

1. SCOPE – ENFORCEABILITY

- 1.1 These General Terms and Conditions of Sale ("GTS") apply to all ORDERS (as defined below) for radiation shielding and other products ("PRODUCTS") placed by any buyer (hereafter the "CUSTOMER") with, and accepted by Artemis Shielding, LLC ("SUPPLIER"). In these GTS, CUSTOMER and SUPPLIER are together referred to as the "PARTIES" and individually as a "PARTY".
- 1.2 In the event of any discrepancy between these GTS and special terms agreed between the PARTIES in writing (e.g., a negotiated supply agreement entered into by the PARTIES in writing) referencing these GTS as an addendum thereto, such special terms shall prevail over these GTS.
- 1.3 A waiver of any right or remedy under these GTS is only effective if given in writing. The failure of either PARTY to insist, in any one or more instances, upon the performance of any of the terms or conditions of these GTS, or to exercise any right herein, shall not be construed as a waiver or relinquishment of the future performance of any such term or condition or the future exercise of such right.
- 1.4 If any court or competent authority finds that any provision of these GTS (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of these GTS shall not be affected. In such circumstances, the PARTIES shall agree in good faith amendments to these GTS to the extent necessary to secure for the PARTIES' rights and benefits which are as similar as possible to those provided for in these GTS.

2. DEFINITIONS

- 2.1 "AFFILIATE" means an entity that directly or indirectly owns or controls, is directly or indirectly owned or controlled by, or is directly or indirectly under common ownership or control with another entity. As used herein, "control" means the power to direct the management or affairs of an entity, and "ownership" means the beneficial ownership of more than 50% of the voting equity securities or other equivalent voting interests of an entity.
- 2.2 "CONFIDENTIAL INFORMATION" means any information learned by the CUSTOMER in connection with these GTS and/or an ACCEPTED ORDER or disclosed to the CUSTOMER by the SUPPLIER, either directly or indirectly, orally, in writing or by inspection of equipment, materials or processes used by the SUPPLIER including information that is proprietary or confidential to a third party (including, for the avoidance of doubt, any AFFILIATE of the SUPPLIER). CONFIDENTIAL INFORMATION expressly includes, without limitation, the SUPPLIER'S and its AFFILIATES' INTELLECTUAL PROPERTY RIGHTS, all information and data relating to the research, development, production, packaging, control, sale and marketing of the PRODUCTS including, but not limited to, economic information, business and technical development plans, pricing, marketing strategy, data, technical information, know-how, prototypes, models, samples, drawings, patents, patent applications, copyrights, improvements and inventions (whether patentable or not) and other works of authorship, process and product information, methods of manufacture, intangible assets, and derivative works made by the CUSTOMER (or a third party on the CUSTOMER'S behalf) that are based on the SUPPLIER'S or third party's CONFIDENTIAL INFORMATION.
- 2.3 "INTELLECTUAL PROPERTY RIGHTS" or "IPR" means patent rights, rights in inventions, copyrights, trademarks, design rights, utility model rights, database rights, know-how, rights in confidential information, goodwill, trade secrets, and other intellectual property or similar rights, including improvements thereof, in any part of the world as may exist from time to time, whether registered or unregistered and including the right to apply for registration.

3. ORDERS

- 3.1 Any quotation (each, a "QUOTATION") issued by Supplier shall be deemed an offer by SUPPLIER to supply the PRODUCTS to CUSTOMER as set forth in the QUOTATION subject to and expressly conditioned upon these GTS.
- 3.2 Any provisions, conditions, or terms contained in CUSTOMER'S purchase order, terms of purchase, or similar document (each, a "PURCHASE ORDER") which are in addition to or not consistent with the QUOTATION or these GTS are null and void and not binding on the SUPPLIER. CUSTOMER and SUPPLIER agree that these GTS are the exclusive terms and conditions of sale between CUSTOMER and SUPPLIER with respect to the PRODUCTS, that they apply to all PURCHASE ORDERS accepted by SUPPLIER as provided in Section 3.3 below and that they supersede and replace all other prior and contemporaneous quotes, proposals, and other communications and understandings between the PARTIES, whether oral, written, electronic or implied, relating to the subject matter hereof. In the event of any conflict between these GTS and SUPPLIER'S special terms as set out in a QUOTATION and/or an ORDER CONFIRMATION and/or any other separate written document issued by SUPPLIER, the provisions of such special terms shall prevail over the provisions of these GTS.
