

Gemini House
Cambridgeshire Business Park
1 Bartholemew's Walk
Ely, Cambridgeshire
CB7 4EA, United Kingdom

Bulk Handling
Shiploaders & Eco-Hoppers
SAMSON® Material Feeders
SAMSON STORMAJOR®



Sales Department

SAMSON Materials Handling Limited – Standard Terms And Conditions Of Sale

1 Basis of contract

- 1.1 The “**Supplier**” is SAMSON Materials Handling Limited, a company incorporated in England with company number 01206240 whose registered office is at Gemini House, Cambridgeshire Business Park, 1 Bartholemew's Walk, Ely, Cambridgeshire, CB7 4EA, United Kingdom. The “**Customer**” is the client (identified on any Quotation) who purchases the Goods and Services from the Supplier.
- 1.2 These terms and conditions, as amended from time to time in accordance with clause 14.7 (these “**Conditions**”), shall apply to any contract between the Supplier and the Customer for the supply of goods (“**Goods**”) and/or services (“**Services**”) (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.
- 1.3 In the event that the Supplier submits a quotation (“**Quotation**”) for the Goods and Services that the Customer is interested in purchasing, such quotation does not constitute an offer or an acceptance by the Supplier. A Quotation will only be valid for the period of time set out in the Quotation (or 30 days if no period of time is set out in a Quotation), such time to commence from the date of issue of the Quotation.
- 1.4 The Customer's order for the Goods (“**Order**”) constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is solely responsible for ensuring that the content of its Order and any applicable specifications and applications, including details of the integration of any machinery or equipment (“**Specifications**”) are complete and accurate. The Supplier shall not be liable for any inaccuracies in the Order.
- 1.5 The Order will only be deemed to be accepted by the Supplier when the Supplier issues a written acknowledgement of the Order (“**Order Acknowledgement**”), at which point the Contract will come into existence and the Quotation, Order and Order Acknowledgement will simultaneously form part of the Contract.
- 1.6 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which

is not set out in the Contract. The Customer further acknowledges that the Contract is not superseded or amended in any way by the Customer's own terms and conditions.

- 1.7 Any samples, drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues, brochures and electronic media are produced for the sole purpose of giving an approximate idea of the Goods and/or Services described in them. They will not form part of the Contract or have any contractual force.
- 1.8 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

2 Specification

- 2.1 The Supplier reserves the right to amend the Specifications provided by the Customer in its Order if required by any applicable statutory or regulatory requirements.

3 Delivery, title and risk of Goods

- 3.1 The Supplier will use reasonable endeavours to see that:
 - 3.1.1 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - 3.1.2 if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer will make any such packaging materials available for collection at such times as the Supplier reasonably requests. Returns of packaging materials will be at the Supplier's expense. For the avoidance of doubt, if the Supplier does not require the Customer to return any packaging materials to the Supplier, the Customer will be fully responsible for disposing of all such materials at its own cost.
- 3.2 The Order Acknowledgement will:
 - 3.2.1 specify the location to which the Goods will be delivered by the Supplier or collected by the Customer, whichever is relevant ("**Delivery Location**"); and
 - 3.2.2 confirm that the delivery of the Goods is completed on the arrival of the Goods at the Delivery Location.

- 3.2.3 For the purposes of the Contract, the date on which completion of the delivery takes place is defined as the “**Delivery Completion Date**”.
- 3.3 The Supplier will not be liable for any failure to or delay in delivery of the Goods that is caused by:
 - 3.3.1 a Force Majeure Event (as defined in clause 12); and/or
 - 3.3.2 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.
- 3.4 If the Customer fails to take or accept delivery of the Goods (whichever is relevant) within 20 days of the Supplier notifying the Customer that the Goods are ready or such other date as agreed by the parties (“**Notification Date**”), then, except where such failure or delay is caused by a Force Majeure Event or by the Supplier’s failure to comply with its obligations under the Contract:
 - 3.4.1 delivery of the Goods will be deemed to have been completed at 9.00 am GMT on the 20th day after the Notification Date or such other date as agreed by the parties (“**Final Date for Collection**”); and
 - 3.4.2 the Supplier will store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 3.5 If the Customer has still not taken or accepted delivery of the Goods (whichever is relevant) on the Final Date for Collection:
 - 3.5.1 the Supplier will be entitled to resell or otherwise dispose of part or all of the Goods without any obligation to reimburse the Customer;
 - 3.5.2 the Customer will be required to immediately pay the Supplier for any outstanding amounts due under the Contract as set out in the Order Acknowledgement; and
 - 3.5.3 the Supplier will be entitled to terminate the Contract by written notice to the Customer.
- 3.6 The Supplier will be entitled to deliver the Goods in whole or in part, as agreed between the parties and set out in the Order Acknowledgment. If the Goods are to be delivered in part, such Goods will be invoiced by the Supplier and paid for by the Customer separately in accordance with clause 8.
- 3.7 Subject to clauses 3.3 and 3.4, if the Supplier fails to deliver the Goods at any delivery date agreed by the Supplier in writing, the Supplier shall pay 0.5% of the price of the delayed Goods for each complete week of delay, up to a maximum of 5% of the price of the delayed Goods, as liquidated damages. Such liquidated damages shall be the Customer’s only remedy for the delay in delivery of the Goods.
- 3.8 Time of delivery is not of the essence of the Contract.

