDPR" shall mean the General Data Protection Regulation ((EU) 2016/679).
- 2.10 "Goods" means the goods (including any instalment of the Goods or any parts of them) which the Seller is to supply to the Buyer further to this Contract.
- 2.11 "Order Acknowledgement" means written confirmation from the Seller to the Buyer following receipt of the Purchase Order confirming the terms of the Contract.
- 2.12 "Permitted Recipients" means the parties to the Contract, the employees of each party and any third parties engaged to perform obligations in connection with the Contract.
- 2.13 "Purchase Order" a written order or written contract issued by the Buyer to the Seller pursuant to a Quotation.
- 2.14 "Quotation" means any written quotation provided by the Seller to the Buyer which shall incorporate and be subject to these Conditions.
- 2.15 "Seller" means Daikin Applied (UK) Limited.
- 2.16 "Services" means any services which the Seller is to supply to the Buyer further to this Contract.
- 2.17 "Shared Personal Data" means the personal data to be shared between the parties under clause 16. Shared Personal Data shall be confined to the following categories of information relevant to the following categories of data subject:
 - 2.17.1 Identity data of the parties' employees;
 - 2.17.2 Contact data of the parties' employees;
 - 2.17.3 Identity data of the Buyer's customers;
 - 2.17.4 Contact data of the Buyer's customers;
 - 2.17.5 Financial data of the Buyer's customers; and
 - 2.17.6 Transactional data of the Buyer's customers.
- 2.18 "UK GDPR" shall mean the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
- 2.19 A reference to writing includes email, provided that each party notifies the other in writing of its email address for the purposes of issuing notifications or communications in relation to the Contract.
- 2.20 A reference to "party" or "parties" means the Seller and/or the Buyer.
- 2.21 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted, or extended as at the relevant time.
- 2.22 Clause and paragraph headings in these Conditions are for ease of reference only and not to be taken into account in the construction or interpretation of the clause or paragraph which they head.
- 2.23 Words importing the singular meaning include the plural meaning and vice versa and words of the masculine gender include every gender.
- 2.24 A reference to a "person" includes any individual, firm, partnership, company, and any other legal entity.

3. BASIS OF SALE

- 3.1 The Seller shall sell and the Buyer shall purchase the Goods described in the Quotation in accordance with this Contract.
- 3.2 The Seller shall issue a Quotation to the Buyer and the Buyer shall respond with a Purchase Order. On receipt of the Purchase Order, an Order Acknowledgement will be issued by the Seller, at which time the contract will be formed. In the absence of an order acknowledgment, 3.3 shall apply.
- 3.3 The obligations and duties under this Contract shall be deemed to have been agreed by the Buyer and commenced with effect from the earlier of either the date on which the Seller first began to perform the Services and/or provide the Goods or issue of the Order Acknowledgement, and in each and every case on the basis of these Conditions.
- 3.4 Any policy referred to in the Contract but not appended thereto is incorporated and is available for inspection by the Buyer subject to its reasonable request.
- 3.5 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between parties, constitute either party the agent of the other, or authorise either party to make or enter into commitments for or on behalf of the other party. Nothing shall render the Seller an employee, worker, agent, or partner of the Buyer.
- 3.6 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 3.7 Any conflict or inconsistency within or between the Contract, shall be notified to the Seller immediately and resolved by the Seller confirming how the inconsistency is to be resolved and to the extent that this results in any additional cost or delay to the Seller, this shall be reimbursed by the Buyer.
- 3.8 No Purchase Order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses, including consequential loss, incurred by the Seller as a result of cancellation.

4. CHANGES/ORDER AMENDMENTS

A revised order with adjusted prices must be agreed before the Seller will proceed with any changes which incur additional costs. The Buyer accepts that the Seller is entitled to fair remuneration for any changes.

