

BGB Engineering Ltd (registered number 02107467) whose registered office is at Dysart Road, Grantham, Lincolnshire, NG31 7NB

("we" or "us")

STANDARD TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

1. DEFINITIONS AND INTERPRETATION

In these Conditions:

1.1 the following words and expressions have the following meanings and, in addition, any words and expressions defined in any Condition will have the same meaning when used in any other Condition:

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|---|---|
| "Anti-Slavery Laws" | any and all laws anywhere in the world which relate to anti-slavery or servitude, anti-forced or compulsory labour and/or anti-human trafficking, including the Modern Slavery Act |
| "Anti-Slavery Policy" | our anti-slavery policy (forming part of our employee handbook), as amended from time to time |
| "Brexit" | any change, event or occurrence arising out of, related to or connected with the decision of the UK to withdraw from the EU, including any modification of law, irrespective of any transition or implementation period as part of the withdrawal arrangements between the UK and the EU being in place |
| "Business Day" | a day that is not a Saturday, Sunday or public or bank holiday in England and/or Wales |
| "Charges" | the charges for the Services set out in the Order |
| "Confidential Information" | has the meaning given to it in Condition 14.3 |
| "Contract" | has the meaning given to it in Condition 2.1 |
| "Customer Ethical Code of Conduct" | our code of conduct for entities which supply any goods or services to us (forming part of our employee handbook), as amended from time to time |
| "Delivery" | has the meaning given to it in Condition 4.1 |
| "Disputed Sum" | has the meaning given to it in Condition 8.10 |
| "Export Control Laws" | any laws that control, restrict, or impose licensing requirements on export, re-export, or transfer of goods, software, technology, or services, issued or adopted by any government, state or regulatory authority of the UK, the European Union or any of its Member States, the United States of America, or any country in which obligations under the Contract are to be performed, or in which we are incorporated or operate |
| "Goods" | has the meaning given to it in Condition 2.1 |
| "Group Companies" | in respect of a person, its Holding Companies, its Subsidiaries and the Subsidiaries of any of its Holding Companies from time to time (" Holding Company ") |

and **"Subsidiary"** having the meanings set out in section 1159 Companies Act 2006, and:

- (a) for the purposes of section 1159(1) a company (the first company) will be treated as a member of another company if:
 - (i) any of its subsidiaries is a member of that other company; or
 - (ii) any shares in that other company are held by a person acting on behalf of the first company or any of its subsidiaries; or
 - (iii) any shares in that other company are registered in the name of a person (or its nominee) by way of security or in connection with the granting of security over those shares by the first company; and
- (b) if the company in question is a limited liability partnership or company which has no share capital and does not conduct its business by general meeting the references to voting rights in sections 1159(1) (a) and (c) will mean the members' right to vote on all or substantially all matters which are decided by vote of the members of the limited liability partnership or company; and
- (c) if the company in question is a limited liability partnership/company which has no directors the reference to the right to appoint or remove a majority of the board of directors in section 1159(1)(b) will mean the right to appoint or remove the members holding a majority of the voting rights)

"Import Laws"

any laws which impose formalities relating to customs clearance or payment or any customs duties, or impose regulatory or licensing requirements on, or govern, control, or restrict, any imports of goods, software, technology, or services, issued or adopted by any government, state or regulatory authority of the UK, the European Union or any of its Member States, or any country in which obligations under the Contract are to be performed, or in which we are incorporated or operate

"IPR Claim"

has the meaning given to it in **Condition 6.2**

"Modern Slavery Act"

the Modern Slavery Act 2015

"Modern Slavery Practice"

any practice that amounts to (a) slavery or servitude (each as construed in accordance with Article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 as amended), (b) forced or compulsory labour (as

defined by the International Labour Organisation's Forced Labour Convention 1930 (No. 29) and Protocol) (c) human trafficking or (d) the arranging or facilitation of the travel of another person with a view to that person being exploited

- "Order"** our order for the purchase of goods and services from you, set out in our order form
- "Order Acknowledgement"** your written acceptance of the Order
- "Prices"** the prices for the Goods set out in the Order
- "Sanction Laws"** any economic, financial, trade or other, sanction, restriction, embargo, import or export ban, prohibition on receipt or transfer of funds or assets or on performing services, or equivalent measure imposed by any government, state or regulatory authority of the UK, the European Union or any of its Member States, the United States of America, or any country in which obligations under the Contract are to be performed, or in which we are incorporated or operate
- "Services"** has the meaning given to it in **Condition 2.1**
- "Specification"** the written technical specifications for the Goods set out or referred to in the Order, and for the avoidance of doubt, this is owned by us
- "Trade Control Laws"** means Export Control Laws, Import Laws, and Sanctions Laws
- "UK"** England and Wales, Northern Ireland and Scotland and a reference to the United Kingdom or the UK includes a reference to any one of these
- "you"** the person named as the supplier in the Order
- 1.2 all headings are for ease of reference only and will not affect the construction or interpretation of these Conditions;
- 1.3 references to a "person" include any individual, body corporate, association, partnership, firm, trust, organisation, joint venture, government, local or municipal authority, governmental or supra-governmental agency or department, state or agency of state or any other entity (in each case whether or not having separate legal personality);
- 1.4 references to any statute or statutory provision will include any subordinate legislation made under it and will be construed as references to such statute, statutory provision and/or subordinate legislation as modified, amended, extended, consolidated, re-enacted and/or replaced and in force from time to time;
- 1.5 any words following the words "include", "including" or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them;
- 1.6 references to "in writing" or "written" include facsimile and e-mail but not other methods of electronic messaging; and
- 1.7 an obligation on a party to procure or ensure the performance or standing of another person will be construed as a primary obligation of that party.