- 3.9 The risk in the Goods will pass to the Customer at the point specified in the Incoterms 2020 (as amended or replaced from time to time) that is relevant to the Contract, or if no Incoterms is specified, risk will pass at the time of delivery.
- 3.10 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cleared funds) for the Goods, in which case title to the Goods shall pass at the time of payment.
- 3.11 Until title to the Goods has passed to the Customer, the Customer will:
- 3.11.1 hold the Goods on a fiduciary basis as the Supplier's bailee;
 - 3.11.2 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
 - 3.11.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 3.11.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the Delivery Completion Date;
 - 3.11.5 notify the Supplier immediately if it becomes subject to any of the events listed in clause 10.2;
 - 3.11.6 give the Supplier such information relating to the Goods as the Supplier may require from time to time; and
 - 3.11.7 subject to clause 8.4.2, have the right to use the Goods in the ordinary course of business after the Supplier has completed any commissioning works set out in the Order Acknowledgement, but not to sell or part with possession or control of the Goods; and the Supplier will at all times be given unrestricted access to inspect, commission and audit the Goods upon giving the Customer reasonable notice of its intention to do so.
- 3.12 If, before title to the Goods passes to the Customer, the Customer becomes subject to any of the events listed in clause 10.2, or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, the Supplier will be entitled to enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

4 Quality of Goods

- 4.1 The Supplier warrants that the Goods will be free from material defects in design, material and workmanship ("**Warranty**") for a period of 12 months from the date of completion of commissioning as

certified by the Supplier or 18 months from the Delivery Completion Date whichever is sooner (“**Warranty Period**”).

4.2 Subject to clause 4.3, if:

4.2.1 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 (“**Notice**”); and

4.2.2 the Supplier is given a reasonable opportunity of examining such Goods

4.2.3 where the Goods require on-site set-up and commissioning, this has been supervised by an Aumund Group site service engineer

the Supplier will, at its option, repair or replace the defective Goods, provided always that the Supplier is reasonably satisfied that the Goods do not comply with the Warranty.

4.3 The Supplier will not be liable for any failure of the Goods to comply with the Warranty in any of the following events:

4.3.1 after giving the Notice:

(i) the Customer makes further use of such Goods without the written consent of the Supplier;
or

(ii) the Customer does not allow the Supplier reasonable access within a reasonable timescale to inspect the Goods and, if necessary, repair or replace the defective Goods;

4.3.2 the defect arises because the Customer failed to follow the Supplier’s oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;

4.3.3 the defect arises as a result of the Supplier following any drawing, design or Specification supplied by the Customer;

4.3.4 the Customer alters or repairs such Goods without the written consent of the Supplier;

4.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions;

4.3.6 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements; or

4.3.7 the Customer has failed to make any payments for the Goods in accordance with clause 8.3.

- 4.4 For the avoidance of doubt, the Supplier confirms that the Warranty does not cover the supply of site labour by the Supplier and the replacement of normal wear and tear parts (including, but not limited to, flexible side seals, hydraulic filter elements, hydraulic and lubricating oils and lining plates) which in the normal use of the Goods are deemed to be consumable items.
- 4.5 Except as provided in this clause 4, the Supplier will have no liability to the Customer in respect of any failure of the Goods to comply with the Warranty.
- 4.6 This clause 4 will apply to any repaired or replacement Goods supplied by the Supplier provided the Customer gives the Notice within the Warranty Period.

5 Intellectual property rights

- 5.1 All Intellectual Property Rights in or arising out of or in connection with the Goods and the Services shall be owned by the Supplier. The Customer shall not acquire any right to any of such Intellectual Property Rights other than that necessary for the operation, repair and maintenance of the Goods and use of the Services when used solely as intended under this Contract.
- 5.2 The Customer shall not under any circumstances pass the Supplier's Intellectual Property Rights to third parties and will take all reasonable measures to ensure the protection of the Intellectual Property Rights.
- 5.3 In clause 5.1, "**Intellectual Property Rights**" means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, right to use, and protect the confidentiality of, confidential information (including know-how), 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.