- 3.3 The SUPPLIER is not bound to sell any PRODUCTS subject to a QUOTATION or PURCHASE ORDER unless and until the SUPPLIER has accepted such QUOTATION or PURCHASE ORDER (each an "ACCEPTED ORDER") by a written confirmation of such QUOTATION or PURCHASE ORDER (each an "ORDER CONFIRMATION") or by shipping the PRODUCT subject to a QUOTATION or PURCHASE ORDER.
- 3.4 All QUOTATIONS issued by the SUPPLIER are valid for a period of 30 calendar days unless the QUOTATION expressly sets out a different period.
- 3.5 The SUPPLIER may, at its sole discretion accept or reject any CUSTOMER requested cancellations or modifications to an ACCEPTED ORDER. For the avoidance of doubt, where a request is made to cancel or modify an ACCEPTED ORDER and such request is refused, the ACCEPTED ORDER shall continue in full force and effect.
- 3.6 If the SUPPLIER accepts a CUSTOMER proposed change in any ACCEPTED ORDER, such change shall be formalized by the issue of a new ORDER CONFIRMATION, which shall, in addition to updating the original ACCEPTED ORDER to reflect the change, specify the amount of any expenses and/or costs payable by CUSTOMER to SUPPLIER due to such change. The new ORDER CONFIRMATION shall replace the original ACCEPTED ORDER and be binding on the SUPPLIER and the CUSTOMER when issued by the SUPPLIER.
- If the SUPPLIER accepts a CUSTOMER cancellation, the SUPPLIER shall invoice any expenses and/or costs incurred by the SUPPLIER due to such cancellation and shall apply a minimum cancellation fee equivalent to 20% of the relevant cancelled ACCEPTED ORDER.

4. MANUFACTURING – QUANTITIES

- 4.1 The PRODUCTS are manufactured, packed, and delivered in accordance with the provisions of SUPPLIER'S (i) standard quality agreements, (ii) standard technical or packaging specifications, and (iii) standard logistics requirements (such documentation and information being the "SPECIFICATIONS").
- 4.2 When the CUSTOMER requires the SUPPLIER to source components or sub-assemblies, or to subcontract services, from the CUSTOMER or suppliers designated by the CUSTOMER, the SUPPLIER shall have no responsibility for the quality, suitability or supply of such goods or services.
- 4.3 The minimum quantity of PRODUCTS per ACCEPTED ORDER and/or delivery ("MOQ") is stated on the SUPPLIER'S quotation and ORDER CONFIRMATION for standard and customized PRODUCTS.

5. DELIVERIES

- 5.1 The PRODUCTS are shipped and delivered on terms of FCA SUPPLIER'S production site (Incoterms 2020) as indicated on the ORDER CONFIRMATION. For the avoidance of doubt, references to PRODUCTS being "delivered" and the "delivery" thereof in these GTS shall be interpreted under FCA (Incoterms 2020).
- 5.2 If the PRODUCTS have not been collected within 60 calendar days from the delivery date quoted in the ORDER CONFIRMATION, the SUPPLIER shall be entitled, without prejudice to its other rights and remedies under these GTS or available under applicable law, to sell the PRODUCTS in a commercially reasonable manner at one or more public or private sales and recover from CUSTOMER the difference between the sale price and the purchase price in the ORDER CONFIRMATION together with incidental damages including, without limitation, costs of transportation, storage (as described above), and costs of resale of the PRODUCTS, less any expenses saved in consequence of CUSTOMER'S failure.
- 5.3 Lead times and delivery dates quoted in ORDER CONFIRMATION are estimates and given for guidance only. The SUPPLIER shall make reasonable commercial efforts to adhere to such dates, but time shall not be of the essence in this regard. The SUPPLIER shall not be liable for any delay in delivery of the PRODUCTS for any reason whatsoever including, without limitation, delays caused by a FORCE MAJEURE EVENT as defined in Article 11, or the CUSTOMER'S failure to provide the SUPPLIER with adequate delivery instructions or any other instructions that are relevant to the supply of the PRODUCTS.
- 5.4 Notwithstanding Article 5.2, lead times shall not commence until the CUSTOMER has provided the SUPPLIER with all the technical information required to process the ACCEPTED ORDER and/or to set up the means of credit or payment stated in the ORDER CONFIRMATION.
