

CONDITIONS OF SALE (GOODS)

1. DEFINITION & INTERPRETATION

1.1 In these conditions:

Contract means the Customer's order and the Supplier's acceptance of it in accordance with condition 3.3.

Customer means the person, firm or company who purchases Goods from the Supplier.

Goods means the goods agreed in the Contract to be purchased by the Customer from the Supplier (including, without limitation, any part or parts of them).

Intellectual Property Rights means patents, utility models, rights to inventions, copyright and neighbouring and related rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including, without limitation, know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including, without limitation, 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.

Manual means the manual (if any) supplied by the Supplier with the Goods (as may be updated by the Supplier from time to time) setting out, amongst other things, the Supplier's instructions for the safe and proper storage, assembly/disassembly, operation, use, care and maintenance of the Goods, as applicable.

Specification means the specification of the Goods (or any component thereof) provided in writing by the Supplier to the Customer.

Supplier means Cunningham Covers Limited (company no. NI020664).

VAT means value added tax chargeable in the United Kingdom for the time being and any similar additional tax.

1.2 In these conditions: (a) headings shall not affect the interpretation of the Contract; (b) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); (c) a reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established; (d) unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular; (e) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders; (f) a reference to a statute or statutory provision shall include all subordinate legislation made as at the date of the Contract under that statute or statutory provision; (g) a reference to writing or written includes faxes and e-mail; and (h) references to conditions are to the conditions set out in this document.

2. APPLICATION OF CONDITIONS

2.1 These conditions shall: (a) apply to and be incorporated in the Contract; and (b) prevail over any inconsistent terms or conditions contained in or referred to in the Customer's purchase order, confirmation of order, or specification, or implied by law, trade custom, practice or course of dealing.

2.2 No addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding on the Supplier unless in writing and signed by a duly authorised representative of the Supplier.

3. BASIS OF SALE

Any quotation is valid for a period of 90 days only, and the Supplier may withdraw it at any time by notice to the Customer.

Each order or acceptance of a quotation for Goods by the Customer shall be deemed to be an offer by the Customer subject to these conditions. The Customer shall ensure that its order is complete and accurate.

A binding contract shall not come into existence between the Supplier and the Customer unless and until the Supplier either issues a written order acknowledgement to the Customer or commences production of the Goods or delivers the Goods to the Customer (whichever of the foregoing occurs first).

No Contract may be cancelled by the Customer, except in accordance with condition 15.1 or with the agreement in writing of the Supplier and provided that the Customer indemnifies the Supplier in full against all loss (including, without limitation, loss of profit), costs (including, without limitation, the cost of all labour and materials used),

damages, charges and expenses incurred by the Supplier as a result of cancellation.

4. GOODS

Conditions 4.1 - 4.6 (inclusive) relate to all Goods:

4.1 The quantity and description of the Goods shall be as set out in the Supplier's acknowledgement of order or (if there is no acknowledgment of order) quotation.

4.2 All samples, drawings, descriptive matter and advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures, are issued or published for illustrative purposes only and they do not form part of the Contract.

4.3 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.

4.4 The Supplier reserves the right (but does not assume the obligation) to make any changes in the Specification which are required to conform with any applicable legislation.

4.5 Where the Supplier is not the manufacturer of any component of the Goods, the Supplier shall use reasonable endeavours to transfer to the Customer the benefit of any warranty or guarantee given by the manufacturer of that component to the Supplier.

4.6 The Supplier's employees, contractors and agents are not authorised to make any representations or contractually binding statements concerning the Goods.

Conditions 4.7 - 4.10 (inclusive) relate to tank store covers only:

4.7 Where the Goods to be supplied by the Supplier is a tank store cover and its fitting and support mechanisms, then the Supplier will manufacture the Goods to a design and Specification provided or approved by the Customer. When design is not provided by the customer, approval of the Supplier design will be in the form of a written (email) approval of the design and acceptance of these terms and conditions.

4.8 For the purposes of the Specification referred to in condition 4.7, the Supplier will, if requested by the Customer, arrange for a chartered engineer to produce indicative calculations of the relevant forces and loads that the cover and its mechanisms will exert onto the structure of the relevant tank, but accepts no responsibility or liability (for either itself or for its chartered engineer) for any reliance placed upon any such indicative calculation by the Customer or any other person (including, without limitation, the Customer's employees, agents and contractors). It is the responsibility of the Customer to ensure that the structure of the relevant tank is strong enough to withstand the actual forces and loads that the cover and its mechanisms exert onto the structure of that tank, and for this reason the Supplier *strongly recommends that the Customer has each such indicative calculation independently approved to it in writing by the tank manufacturer or a qualified engineer* prior to approving the Specification to the Supplier, and prior to fitting the cover (and its mechanisms) to the tank.