5. PURCHASE ORDERS AND SPECIFICATION

- 5.1 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any Purchase Order (including any applicable specifications) submitted by the Buyer, and for giving the Seller any necessary information within a sufficient time to enable the Seller to perform the Contract in accordance with these terms.
- 5.2 If any claim is made against the Buyer that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, the Seller shall indemnify the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim provided that:
 - 5.2.1 The Seller is given full control of any proceedings or negotiations in connection with any such claim;
 - 5.2.2 The Buyer shall give the Seller all reasonable assistance for the purposes of any such proceedings or negotiations;
 - 5.2.3 The Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and costs (if any) awarded in favour of the Buyer which are payable by or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by any other party in respect of any such claim.
- 5.3 The Seller reserves the right to make any changes in the specification of the Goods which are required further to any applicable statute, regulatory, or other requirements, or which do not materially affect their quality or performance.
- 5.4 The Seller shall have no obligation to arrange for the Goods to be supplied or manufactured, until the Buyer has approved in writing the Seller's general arrangement drawings and key data process.
- 5.5 The Seller shall have no liability for the position, dimensions, weight, orientation, and suitability of the Goods once the Seller's general arrangement drawings have been approved; or the Goods have been supplied in accordance with the Buyer's specifications. The Buyer is liable for any costs incurred by the Seller in replacing or modifying the Goods or correcting any mistakes in the specifications or general arrangement drawings to take account of changes required to the position, dimensions, weight, or orientation of the Goods at the site referred to in the Contract.
- 5.6 The Seller does not undertake systems design but offers selections of AHU and Chillers from our accredited selection system where the component data is derived from all of our accredited suppliers software.
- 5.7 The Seller is not responsible for obtaining any licence, consent, permission, or authority in respect of the Goods and/or Services unless this is expressly provided for in its Quotation, or is legally required.

6. DRAWINGS AND TECHNICAL DATA

- 6.1 No drawings, designs or specifications provided in connection with this Contract by the Seller or its servants or agents (including all features whether patented or patentable or not and whether separately or collectively shown) nor any other intellectual copyright matter so provided may be reproduced in whole or in part nor used for any purpose other than the execution of this Order. All such drawings, designs and other matter are provided on loan only to the Buyer and are subject to immediate return upon demand. Production of drawings does not confirm acceptance of any Purchase order from the Buyer.
- 6.2 Subject to prompt payment of all Prices or such other payment or debt or indemnity due to the Seller, the Buyer is hereby granted a royalty free, license to use the copyright matter produced by the Seller or its servants or agents pursuant to this Contract.
- 6.3 The Seller's limit of Design is to technically support and select to the performance schedules of the equipment offered and to the agreed material Specification. From the agreed selections, the seller will generate and submit all drawings for co-ordination and will require the Buyer's approval to determine that the equipment meets their specifications. No drawings, designs or specifications provided imply acceptance of any order.

7. ADVERTISING

No advertising, publicity matter or other literature in relation to the work or to the associated project is to be published, released, or utilised by the Buyer except with the prior written permission of the Seller signed by authorised signatory.

8. PRICE

- 8.1 All prices set out in the Quotation are valid for the period set out in the Quotation (if no period is set out in the Quotation that period shall be deemed to be 14 days) or earlier acceptance by the Buyer, after which time they may be altered by the Seller.
- 8.2 The price is exclusive of any applicable value-added tax.

9. PAYMENT

- 9.1 The Buyer shall pay the price of the Goods (but without any other deduction by way of set-off, contra charge, abatement, counterclaim or otherwise) within 30 days of the date of the Seller's invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence.

If the Seller can procure credit insurance for a Buyer, it shall raise an invoice for the Goods once the Goods are delivered (or on completion or vesting in accordance with payment terms agreed between the parties). If the Seller is unable to obtain credit insurance, the Seller shall be entitled to payment in advance of shipment or shall be entitled to agree a payment plan with the Buyer. The Seller may submit an invoice in respect of any delivery or supply of services.
- 9.2 If the Buyer fails to make any payment by the due date for payment then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
 - 9.2.1 terminate the Contract;
 - 9.2.2 suspend performance of the Contract, giving 7 days' notice;
 - 9.2.3 charge the Buyer interest (both before and after any judgment) on the amount unpaid at the rate of four percent per annum above Barclays Bank base rate from time to time compounding quarterly until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest);
 - 9.2.4 enter the Buyer's premises or any place where the Goods are situated in whole or in part and take possession of the whole or any part of the Goods and remove the same and title thereto (insofar as the same shall not already be vested in the Seller) shall forthwith vest in the Seller and conversely the Seller shall be entitled to repudiate title in or otherwise reject any Goods which it does not require
- 9.3 For the avoidance of doubt, payment shall mean the receipt of cleared funds in the bank account of the Seller.
- 9.4 In the event the Buyer requires a retention, this shall be in the form of a retention bond which will be issued by the Seller's bank in England. The retention bond will be in a form provided by the Seller unless otherwise agreed in writing. Unless otherwise agreed in writing, the value of such retention bond shall not exceed three percent of the price for the Goods in the Contract.
- 9.5 Unless otherwise stated in the Order all payments hereunder shall be made in Sterling.
- 9.6 For the avoidance of doubt if anyone the Buyer is reliant on for payment and if the third party upon whom payment to the Buyer is conditional becomes insolvent, then the Buyer is still liable for payment to the Seller.