6. **PRICE – PAYMENT**
- 6.1 The PRODUCTS are invoiced by the SUPPLIER on or following delivery at the price stated in the ORDER CONFIRMATION or, in the event that the ORDER CONFIRMATION does not state a price, at the current price list on the date of the ORDER CONFIRMATION.

- The price of the PRODUCTS excludes packaging and transport costs and expenses, VAT and any other duties or taxes, which are billed in addition to the price, where applicable.
- 6.2 Prices for PRODUCTS are quoted and invoices are payable in U.S. Dollars (unless otherwise stated in the ORDER CONFIRMATION) within 30 calendar days from the invoice date by bank transfer. No discounts for early payment are granted. Any payment transaction expenses shall be solely borne by the CUSTOMER. No payment will be deemed received until the purchase price has been credited to the SUPPLIER'S bank account.
- 6.3 The SUPPLIER may require pre-payment, payment guarantees (deposit or other) or change any of its payment terms at any time, in particular if information on the CUSTOMER'S financial situation indicates there is a risk of non-payment of the purchase price of the PRODUCTS.
- 6.4 Any partial payments by CUSTOMER shall be allocated in the following order of priority (i) outstanding invoices (oldest first); (ii) any late payment interest; and (iii) payment of expenses incurred by the SUPPLIER in recovering late payments.
- 6.5 If CUSTOMER at any time is delinquent in the payment of any invoice, SUPPLIER may in its sole discretion, and without prejudice to its other rights, withhold shipment of any ACCEPTED ORDER. Any sum not paid by CUSTOMER when due shall bear interest until paid at a rate of 1% per month or the maximum rate permitted by applicable law, whichever is lower. In the event of a payment default, CUSTOMER shall be responsible for all of SUPPLIER'S costs of collection including, but not limited to, court costs, filing fees and attorneys' fees.
- 6.6 If an invoice has not been fully paid on the due date, the SUPPLIER, may in its sole discretion, set a reasonable remedy period for such payment and/or, without prejudice to any of its other rights and remedies, (i) cancel and/or suspend the processing of any other ACCEPTED ORDER for PRODUCTS which has been accepted pursuant to these GTS or any other terms between the PARTIES; and/or (ii) require immediate payment of any outstanding sum still owed; and/or (iii) demand payment guarantees or pre-payment upon any future ACCEPTED ORDER for PRODUCTS; and/or (iv) demand that the PRODUCTS are returned to SUPPLIER and, following such demand, the CUSTOMER shall promptly, but in any event within 7 calendar days, return such PRODUCTS to the SUPPLIER in good condition at the expense and risk of the CUSTOMER.
- 6.7 The CUSTOMER shall pay all amounts due under an ACCEPTED ORDER in full without any deduction or withholding, except as required by law. If any such deduction or withholding is required, the CUSTOMER shall, when making the payment to which the deduction or withholding 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 deduction or withholding had been required.
- 6.8 Any sums payable under these GTS do not include any federal, state or local property, license, privilege sales, service, use, excise, value added, gross receipts, charges, duties, fees or other like taxes of any nature applied now or in the future unless explicitly included on the invoice in writing. Where applicable, value added tax or any other tax of any nature will be invoiced by SUPPLIER immediately in addition to any sum in respect of which they are calculated and shall be paid by CUSTOMER in full without deductions. When relevant, the PARTIES will timely pay the amount of taxes levied and will provide each other with official tax certificates, other evidences of tax obligation together with proof of payments or any equivalent documentation required under applicable law. The PARTIES also agree to use reasonable efforts to cooperate with each other in order to legally minimize or eliminate any above mentioned tax of any nature, when possible.
- 6.9 Any down payments made by the CUSTOMER shall not be reimbursed by SUPPLIER but set-off as a credit on future invoices, if any.
7. **TITLE – RISKS**
- 7.1 CUSTOMER grants to the SUPPLIER a security interest and right of possession in and to the PRODUCTS covered hereby, and all accessions, replacements, proceeds, and products thereto or therefrom, to secure payment of the purchase price of such PRODUCTS until CUSTOMER makes full payment. CUSTOMER hereby appoints SUPPLIER its agent to execute and file all financing statements and other documents and to do all things on its behalf to perfect and give effect to the security interest of SUPPLIER pursuant to this Article and to maintain such rights or interests enforceable against third parties in all jurisdictions where the PRODUCTS may be situated. CUSTOMER will cooperate in whatever manner necessary to assist the SUPPLIER in perfecting and recording such security interest.