4.9 Following installation, the Customer will be solely responsible for inspecting and maintaining the Goods and the relevant tank on a regular basis (and not less than monthly). Inspection and maintenance logs must be kept, to confirm that this maintenance and inspection regime is adhered to, and any issues identified in relation to the cover, its mechanisms, and / or the integrity or condition of the tank must be recorded and notified immediately:

- To the Supplier (in the event of any issues identified in relation to the cover and its mechanisms).

- The tank supplier (in the event of any issues in relation to the tank).

This maintenance & inspection log must be available for inspection by the Supplier in the event of any failures or risk of failure being identified.

Slurry covers supplied by our company are designed exclusively for use with ambient-temperature or cold-temperature contents. They are not suitable for hot, heated, or elevated-temperature materials. To ensure safe and reliable operation, customers must cool slurry contents to ambient temperature before filling.

4.10 The Customer will be responsible for and will indemnify the Supplier in full against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other

		professional costs and expenses) suffered or incurred by the Supplier or any other person (including, without limitation, the Customer and its employees, agents and contractors) arising out of or in connection with: (a) any of the indicative calculations referred to in condition 4.8 being inaccurate, incorrect or incomplete in any respect.	
		Specifically:- Calculations provided by the Supplier's chartered engineer (of the relevant forces and loads that the cover and its mechanisms will exert onto the structure of the relevant tank) should be checked and confirmed by the customer's tank supplier, to assess margin of safety and any risk issues, which the customer must then in turn confirm and accept. - Calculations provided by the customer's tank supplier on the structure of the tank (and its load bearing capability) are clearly the responsibility of the customer.	
		or (b) any delay or failure on the part of the Customer in inspecting and maintaining (or having inspected and maintained) the Goods and the relevant tank on a regular basis (and not less than monthly). and / or the customer not being in a position to provide evidence of maintenance & inspection in the form of a log (as referred to in 4.9).	
4. 11		Conditions 4.11 – 4.18 (inclusive) relate to Flexi Bag (Flexible Tanks for water and slurry) only: Flexible Tank: Water & Slurry Where the Goods to be supplied by the Supplier is a flexible tank for the storage of water or slurry, then the Supplier will manufacture the Goods to a design and Specification produced by the Supplier, and the customer will set up, operate and maintain the Flexi Bag in accordance with the set-up, operating and maintenance instructions provided by the Supplier.	
4. 12		Information on the specification of the Flexi Bag is contained within document: Flexi-Bag Product Specification & Standards. The Supplier offers 5 standard sizes: the capacity and required prepared flat areas for these 5 standard sizes are set out in the specification document. The Supplier can also design and manufacture a custom size Flexi-Bag. Details of the specification will be provided to the customer prior to manufacture (as part of the design, pricing and purchase-order process).	
4. 13		Information on the installation operation, and maintenance of the Flexi-Bag is contained in document: Flexi-Bag Installation Operation Maintenance Manual. The instructions provided for installation, operation, and guidelines must be followed precisely.	
4. 14		The Supplier does not accept any responsibility for damage or loss arising from the mishandling or misuse of the Flexi-bag and in particular the Customer's failure to strictly abide by any instructions and or operating manuals (written or oral) supplied by the Supplier for the installation, set-up, operation, and inspection / maintenance of the Goods.	
4. 15		The Customer's failure to strictly abide by any / all instruction manuals, documents, and visual content in relation to installation & set-up, operation, maintenance, inspection supplied by the Seller for the operation of the Goods results in all liability for product failure, and all consequential losses or damage (financial and / or environmental and / or personal) arising from product failure passing unequivocally to the customer.	
4. 16		The Supplier will not be held responsible for loss of contents, or the damage caused by loss / dispersal of contents - in the case of damage or vandalism to Flexi Bag that occurs on Customer's site.	
4. 17		The Supplier is absolved of all liability for loss, product failure, damages arising from product failure arising from Act of God, war, invasion, act of foreign enemy hostilities (whether war has been declared or not), civil war, rebellion, revolution, insurrection or any similar event.	