6 Supply of Services

- 6.1 The Supplier shall provide the Services to the Customer in accordance with the Specifications in all material respects.
- 6.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 6.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

6.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

7 Customer's obligations for the Services

7.1 The Customer shall:

7.1.1 Co-operate with the Supplier in all matters relating to the Services;

7.1.2 provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;

7.1.3 provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Services and ensure that such information is accurate in all material respects;

7.1.4 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and

7.1.5 keep and maintain all materials, equipment, documents and other property of the Supplier ("**Supplier Materials**") at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation.

7.2 If the Supplier's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission of the Customer or failure by the Customer to perform any relevant obligation ("**Customer Default**"):

7.2.1 The Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent that the Customer Default prevents or delays the Supplier's performance of any of its obligations;

7.2.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 7.2; and

7.2.3 the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

8 Price and payment

- 8.1 The price of the Goods and the dates on which payment must be made to the Supplier by the Customer (“**Payment Dates**”) are set out in the Quotation or the Order Acknowledgement (and in the case of conflict, the Order Acknowledgement shall have priority).
- 8.2 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax (“**VAT**”) where applicable. The Customer will, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods at the same time as payment is due for the supply of the Goods.
- 8.3 The Customer will pay the invoice in full and in cleared funds in accordance with the Payment Dates. Payment will be made to the bank account nominated in writing by the Supplier. Time of payment is of the essence.
- 8.4 If the Customer fails to make any payment due to the Supplier under the Contract on or before the Payment Date, then:
- 8.4.1 the Customer will pay interest on the overdue amount at the rate of 5% per annum above UK base rates calculated daily (“**Late Payment Interest**”); such interest will accrue on a daily basis from the Payment Date until the date of actual payment of the overdue amount, whether before or after judgment; and the Customer will pay the interest together with the overdue amount; and
- 8.4.2 the Customer’s right to use the Goods in accordance with clause 3.11.7 ceases automatically.
- 8.5 The Supplier is entitled to terminate the Contract in writing and at its sole discretion if the Customer fails to make any payment due to the Supplier on the Payment Date and/or any Late Payment Interest.
- 8.6 The Customer will pay all amounts due under the Contract in full without any deduction or withholding of (or in respect of) any tax, levy, impost. duty, charge or fee, unless required by law. If any such withholding or deduction is required, the Customer will, when making the payment to which the withholding or deduction relates, pay to the Supplier such additional amount as will ensure that the Supplier receives the same total amount that it would have received if no such withholding or deduction had been required.
- 8.7 The Customer will not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. 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.
- 8.8 The Supplier reserves the right to:

- 8.8.1 increase its standard daily fee rates for the charges for the Services, provided that such charges cannot be increased more than once in any 12 month period. The Supplier will give the Customer written notice of any such increase 1 month before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify the Supplier in writing within 1 week of the date of the Supplier's notice and the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving 2 weeks' written notice to the Customer; and
- 8.8.2 increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:
- (i) any factor beyond the control of the Supplier (including foreign exchange fluctuations since the date of any Quotation, increase in taxes and duties and increases in labour, materials and other manufacturing costs);
 - (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the specification of the Goods; or
 - (iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods.

9 Customer variations

- 9.1 The Customer is entitled to issue written instructions to the Supplier requesting variations to the Specifications ("**Variations**") and the Supplier will be required to carry out such Variations, provided it is reasonable to do so.
- 9.2 Any Variations will be valued by the Supplier on a fair and reasonable basis and the Customer will be required to pay for the Variations in accordance with the Contract. The Supplier will also assess and inform the Customer of any necessary change in the Delivery Completion Date resulting from the Variation, which will be accepted by the Customer.

10 Customer's insolvency or incapacity

- 10.1 If the Customer becomes subject to any of the events listed in clause 10.2 or the Supplier reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to the Supplier, the Supplier may cancel or suspend all further deliveries of Goods and performance of Services under the Contract and terminate the Contract or any other contract between the Customer and the Supplier without incurring any liability to the Customer, and all outstanding sums in respect of Goods delivered to the Customer or Services performed will become immediately due.

10.2 For the purposes of clause 10.1, the relevant events are:

- 10.2.1 the Customer 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 (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- 10.2.2 the Customer 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;
- 10.2.3 (being a company) 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 Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- 10.2.4 (being an individual) the Customer is the subject of a bankruptcy petition or order;
- 10.2.5 a creditor or encumbrancer of the Customer 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 its assets and such attachment or process is not discharged within 14 days;
- 10.2.6 (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
- 10.2.7 (being a company) a floating charge holder over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
- 10.2.8 a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
- 10.2.9 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.2.1 to clause 10.2.8 (inclusive);
- 10.2.10 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;

10.2.11 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; and

10.2.12 (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

10.3 Termination of the Contract, however arising, will not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract will continue in full force and effect.