- 7.2 Title and risk of loss or damage to PRODUCTS shipped shall pass to CUSTOMER upon delivery of the PRODUCTS as defined in Article 5 or in accordance with the Incoterm 2020 referred to in the ORDER. From and after the time of delivery, the CUSTOMER bears all risks of loss or damage to the PRODUCTS.
- 7.3 The SUPPLIER'S rights contained in this Article 7 shall survive termination of any ACCEPTED ORDER or these GTS.
8. **WARRANTY**
- 8.1 Subject to the remaining portions of this Article 8, the PRODUCTS sold hereunder are warranted by the SUPPLIER to be free from material defects in design, in materials and workmanship under normal use and to materially conform to the SPECIFICATIONS. CUSTOMER'S rights under this warranty are extended for a period of one (1) year from and after the date of delivery ("WARRANTY PERIOD").
- 8.2 The SUPPLIER shall, to the fullest extent permitted by law, have no responsibility or liability whatsoever for suitability, adaptability or compatibility of the PRODUCTS with the CUSTOMER'S needs for the purposes of manufacturing finished, semi-finished or intermediate products, for the purposes of incorporating the PRODUCTS into other products or for the use of the PRODUCTS in the dispensing or spraying of any content. The SUPPLIER shall also, to the fullest extent permitted by law, have no responsibility or liability whatsoever in respect of third party infringement or misappropriation claims (particularly infringement or misappropriation of IPRs) concerning PRODUCTS (including but not limited to the design of the PRODUCT or its visual specifications).
- 8.3 Notwithstanding any technical advice provided by the SUPPLIER, whether verbally or in writing, or any tests (particularly technical approval tests) carried out by the SUPPLIER at the CUSTOMER'S request, it is the sole responsibility of the CUSTOMER to: (i) choose the PRODUCTS and define any special or customized technical or packaging specifications for the PRODUCTS; (ii) ensure that the PRODUCTS that it orders from the SUPPLIER are suitable for their intended use; (iii) ensure the PRODUCTS are compatible with the content and other components that the CUSTOMER is to put in the finished packaging and products sold by the CUSTOMER; (iv) ensure compliance with all applicable regulations of the finished products that it markets; and (v) ensure that the customized specifications and/or instructions notified to the SUPPLIER do not and will not infringe or misappropriate the rights of third parties (including but not limited to infringement or misappropriation of IPRs).
- 8.4 The CUSTOMER hereby acknowledges and agrees that, to the extent that any services are provided by SUPPLIER to the CUSTOMER, such services are provided on an "AS-IS" basis, with no representations or warranties, express or implied. Subject to Article 10.1, (i) the receipt of any services and any reliance thereon by the CUSTOMER is entirely at the CUSTOMER'S risk; and (ii) SUPPLIER accepts no liability to the CUSTOMER, and the CUSTOMER acknowledges and agrees that SUPPLIER has no liability to the CUSTOMER, in respect of any such services.
- 8.5 The SUPPLIER shall, to the fullest extent permitted by law, have no responsibility or liability whatsoever in relation to the PRODUCTS in the event of: (i) changes or alterations made to the PRODUCTS by the CUSTOMER; (ii) incorrect use, storage of the PRODUCTS (particularly their use-by date) and/or non-compliance with instructions provided by the SUPPLIER; (iii) negligence and/or failure to maintain the PRODUCTS by the CUSTOMER; or (iv) normal wear and tear of the PRODUCTS.
- 8.6 The CUSTOMER undertakes to inform its own customers, suppliers or contractors of the conditions and limits in respect of the use and storage of the PRODUCTS.
- 8.7 The SUPPLIER excludes any guarantee or warranty in respect of the components or materials provided by the CUSTOMER and shall not perform any quality checks prior to their use in manufacturing the PRODUCTS. Any components and materials provided by the CUSTOMER shall be deemed to be compliant with the CUSTOMER'S requirements. CUSTOMER shall have sole responsibility to check such compliance and for ensuring that such components and materials comply with all applicable legislation and regulations.
- 8.8 Notwithstanding anything to the contrary in these GTS or any ACCEPTED ORDER, prototypes, samples and other development products supplied by SUPPLIER are not for commercial use and are only made available "AS-IS" and without any representation or warranty, express or implied. SUPPLIER accepts no liability to the CUSTOMER in respect of any such prototypes, samples and other development products.