4. 18		The Customer is responsible for ensuring that it has adequate and appropriate insurance cover.	
5. 1		PRICE The price of the Goods shall be as set out in the Supplier's acknowledgement of order or (if there is no acknowledgement of order) quotation or (if no price has been quoted or the quote is no longer valid) the price listed in the Supplier's price list current at the date of acceptance of the order. The Supplier's published export price list shall apply to exports of the Goods as appropriate. All prices are exclusive of delivery, packaging, packing, shipping, carriage, insurance, VAT and other charges and duties.	
	5. 2	The Supplier reserves the right, by giving notice to the Customer at any time before delivery, to increase the price of such of the Goods as has not been delivered to reflect any increase in the cost to the Supplier which is due to market conditions or any factor beyond the control of the Supplier (including, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, change in legislation or significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions.	
	6. 1	PAYMENT Subject to any special terms agreed in writing between the Customer and the Supplier, the Supplier may invoice the Customer for the price of the Goods on or at any time after delivery of the Goods, unless: (a) the Goods are to be collected by the Customer; or (b) the Customer wrongfully fails to take delivery of the Goods, in either case of which the Supplier shall be entitled to invoice the Customer for the price at any time after the Supplier has notified the Customer that the Goods are ready for collection.	
	6. 2	The terms of payment shall be: within 30 days of the date of the Supplier's invoice, and in the case of the Goods these terms of payment shall apply whether or not delivery has taken place or title in the Goods has passed to the Customer	
	6. 3	Unless otherwise agreed in writing between the Customer and the Supplier, the Customer shall pay all invoiced amounts in pounds sterling.	
	6. 4	If the Customer fails to make any payment for the Goods in full on the due date, the whole of the balance of the price of the Goods then outstanding shall become immediately due and payable and, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to: (a) terminate the Contract or suspend any further deliveries of Goods (whether ordered under the same contract or not) to the Customer; and/or (b) charge interest on the amount outstanding from the due date to the date of receipt by the Supplier (whether or not after judgment), at the annual rate of 4% above the base lending rate from time to time of HSBC Plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment; and/or (c) suspend all further manufacture, delivery or warranty service until payment has been made in full; and/or (d) make a storage charge for any undelivered Goods at its current rates from time to time.	
	6. 5	All sums payable to the Supplier under the Contract shall become due immediately on its termination, despite any other provision of the Contract. This condition 6.5 is without prejudice to any right to claim for interest under the law, or any right under the Contract.	
	6. 6	The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.	
	7. 1	DELIVERY OF GOODS & ACCEPTANCE The Goods will be delivered or made available by the Supplier to the Customer in accordance with the incoterm (ICC Incoterms 2010) specified in the order.	
	7. 2	Where the Supplier is responsible for delivery of the Goods: (a) the Supplier shall use its reasonable endeavours to deliver the Goods on the date or dates specified in the Contract, but any such date is approximate only, and, if no dates are so specified, delivery shall be within a reasonable time of acceptance of the order, provided that the Supplier shall not in any circumstances be liable for any delay in delivery, however caused; (b) delivery shall be made during normal business hours (excluding bank or public holidays), and the Supplier may levy additional charges for any deliveries made outside such hours at the Customer's request; (c) the Customer shall be responsible (at the Customer's cost) for the provision of all necessary access and facilities reasonably required to deliver the Goods, provided that if the Supplier is prevented from carrying out delivery because such access or facilities are not available, the Supplier may levy additional charges to recover its loss arising from this event; and (d) the Supplier shall be responsible for any damage or loss in transit, provided that the Customer notifies it to the Supplier (or its carrier, if applicable) within 7 days of delivery or the proposed delivery date of the Goods and that the Goods have been handled in accordance with the Supplier's stipulations.	