- 9.7 Provided that manufacture of the Goods has been commenced or completed, in the event that the Buyer delays delivery or acceptance of the Goods beyond the date agreed pursuant to clause 10.1 (whether by act, omission, instruction or otherwise), then the Seller may invoice the Buyer for the Goods, and provide a certificate of indemnity to the Buyer pursuant to clause 10.7 below.
- 9.8 The certificate of indemnity acknowledges that title and ownership of the Goods has transferred to the Buyer.
- 9.8.1 Notwithstanding that title and ownership of the Goods has passed to the Buyer, to allow time for alternative arrangements to be made, the Seller will store and insure the Goods in the month of invoice and up to two weeks after the end of the calendar month at no cost to the Buyer. Ancillary costs for storage and insurance beyond this period will be charged to the Buyer until such time as delivery is accepted.
- 9.8.2 In the event of non-payment for the Goods by the Buyer, title and ownership will revert back to the Seller.
- 10. DELIVERY**
- 10.1 Unless otherwise agreed in writing between the Buyer and the Seller, the goods will be Delivered at Place within the UK, to the address agreed between the parties.
- 10.2 For Goods delivered outside of the UK, clause 15 shall apply.
- 10.3 The parties shall agree the date(s) for delivery of the Goods.
- 10.4 Delivery shall be by flatbed vehicle within normal working hours, being 8am - 4pm Monday to Thursday and 8am- 12pm on Friday (excluding Bank Holidays), unless otherwise stated in our quotation.
- 10.5 Unloading is not included in quote unless expressly included at quotation stage.
- 10.6 If delivery is delayed beyond any agreed delivery date then the Seller shall be entitled to invoice the Buyer for the price of the Goods and any additional costs, including but not limited to storage and insurance, in accordance with this Contract.
- 10.7 Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Seller shall not be liable for any delay in delivery of the Goods for any cause beyond the Seller's reasonable control or the Buyer's fault.
- 10.8 In the event of non-payment for the Goods by the Buyer, title and ownership will revert back to the Seller.
- 10.9 If the Buyer delays delivery of goods in manufacture or completed, or in the event of suspension for any reason, the Seller will be entitled to invoice the Buyer for the Goods, and issue a certificate of indemnity which vests title and ownership in the Goods to the Buyer. Payment for the Goods will be based on the vesting/invoice date and not the delivery date.
- 10.10 Without limiting 10.5:
- 10.10.1 Delivery is subject to the availability of components and claims for delays caused by failure of delivery of components to the Seller will not be accepted. The Seller accepts no liability for any direct, indirect, or consequential losses, costs or charges in connection with any late delivery.
- 10.10.2 Where the Goods are to be delivered in instalments and the Seller fails to deliver any one or more of the instalments in accordance with these Conditions, or the Buyer makes a claim following the Seller's default in respect of one of the instalments, this shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 11. RISK AND PROPERTY**
- 11.1 Risk in the Goods shall pass to the Buyer:
- 11.1.1 in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
- 11.1.2 in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
- 11.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, ownership of the Goods shall revert to the Seller if cash or cleared funds payment in full of the price of the Goods is not received by the due date for payment.
- 11.3 Until such time as ownership of the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold) the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 12. WARRANTIES AND LIABILITIES**
- 12.1 Subject to the conditions set out below, the Seller warrants that it will use reasonable skill and care to seek to ensure that the Goods correspond with the relevant specifications set out in the Contract at the time of delivery and will be free from defects in material and workmanship for a period of twelve months from delivery or any longer period agreed in writing.
- 12.2 The above warranty is given by the Seller subject to the following conditions:
- 12.2.1 the Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;
- 12.2.2 the Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval;
- 12.2.3 the Seller shall be under no liability under the above warranty (or any other warranty, condition, or guarantee) if the total price for the Goods has not been paid by the due date for payment;
- 12.2.4 the Buyer must comply with the Seller's most recently published warranty policies, copies of which are available on request.
- 12.3 Where the Goods are sold to a consumer (as defined by the Consumer Rights Act 2015) the statutory rights of the Buyer are not affected by these Conditions.
- 12.4 Any ground that may give rise to a claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with any specification set out in the Contract shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within 7 days of the defect or failure becoming reasonably apparent. The Buyer shall not be entitled to make a claim if it has failed to comply with this condition precedent or the terms of the Seller's warranty policies. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 12.5 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.
- 12.6 Nothing in these Conditions shall exclude the liability of the Seller for death or personal injury caused by the Seller's negligence, fraud, or fraudulent misrepresentation.
- 12.7 Subject to clause 12.6, the Seller shall not be liable to the Buyer whether in contract, tort (including negligence), or restitution, for breach of statutory duty or misrepresentation, or otherwise, for any loss of profit, loss of goodwill, loss of business or any indirect or consequential loss or damage (whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer.
- 12.8 The Seller's liability to the Buyer in connection with this Contract shall be reduced to the extent that the Seller proves that it or the Buyer has or would be able to recover any contribution from others involved in work in connection with the Contract.
- 12.9 The Seller's total liability to the Buyer shall not exceed the price set out in its purchase orders, including as amended by clause 4
- 12.10 The Seller shall have no liability for indirect costs or consequential losses.
- 13. [INSOLVENCY OF BUYER]**
- 13.1 This clause applies if:
- 13.1.1 the Buyer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- 13.1.2 the Buyer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;
- 13.1.3 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Buyer other than for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;
- 13.1.4 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, in relation to the Buyer;
- 13.1.5 the holder of a qualifying floating charge over the assets of the Buyer has become entitled to appoint or has appointed an administrative receiver;
- 13.1.6 a person becomes entitled to appoint a receiver over the assets of the Buyer or a receiver is appointed over the assets of the Buyer;
- 13.1.7 a creditor or encumbrancer of the Buyer attaches or takes possession of, or a distress, execution, sequestration, or other such process is levied or enforced on or sued against, the whole or any part of the Buyer's assets and such attachment or process is not discharged within 14 days;
- 13.1.8 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned herein;
- 13.1.9 the Buyer ceases, or threatens to cease, to carry on business; or
- 13.1.10 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 13.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to terminate the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 14. TERMINATION**
- 14.1 Each party shall be entitled at any time to terminate the Contract in whole or in part by serving notice in writing upon the other to that effect, which shall have immediate effect, and thereon the Seller shall cease all performance, unless to the extent otherwise provided by the Buyer in the notice of termination.
- 14.2 In the event of termination, the Buyer shall fully discharge all liabilities to the Seller by making payment pursuant to the terms hereof within a reasonable period of time for all Goods and Services performed up to the date of termination together with all goods and materials properly procured or manufactured (in whole or part) by the Seller for incorporation which had not yet been incorporated at that time and such other loss of profit or consequential loss as the Seller may suffer in connection with the termination.
- 15. EXPORT TERMS**
- 15.1 In these Conditions "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.
- 15.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.
- 15.3 The Buyer shall be responsible for complying with all Applicable Laws governing the importation of the Goods into the country of destination and for the payment of any duties thereon.
- 15.4 Unless otherwise agreed in writing between the Buyer and the Seller, the Goods shall be delivered Free on Board at the air or sea port of shipment and the Seller shall be under no obligation to give notice under Section 32(3) of the Sale of Goods Act 1979 or any subsequent legislation or statutory re-enactment thereof.
- 15.5 The Buyer shall be responsible for arranging testing and inspection of the Goods at the Seller's premises before shipment. Additional cost may be chargeable should any tests be required which were not part of original scope and order accepted. The Seller shall have no liability for any claim in respect of defects in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.
- 16. DATA PROTECTION**
- 16.1 **Shared Personal Data.** This clause sets out the framework for the sharing of personal data between the parties as controllers. Each party acknowledges that one party (referred to in this clause as the "Data Discloser") will regularly disclose to the other party Shared Personal Data collected by the Data Discloser for the Agreed Purposes.
- 16.2 **Effect of non-compliance with Data Protection Legislation.** Each party shall comply with all the obligations imposed on a controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate this agreement with immediate effect.
- 16.3 **Particular obligations relating to data sharing.** Each party shall:
- 16.3.1 ensure that it has all necessary notices and consents and lawful bases in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;
- 16.3.2 give full information to any data subject whose personal data may be processed under this agreement of the nature of such processing. This includes giving notice that, on the termination of this agreement, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;
- 16.3.3 process the Shared Personal Data only for the Agreed Purposes;
- 16.3.4 not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
- 16.3.5 ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this agreement;
- 16.3.6 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- 16.3.7 not transfer any personal data received from the Data Discloser outside the UK unless the transferor ensures that (i) the transfer is to a country approved under the applicable Data Protection Legislation as providing adequate protection; or (ii) there are appropriate safeguards or binding corporate rules in place pursuant to the applicable Data Protection Legislation; or (iii) the transferor otherwise complies with its obligations under the applicable Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; or (iv) one of the derogations for specific situations in the applicable Data Protection Legislation applies to the transfer.
- 16.4 **Mutual assistance.** Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:
- 16.4.1 consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;
- 16.4.2 promptly inform the other party about the receipt of any data subject rights request;
- 16.4.3 provide the other party with reasonable assistance in complying with any data subject rights request;
- 16.4.4 not disclose, release, amend, delete or block any Shared Personal Data in response to a data subject rights request without first consulting the other party wherever possible;
- 16.4.5 assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, personal data breach notifications, data protection impact assessments and consultations with the Information Commissioner or other regulators;
- 16.4.6 notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation;
- 16.4.7 at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this agreement unless required by law to store the Shared Personal Data;
- 16.4.8 use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;
- 16.4.9 maintain complete and accurate records and information to demonstrate its compliance with this clause 16; and
- 16.4.10 provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Data Protection Legislation.
- 17. COMPLIANCE**
- 17.1 Each party shall maintain its own policy to comply with all Applicable Laws relating to anti-bribery and anti-corruption practices, including the Bribery Act 2010.