- 8.9 EXCEPT AS SPECIFICALLY SET FORTH HEREIN, ALL WARRANTIES EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED. COMPANY ALSO DISCLAIMS ANY WARRANTY OF NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES WITH RESPECT TO THE PRODUCTS.
9. **RECEIPT CONTROL – COMPLAINTS**
- 9.1 All PRODUCTS shall be examined upon delivery by the CUSTOMER in order to check their compliance with an ACCEPTED ORDER and the SPECIFICATIONS. For PRODUCTS delivered by the SUPPLIER under a SUPPLIER quality assurance the provisions of the relevant SUPPLIER quality assurance contracts apply.

- 9.2 The CUSTOMER shall, within 3 calendar days after discovery, but not later than 21 calendar days of the date of delivery of the PRODUCTS, inform the SUPPLIER in writing if it accepts or rejects the delivered Products as compliant or non-compliant with the ACCEPTED ORDER or the SPECIFICATIONS. Failing notification of rejection within such 21 calendar day period, the CUSTOMER shall be considered as having accepted the PRODUCTS and, subject to Article 9.7, SUPPLIER shall no longer be liable (whether in contract, tort (including negligence), for breach of statutory duty, restitution or otherwise) with respect to the non-compliance of the delivered PRODUCTS.
- 9.3 The CUSTOMER shall take all necessary measures as soon as it discovers a defect of PRODUCTS or non-compliance with the SPECIFICATIONS in order to limit any harmful consequences that such defect or non-compliance may have (including by permitting SUPPLIER to stop further production of the defective or non-compliant Product as soon as possible).
- 9.4 In case of any alleged non-compliance or defect of the PRODUCTS that appears during the WARRANTY PERIOD, the CUSTOMER shall provide to either the SUPPLIER's quality department or to the SUPPLIER's sales administration department, within 14 calendar days of its discovery and within the WARRANTY PERIOD (i) complete and accurate details of the alleged non-compliance or defect (including by reference to the provisions of any quality agreements, where applicable); (ii) all necessary information requested by the SUPPLIER, including traceability items, for the purposes of analysing the origin of the defect or non-compliance; and (iii) samples of such defective or non-compliant PRODUCTS. The SUPPLIER shall, acting reasonably and in good faith, determine whether the samples are defective or non-compliant without undue delay. The CUSTOMER may not return any PRODUCTS (other than the relevant samples referred to above) to the SUPPLIER unless a defect or non-compliance is determined by the SUPPLIER. If the SUPPLIER determines that the samples are not defective or non-compliant then the SUPPLIER shall return the relevant PRODUCTS to the CUSTOMER and the CUSTOMER shall reimburse the SUPPLIER for any expenses incurred by the SUPPLIER in examining the allegedly defective PRODUCTS and returning them. The CUSTOMER shall not, unless agreed otherwise in writing beforehand by the SUPPLIER, be entitled to make or permit a third party to make any repair to the Product that the CUSTOMER deems non-compliant or defective.
- 9.5 If the CUSTOMER and the SUPPLIER disagree on the existence, nature, extent or origin of a non-compliance or defect in relation to the PRODUCTS, an independent expert, chosen by the SUPPLIER, acting reasonably and in good faith, may be called upon to determine the root cause of any alleged non-compliance or defect. The findings of such expert shall be considered definitive and binding on both PARTIES. The cost of the analysis shall be borne by the PARTY to whom the defect or non-compliance of a PRODUCT is attributable or, by the CUSTOMER where no defect or non-compliance is present in a PRODUCT.
- 9.6 The CUSTOMER agrees that any variations or differences observed in the PRODUCTS from models, prototypes or mock-ups, drawings, brochures, websites and advertising, which are for guidance only, may not be considered as defects or non-compliance.
- 9.7 In the event of a delivery of PRODUCTS expressly acknowledged by the SUPPLIER in writing as non-compliant or defective and referring to this Article 9, the SUPPLIER shall, as SUPPLIER'S sole and exclusive obligation and CUSTOMER'S sole and exclusive remedy for such non-compliance or defect, rework or replace the PRODUCTS within newly agreed times for manufacturing and delivering the PRODUCTS. If the SUPPLIER is unwilling or unable to rework or replace the PRODUCTS, especially if there is an inappropriate delay caused by the SUPPLIER or if rework or replacement has failed, the CUSTOMER shall be entitled as its sole and exclusive remedy to rescind the ACCEPTED ORDER and receive a credit for the purchase price of the defective or non-conforming Products. A failure to rework or replace the PRODUCT shall only be deemed to have occurred after an attempt to rework or replace has been unsuccessful.