	Any remedy under condition 7.2(d) shall be limited, at the option of the Supplier, to the replacement or repair of any Goods which are proven to the Supplier's satisfaction to have been lost or damaged in transit.	10. 5	Any repaired or replacement component of the Goods shall be under warranty for the unexpired portion of its warranty period.
7. 3	The Customer shall be deemed to have accepted the Goods when the Customer has had 7 days to inspect them after the Goods have been delivered or made available and has not notified the Supplier in writing of any non-compliance with the requirements of the Contract.	10. 6	Should any of the events described in conditions 10.4(a)-(g) (inclusive) occur, the Customer acknowledges that the affected Goods shall forthwith automatically cease to benefit from the warranty contained in condition 10.1.
8.	RISK & PROPERTY	10. 7	To the extent that any repair or replacement of any component of the Goods is not or is no longer covered by the warranty contained in condition 10.1, the repair or replacement in question (and all ancillary work) will, unless To the extent that any repair or replacement of any component of the Goods is not or is no longer covered by the warranty contained in condition 10.1, the repair or replacement in question (and all ancillary work) will, unless otherwise agreed between the parties, be undertaken by or on behalf of the Supplier strictly on a break/fix basis.
8. 1	The Goods shall be at the risk of the Supplier until delivery to the Customer at the place of delivery specified in the Contract. The Supplier shall off-load the Goods at the Customer's risk.	11.	REMEDIES
8. 2	Ownership of the Goods shall pass to the Customer on the later of completion of delivery (including, without limitation, offloading), or when the Supplier has received in full in cleared funds all sums due to it in respect of: (a) the Goods; and (b) all other sums which are or which become due to the Supplier from the Customer on any account.	11. 1	If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer (other than by reason of a Force Majeure Event under condition 16), the Customer shall in all circumstances be liable to pay to the Supplier all reasonable costs, charges or losses sustained by it as a result, subject to the Supplier notifying the Customer in writing of any such claim it might have against the Customer in this respect.
9.	EXPORT TERMS	11. 2	In the event of any claim by the Customer under the warranty given in condition 10.1, the Customer shall notify the Supplier in writing of the alleged breach. The Supplier shall have the option of testing or inspecting the Goods at its current location or moving it to the Supplier's premises (or those of its agent or sub-contractor) at the cost of the Supplier. If the Customer's claim is subsequently found by the Supplier to be outside the scope or duration of the warranty in condition 10, the costs of transportation of the Goods, investigation, repair and replacement shall be borne by the Customer.
9. 1	Where the Goods are supplied for export from the United Kingdom, the Customer shall be responsible for complying with any legislation governing: (a) the importation of the Goods into the country of destination; and (b) the export and re-export of the Goods, and shall be responsible for the payment of any duties on them.	12.	LIMITATION OF LIABILITY
10.	GOODS WARRANTY	12. 1	The following provisions set out the entire financial liability of the Supplier (including, without limitation, any liability for the acts or omissions of its employees, agents and subcontractors) to the Customer in respect of: (a) any breach of the Contract howsoever arising; and (b) any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including, without limitation, negligence) arising out of or in connection with the Contract.
10. 1	In relation to the Goods, the Supplier warrants to the Customer that on delivery and for a period of 12 months from the date of delivery that all components of the Goods which are manufactured by the Supplier shall conform in all material respects with their Specification (or the relevant part thereof) and be free from any material defects in design, material and workmanship. The Supplier undertakes (subject to the remainder of this condition 10 and condition 11), at its option, to repair or replace any component of the Goods (other than consumable items) which is found to be in breach of the warranty contained in this condition 10.1.	12. 2	All warranties, conditions and other terms implied by statute or common law are excluded from the Contract to the fullest extent permitted by law.
10. 2	The express terms of the Contract are in lieu of all warranties, conditions, undertakings, terms and obligations implied by statute (including, without limitation, by sections 13 to 15 of the Sale of Goods Act 1979 or by the Supply of Goods and Services Act 1982), common law, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.	12. 3	Nothing in these conditions excludes or limits the liability of the Supplier for: (a) death or personal injury caused by the Supplier's negligence; or (b) fraud or fraudulent misrepresentation.
10. 3	The Supplier shall not in any circumstances be liable for a breach of the warranty contained in condition 10.1 unless: (a) the Customer gives written notice of that breach to the Supplier within 7 days of the time when the Customer discovers or ought to have discovered that breach; and (b) after receiving the notice, the Supplier is given a reasonable opportunity of examining such Goods and the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost for the examination to take place there.	12. 4	Subject to condition 12.2 and condition 12.3: (a) the Supplier shall not in any circumstances be liable, whether in tort (including, without limitation, for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for: loss of profits; or loss of business; or depletion of goodwill or similar losses; or loss of anticipated savings; or loss of goods; or loss of contract; or loss of use; or loss or corruption of data or information; or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and (b) the Supplier's total liability in contract, tort (including, without limitation, negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the price payable for the Goods under condition 5.
10. 4	The Supplier shall not be liable for breach of warranty contained in condition 10.1 (or for any resulting damage or defect) in any of the following events: (a) the breach results from the Supplier following any drawing, design or specification supplied by the Customer; or (b) the Customer makes any further use of the Goods after giving notice under condition 10.3(a); or (c) the Goods have not been stored, assembled/disassembled, operated, used, cared for or maintained by suitably qualified and experienced personnel; or (d) the Customer has failed to store, assemble/disassemble, operate, use, care for and maintain the Goods in strict accordance with the Manual (if any) and any other instructions (oral or written) given by or on behalf of the Supplier from time to time as to the storage, assembly/disassembly, operation, use, care and maintenance of the Goods; or (e) the Customer alters or repairs the Goods without the prior written consent of the Supplier; or (f) the Customer alters or repairs the Goods using spare parts which have not been approved in advance by the Supplier; or (g) the breach results from fair wear and tear, improper use, use outside of its normal application, misuse, wilful or accidental damage, negligence or abnormal storage or working conditions.	13.	INTELLECTUAL PROPERTY RIGHTS
		13. 1	The Customer acknowledges that all Intellectual Property Rights used by or subsisting in the Goods are and shall remain the sole and exclusive property of the Supplier and its suppliers, and the Customer shall not: (a) obscure, remove or deface any notice(s) on the Goods to that effect nor permit any inconsistent notice(s) to be applied to the Goods; or (b) make any unauthorised use of such Intellectual Property Rights, nor authorise or permit any of its agents or contractors or any other person to do so.