- 17.2 Each party shall comply with all Applicable Laws relating to anti-slavery and human trafficking, including but not limited to the Modern Slavery Act 2015. The Seller shall not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK.
- 17.3 Each party shall treat as confidential any Confidential Information which either party has obtained or later obtains from the other party in connection with the Goods and shall not disclose any such information to anyone other than as required and necessary to carry out its obligations under the Contract or in order to seek professional advice in relation to its rights or obligations under the Contract or as otherwise required by law, without the other party's prior written consent.
- 17.4 The Buyer shall not engage in any activity, practice or conduct which would constitute either:
 (i) a UK tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017; or
 (ii) a foreign tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017
- 17.5 The supplier shall establish, maintain and enforce its own policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person and to ensure compliance with clause 17.4 For the purposes of this clause, the meaning of reasonable prevention procedure shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017
- 18 FORCE MAJEURE**
- 18.1 In cases of "Force Majeure", the Seller will be released from its obligation to perform for the duration of the disruption and to the extent of its effect. The following events are deemed, without limitation, to be "Force Majeure":
- 18.1.1 Act of God, terrorism, explosion, flood, tempest, fire or accident;
 - 18.1.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - 18.1.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary, or local authority;
 - 18.1.4 import or export regulations or embargoes;
 - 18.1.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
 - 18.1.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - 18.1.7 power failure or breakdown in machinery
 - 18.1.8 any delay or obstruction caused by the Buyer or its servants.
- 18.2 The affected Party will promptly notify the other Party when the Force Majeure event has abated.
 If a Force Majeure Event prevents performance by the affected Party under the contract for more than 120 consecutive days from the latest delivery date indicated into the order, the other Party may terminate in whole or in part the order and/or the contract as of a date specified in a written notice of termination.
- 19. CONFIDENTIALITY**
- 19.1 All information supplied by either party to the other in whatever form shall be treated as confidential and shall not be disclosed or used otherwise than for the purpose of performing their obligations under the Agreement save that either party may disclose such information to its employees who need to know the same for the purpose of carrying out their duties in respect of the Agreement.
- 19.2 Neither party shall be required to keep confidential information which (i) is in or comes into the public domain otherwise than through a breach of contract, or (ii) has been lawfully received from a third party without restriction as to its use or disclosure, or (iii) was already in the receiving party's possession free of any restriction prior to receipt, or (iv) was independently developed by the receiving party.
- 19.3 In the event that in the disclosing parties' reasonable opinion either (i) receiving party has breach this clause or, (ii) the receiving party is subject of a claim by a third party, then the disclosing party will be entitled to injunctive or equitable relief in order to prevent a breach or a threatened breach of its confidential information.
- 20. TRADE COMPLIANCE**
- 20.1 The Parties acknowledge that any products, software, and technical information (including, but not limited to, services and training) provided by either Party under this Contract may be subject to export laws and regulations of the United States, the EU and the destination country(ies) and any use or transfer of such products, software and technical information must be authorised under those Laws. The Parties agree that they will not use, distribute, transfer or transmit the products, software or technical information (even if incorporated into other products) except in compliance with export Laws. If requested by either Party, the other Party agrees to sign all necessary export-related documents as may be required to comply with export Laws.
- 20.2 If the delivery of Products under this Contract is subject to the granting of an export or import license by a government and/or any governmental authority under any applicable law or regulation, or otherwise restricted or prohibited due to export or import control laws or regulations, the Seller may suspend its obligations and the Buyer's rights regarding such delivery until such license is granted or for the duration of such restriction and/or prohibition, respectively, and may even terminate any order related to such goods, without incurring any liability towards the Buyer.
- 20.3 The Buyer confirms that it will not use the good in any end use directly or indirectly related to nuclear, chemical or biological weapon, or any missile system for their delivery and that it will not deal with any person who intends to use the good for any such end use.