- 9.8 The CUSTOMER shall make available to the SUPPLIER the defective PRODUCTS or shall return them after the SUPPLIER's prior authorization in good condition and in their original packaging to the extent possible. The SUPPLIER shall bear any transport costs in relation thereto, as well as any transport costs for the replaced or repaired PRODUCTS.
- 9.9 If the SUPPLIER provides prior written consent, the CUSTOMER shall destroy any defective PRODUCTS at the SUPPLIER's expense and in accordance with any applicable legal and regulatory requirements. In such circumstances, the CUSTOMER shall provide the SUPPLIER with a destruction certificate.
- 9.10 The remedies set out in this Article 9 in respect of a PRODUCT's failure to comply with the warranty set out in Article 8.1, are the sole and exclusive remedies available to the CUSTOMER and the sole and exclusive liability of the SUPPLIER.
- 10. LIABILITY**
- 10.1 CUSTOMER'S EXCLUSIVE REMEDY UNDER OR IN CONNECTION WITH THESE GTS, ANY ACCEPTED ORDERS, OR THE BREACH THEREOF, SHALL BE FOR DIRECT DAMAGES AND SUPPLIER'S MAXIMUM LIABILITY UNDER OR IN CONNECTION WITH THESE GTS, ANY ACCEPTED ORDERS, OR THE BREACH THEREOF SHALL NOT IN ANY CASE EXCEED THE PURCHASE PRICE FOR THE RELEVANT PRODUCTS GIVING RISE TO THE CLAIM, REGARDLESS OF WHETHER THE CLAIM IS BASED ON CONTRACT, BREACH OF WARRANTY, NEGLIGENCE (INCLUDING GROSS NEGLIGENCE), STRICT LIABILITY, STATUTORY VIOLATION, OR OTHERWISE, NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OR OF ANY LIMITED REMEDY. UNDER NO CIRCUMSTANCES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY SET FORTH HEREIN SHALL SUPPLIER OR ITS AFFILIATES BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, LOST PROFITS, OR INTERRUPTION OF BUSINESS LOSSES, COSTS, OR EXPENSES OF ANY KIND, EVEN IF THE SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES EXPRESSLY AGREE THAT THE ABOVE LIMITATION ON DAMAGES IS AN ALLOCATION OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR THESE GTS. FOR THE AVOIDANCE OF DOUBT, NEITHER SUPPLIER NOR ITS AFFILIATES SHALL HAVE ANY LIABILITY TO THE CUSTOMER (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, RESTITUTION OR OTHERWISE) FOR ANY (I) LOSS OF COMPONENTS AND MANUFACTURING COSTS OF FINISHED, SEMI-FINISHED OR INTERMEDIATE PRODUCTS OF THE CUSTOMER; (II) COSTS INCURRED BY THE CUSTOMER IN PROCURING SUBSTITUTE PRODUCTS; (III) LOSS OF REVENUE; LOSS OF PROFIT (WHETHER DIRECT OR INDIRECT); (IV) LOSS OF BUSINESS; DEPLETION OF GOODWILL; LOSS OF REPUTATION; OR (E) ANY THIRD PARTY CLAIMS AGAINST THE CUSTOMER OR ANY COMPENSATION OR OTHER PAYMENT MADE BY THE CUSTOMER TO ITS CUSTOMERS.
- 10.2 Notwithstanding anything contained in Article 10.1, the SUPPLIER does not exclude its liability (if any) to the CUSTOMER for: (i) wilful misconduct or gross negligence; (ii) damages arising out of death or personal injury caused by the SUPPLIER; (iii) fraud and/or fraudulent misrepresentation; (iv) any matter for which it would be illegal for the SUPPLIER to exclude or to attempt to exclude its liability.
- 10.3 Each of the SUPPLIER's employees, agents and sub-contractors may rely upon and enforce the exclusions and restrictions of liability in these GTS in that person's own name and for that person's own benefit, as if the words "its employees, agents and sub-contractors" followed the word SUPPLIER wherever it appears in those Articles.