11 Limitation of liability

11.1 The Supplier will 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, loss of business, loss of opportunity, loss of goodwill, loss of use, or any indirect or consequential loss arising under or in connection with the Contract.

11.2 Subject to clause 11.1, 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, will under no circumstances exceed the total price of the Goods and Services as contained in the Order Acknowledgement (as varied in accordance with clause 8.8).

12 Force majeure

12.1 Neither party will be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event, provided always that the party which is affected by the Force Majeure Event ("**Affected Party**") has expeditiously given written notice to the other party ("**Unaffected Party**") informing it that a Force Majeure Event has taken place ("**Force Majeure Notice**").

12.2 The Affected Party will provide written notice to the Unaffected Party when the Affected Party ceases to be affected by the Force Majeure Event.

12.3 If, following the occurrence of a Force Majeure event, either party is unable to perform any of its obligations under the Contract for a continuous period of 6 months from the date of the Force Majeure Notice, then either party may terminate the Contract upon giving written notice to the other party, such termination to take effect 7 days after the date of issue of the notice.

For the purposes of this clause 12, a "**Force Majeure Event**" means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was

unavoidable, including political embargos, strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), changes in the laws and/or regulations of the country where the Goods will be installed or Services performed, failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion or other political unrest, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

13 Suspension and Termination

13.1 If, by notice to the Supplier, the Customer suspends performance of the Contract then the Supplier shall be entitled to be paid its fair and reasonable costs due to the point of suspension, plus any additional costs resulting directly from the suspension, payable within 60 days of the date of suspension.

13.2 In the event of a suspension of the Contract, the Delivery Completion Date will be extended by the amount of the suspension period plus a reasonable time to allow for re-set up. If the suspension period lasts for more than 90 days then the Supplier will have the right to renegotiate the Contract.

13.3 Without prejudice to any other provision of the Contract, in the event of a material and persistent breach by one of the parties to the Contract ("**Breaching Party**") which the Breaching Party fails to remedy within 30 days after receiving a written notice from the party that is not in breach ("**Non-Breaching Party**"):

13.3.1 specifying the nature of the breach; and

13.3.2 requiring its remedy

the Non-Breaching Party will be entitled to terminate the Contract on service of a written notice, such termination to take effect 7 days after the date of issue of the notice.

13.4 In the case of termination for whatever reason (except by the Customer in accordance with clause 13.1), the Customer shall pay to the Supplier fair and reasonable compensation for the work completed as at the date of termination plus any additional costs to the Supplier resulting directly from the termination

14 General

14.1 *Assignment and subcontracting*

14.1.1 The Supplier is entitled to subcontract some or all of the work covered under the Contract, but will retain full responsibility for the Goods.

14.1.2 The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Supplier, acting reasonably.

14.2 Notices

14.2.1 Any notice or other communication given to a party under or in connection with the Contract will 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 will be delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier or e-mail.

14.2.2 A notice or other communication will be deemed to have been received:

- (i) if delivered personally, when left at the address referred to in clause 14.2.1;
- (ii) if sent by pre-paid first class post or recorded delivery, at 9.00 am GMT on the third day after posting;
- (iii) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or
- (iv) if sent by e-mail, one day after transmission.

14.2.3 The provisions of this clause 14 will not apply to the service of any proceedings or other documents in any legal action.

14.3 Severance

14.3.1 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision will, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract will not be affected.

14.3.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision will apply with the minimum modification necessary to make it legal, valid and enforceable.

14.4 *Waiver* - A waiver of any right or remedy under the Contract is only effective if given in writing and will not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law will constitute a waiver of that or any other right or remedy, nor will it preclude or restrict the further exercise of that or any other right or remedy. No single or partial

exercise of such right or remedy will preclude or restrict the further exercise of that or any other right or remedy.

- 14.5 *Confidentiality* - Save as required by law and/or as may be reasonably necessary in the proper performance of the Contract, the Customer will not, without the prior written consent of the Supplier (acting reasonably) disclose to any third party any documentation, intellectual property or other information of any kind whatsoever relating to the Goods.
- 14.6 *Third party rights* - A person who is not a party to the Contract will not have any rights under or in connection with it.
- 14.7 *Variation* - Except as set out in the Contract, any variation to the Contract, including the introduction of any additional terms and conditions, will only be binding when agreed in writing and signed by the Supplier.
- 14.8 *Governing law* - The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), will be governed by, and construed in accordance with, English law.
- 14.9 *Settlement of Disputes* - The parties hereby agree to finally resolve any disputes in relation to the Contract, its existence, validity or termination, by arbitration under the London Court of International Arbitration Rules, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London. The language to be used in the arbitral proceedings shall be English. The parties hereby agree that the decision of the arbitrator will be legally binding.