- 13.2 The Supplier shall retain the property and copyright in all documents supplied to the Customer in connection with the Contract (including, without limitation, the Manual (if any) and the Specification) and it shall be a condition of such supply that the contents of such documents shall not be communicated either directly or indirectly to any other person, firm or company without the prior written consent of the Supplier.
- 13.3 The Supplier assumes no responsibility or liability for any third party costs or claims suffered or incurred by the Customer arising in respect of the Intellectual Property Rights associated with the Goods or its design, and gives no warranty as to whether the Goods contravene or infringe the Intellectual Property Rights of any third party.
14. **CONFIDENTIALITY**
The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Supplier or its agents, and any other confidential information concerning the Supplier's business or its products which the Customer may obtain. The Customer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Customer's obligations to the Supplier, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Customer. This condition 14 shall survive termination or expiry of the Contract, however arising.
15. **TERMINATION**
15.1 Without prejudice to any other right or remedy available to the Supplier, the Supplier may terminate the Contract or suspend any further deliveries under the Contract without liability to the Customer and, if the Goods has been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous contract or arrangement to the contrary if: (a) 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 is deemed unable to pay its debts within the meaning of article 103 of the Insolvency (Northern Ireland) Order 1989; or (b) 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; or (c) 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; or (d) 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; or (d) the holder of a qualifying floating charge over the assets of Customer has become entitled to appoint or has appointed an administrative receiver; or (e) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the Customer; or (f) 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 the Customer's assets and such attachment or process is not discharged within 14 days; or (g) 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 in condition 15.1(a) to condition 15.1(g) (inclusive); or (h) the Customer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 15.2 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 15.3 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including, without limitation, the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
16. **FORCE MAJEURE**
The Supplier reserves the right to defer the date of delivery

or to cancel the Contract if it is prevented from or delayed in carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors (Force Majeure Event).

17. GENERAL

- 17.1 No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 17.2 Except as expressly provided in the Contract, the rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.
- 17.3 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision. If such modification is not agreed or not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this condition shall not affect the validity and enforceability of the rest of the Contract.
- 17.4 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 17.5 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract. Nothing in this condition shall limit or exclude any liability for fraud.
- 17.6 The Contract is personal to the Customer and the Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract (including, without limitation, the benefit of any warranty or guarantee given pursuant to either condition 4.5 or condition 10.1). The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 17.7 No one other than a party to the Contract shall have any right to enforce any of its terms.
18. **NOTICES**
Any notice required or permitted to be given by either party to the other under the Contract shall be in writing addressed to that other party at its registered office or such other address as may at the relevant time have been notified pursuant to this condition to the party giving the notice. Any such notice shall be deemed to have been received: (a) if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or (b) if delivered by hand, on the day of delivery; or (c) if sent by facsimile transmission, on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day. This condition does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
19. **GOVERNING LAW & JURISDICTION**
The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including, without limitation, disputes or claims) are governed by and construed in accordance with the law of Northern Ireland. Each party irrevocably agrees that the courts of Northern Ireland shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including, without limitation, noncontractual disputes or claims).