- 10.4 No action shall be brought for any breach of these GTS more than one (1) year after the accrual of such cause of action.
- 11. FORCE MAJEURE**
- 11.1 In the event that the SUPPLIER is prevented from performing any of its obligations under an ACCEPTED ORDER and these GTS by an event which is outside its reasonable control including but not limited to product unavailability, carrier delays, delays due to fire, flood, storm, severe weather conditions, epidemics and/or pandemics, failure of power, labor disputes, acts of war, terrorism, embargos, shortages of supplies of raw materials or components or acts of any government or agency (a "FORCE MAJEURE EVENT"), the SUPPLIER shall not be liable for such failure to the CUSTOMER. Without prejudice to the foregoing, in such circumstances, the SUPPLIER may, at its discretion, cancel an ACCEPTED ORDER, suspend its execution, postpone the date of delivery or assign the ACCEPTED ORDER to another group company of the SUPPLIER. If a FORCE MAJEURE EVENT occurs which prevents the SUPPLIER from performing any of its obligations, the SUPPLIER shall inform the CUSTOMER without delay and seek a resolution with the CUSTOMER. In the event an ACCEPTED ORDER is suspended or the delivery date postponed, the CUSTOMER shall take all necessary measures to extend, at its expense, the validity of the means of payment while such ORDER is suspended and until delivery can be made.
- 12. CONFIDENTIALITY**
- 12.1 The CUSTOMER undertakes, for the duration of its business relationship with SUPPLIER and for 10 years thereafter ("TERM"), to keep absolutely confidential and not disclose to any third parties any information or materials of any kind provided by SUPPLIER or its AFFILIATES to CUSTOMER or its agents verbally, in writing, or in any other form including, but not limited to, information or materials of a commercial, financial or legal nature concerning SUPPLIER or its AFFILIATES, its or their know-how or its or their INTELLECTUAL PROPERTY RIGHTS relating to the design, manufacture, studies, plans, drawings, documents, models, prototypes, objects or other materials relating to the PRODUCTS, all of which CUSTOMER shall return to SUPPLIER upon SUPPLIER's request. These confidentiality obligations do not apply to CONFIDENTIAL INFORMATION that is in the public domain or has entered the public domain other than by the CUSTOMER's breach of confidentiality, that is lawfully received from third parties, or to the extent the CUSTOMER is compelled to by the law or by governmental or judicial order.
- 12.2 CUSTOMER agrees that SUPPLIER will suffer irreparable harm in the event of a violation by CUSTOMER of its covenants under this Article 12, the monetary value of which is impossible to ascertain. Accordingly, in such event, SUPPLIER shall be entitled to injunctive and other equitable relief in addition to whatever other remedies it may possess, without the necessity of posting a bond or other security. Notwithstanding anything else contained in these GTS, CUSTOMER shall be fully liable to SUPPLIER for all damages, including consequential and incidental damages, and lost profits, related to a breach of this Article 12.
- 12.3 The CUSTOMER shall not analyse, attempt to modify or reverse-engineer or otherwise seek to determine the structure of any PRODUCTS or any other SUPPLIER technology.
- 13. INTELLECTUAL PROPERTY**
- 13.1 The SUPPLIER reserves for itself and does not transfer to the CUSTOMER any and all IPRs in connection with or attached to the PRODUCTS (and any derivative works thereof) or resulting from the supply, design, customization, modification, and/or manufacturing of the PRODUCTS and/or any studies and analyses made by the SUPPLIER in regard to the design and manufacturing of PRODUCTS for CUSTOMER (including but not limited to in relation to any customized technical specifications created for CUSTOMER for the purposes of developing a new PRODUCT with respect to a research and development agreement, or for the purposes of improving the quality and the cost price of PRODUCTS) and all such IPRs in relation to the same shall remain the exclusive property of the SUPPLIER (or its licensors).
- 13.2 The CUSTOMER represents and warrants that any specifications, designs, processes, or requirements provided to SUPPLIER by or on behalf of CUSTOMER for the Products do not and will not infringe the rights of third parties (including but not limited to any third party INTELLECTUAL PROPERTY RIGHTS). The CUSTOMER shall defend, indemnify, and hold harmless the SUPPLIER and its AFFILIATES from and against all losses, costs, demands, judgments, liabilities, settlements, and reasonable expenses (including attorney fees and legal expenses) in respect of any claims, proceedings, or allegations that may be brought by a third party arising out of or relating to any claim that the specifications, designs, processes, or requirements provided by or on behalf of CUSTOMER for the Products or any finished, semi-finished, or intermediate products provided by or on behalf of CUSTOMER, infringe, violate, or misappropriate any third party INTELLECTUAL PROPERTY RIGHTS or rights in respect of unfair competition.
- 13.3 The CUSTOMER shall, at its own cost, execute such further documents, take such actions and do such things, as may be requested by the SUPPLIER to give full effect to Article 13.1.
- 14. DATA PROTECTION COMPLIANCE**
- 14.1 Both Parties shall comply with all applicable requirements of the Regulation EU 2016/67 ("GDPR") and any applicable national or other legislation relating to the processing of personal data and data privacy (together with the GDPR "DATA PROTECTION LEGISLATION").
- 15. ANTI BRIBERY & ECONOMIC SANCTIONS**
- 15.1 The CUSTOMER shall undertake to comply with all applicable economic sanctions and export controls legislation. If, at any time, a legislation renders the performance of the SUPPLIER'S duties impossible or illegal, the SUPPLIER shall be entitled to cancel the ACCEPTED ORDER and terminate the relationship with the CUSTOMER without any liability for the SUPPLIER.
- 15.2 The CUSTOMER shall (i) comply with the requirements of all applicable anti-bribery legislation both national and foreign, including the UK Bribery Act 2010, the U.S. Foreign Corrupt Practices Act and the French "Loi Sapin II", and not make, promise, offer to make, accept or solicit any payment or transfer anything of value (directly or indirectly) to any (a) individual, (b) corporation, (c) association, (d) partnership, or (e) public body who, whether or not acting in its official capacity, is in a position to influence, secure, or retain any business and/or provide any financial or other advantage to itself or SUPPLIER; and (ii) maintain accurate books of account and records in relation to the ACCEPTED ORDER and at SUPPLIER'S request make them available for inspection.
- 15.3 Breach by the CUSTOMER of the terms of this Article 14 will be deemed a material breach and SUPPLIER may immediately terminate the ACCEPTED ORDER at any time with immediate effect.
- 16. MISCELLANEOUS**
- 16.1 These GTS and an ACCEPTED ORDER shall not create, nor shall it or they be construed as creating, any partnership or agency relationship between the PARTIES.
- 16.2 Save as otherwise expressly provided in these GTS or an ACCEPTED ORDER, no provisions of these GTS or an ACCEPTED ORDER shall be enforceable by any third party.
- 16.3 These GTS and an ACCEPTED ORDER (together with any documents referred to herein or therein and including, for the avoidance of doubt, the SPECIFICATIONS) contain the entire agreement and understanding of the PARTIES and supersede all prior agreements, understandings or arrangements (both oral and written) relating to the subject matter of these GTS and any such document. The CUSTOMER acknowledges that it is entering into these GTS and any ACCEPTED ORDER without reliance on any undertaking, warranty, or representation given by or on behalf of the SUPPLIER other than as expressly contained in these GTS and the ACCEPTED ORDER, provided that nothing in this Article shall limit or exclude the liability of the SUPPLIER for fraud or fraudulent misrepresentation.
- 16.4 Subject to Article 12 and notwithstanding any IPRs owned by CUSTOMER, the SUPPLIER may exhibit, mention or present in multimedia formats in the public domain, including but not limited to trade fairs, exhibitions or shows, and in any press release or advertising or commercial material, any Products made for CUSTOMER or any of the CUSTOMER's finished products incorporating the PRODUCTS provided by the SUPPLIER. Any such exhibition shall be for the purpose of the promotion of the SUPPLIER'S own PRODUCTS.
- 17. APPLICABLE LAW – GOVERNING LANGUAGE - VENUE**
- 17.1 These GTS, the ACCEPTED ORDER and all contracts entered into under them and the rights and obligations of the PARTIES (whether contractual or non-contractual) shall be governed by, and construed in accordance with, the laws of the State of Alabama (USA), without reference to principles of choice or conflicts of laws.
- 17.2 Venue for any legal action arising out of or relating to these GTS, ACCEPTED ORDERS, and all contracts entered into under them or the legal relationships (including any non-contractual obligations) established thereunder or in connection therewith will be exclusively the state or federal courts located in Jefferson County, Alabama. The PARTIES hereby consent to the jurisdiction of such courts.