2. **CONTRACT FORMATION**

- 2.1 The Order constitutes an offer by us to purchase the goods set out in the Order ("**Goods**") and services set out in the Order ("**Services**") from you on these Conditions. A contract for the supply (and instalment if applicable) of Goods and performance of Services by you to us on these Conditions (the "**Contract**") will be formed when we receive the Order Acknowledgement.
- 2.2 These Conditions are the only terms and conditions on which we will purchase goods and services from you and will apply to the exclusion of all other terms and conditions including any terms and conditions which you purport to apply under any quotation, acknowledgement, acceptance or confirmation of order, delivery note, invoice or similar document (whether or not such document is referred to in the Contract) and any terms and conditions which may otherwise be implied by trade, custom, practice or course of dealing.
- 2.3 Delivery or commencement of performance of the Services will be deemed conclusive evidence of your acceptance of these Conditions.
- 2.4 You may not cancel the Contract. We may cancel the Contract in whole or in part immediately by giving written notice to that effect to you at any time before delivery of the Goods in accordance with **Condition 4.1**, or performance of the Services in accordance with **Condition 7.2**. If we exercise our right of cancellation under this **Condition 2.4** our sole liability will be to pay to you fair and reasonable compensation for work-in-progress at the time of cancellation but such compensation will not include loss of profits (whether direct or indirect and whether actual or anticipated) or any indirect or consequential loss.
- 2.5 You may not deliver the Goods by separate instalments unless we give our prior written consent to this. If we give such consent, you will invoice the Price for each instalment separately in accordance with **Condition 8.4** and we will be entitled, at our sole discretion, to exercise our rights and remedies (whether under these Conditions or otherwise) in respect of the relevant instalment or the whole Contract.

3. **THE GOODS**

- 3.1 The quantity and description of the Goods will be as set out in the Order and the Specification.
- 3.2 We have the right to inspect and test the Goods at any time prior to Delivery. You will permit us, our officers, employees, agents and sub-contractors to enter upon your premises, and will procure permission for such persons to enter upon any relevant third party premises, to carry out such inspection and testing and will provide us with all facilities reasonably required.
- 3.3 If, following inspection or testing under **Condition 3.2**, we give written notice to you that we are not satisfied that the Goods will comply with **Condition 5.1**, you will take all steps necessary to ensure compliance within seven (7) Business Days of receipt of written notice.
- 3.4 No inspection or testing under **Condition 3.2** will reduce or otherwise affect your obligations under the Contract.
- 3.5 You will maintain detailed quality control and manufacturing records for a period of at least twelve (12) years from the date of Delivery and will permit us, our officers, employees, agents and sub-contractors to inspect and take copies of these records on demand.

4. **DELIVERY**

- 4.1 You will deliver the Goods to the address specified in the Order on the date or within the period specified in the Order, during our normal business hours. We will be responsible for

off-loading the Goods from the delivery vehicle. Delivery of the Goods ("**Delivery**") will occur when they arrive at the delivery address.

4.2 You will ensure that:

4.2.1 the Goods are marked in accordance with our instructions and any applicable laws and any applicable requirements of any carrier and are properly packed and secured so as to reach their destination in an undamaged condition;

4.2.2 the delivery is accompanied by a prominently displayed delivery note which shows the Order number, date of Order, type and quantity of Goods, code numbers of Goods (if applicable), any special storage instructions and, where delivery by instalments is permitted under **Condition 2.5**, the outstanding balance of Goods remaining to be delivered;

4.2.3 on or before Delivery we are provided in writing with a list by name and description of any harmful or potentially harmful properties or ingredients in the Goods supplied whether in use or otherwise and thereafter information concerning any changes in such properties or ingredients. We will rely on the supply of such information from you in order to satisfy our own obligations under the Health and Safety at Work Act 1974 and any relevant applicable laws; and

4.2.4 on or before Delivery we are supplied with all operating and safety instructions, clearly displayed warning notices and such other information as may be necessary for the proper use, maintenance and repair of the Goods.

4.3 If you fail to deliver the Goods on the date specified in **Condition 4.1**, without prejudice to any of our other rights or remedies (whether express or implied), we may:

4.3.1 terminate the Contract immediately by giving written notice to that effect to you, in which case you will refund any monies already paid by us under the Contract in relation to the Goods that have not been delivered; or

4.3.2 require you to pay to us on demand in cleared funds liquidated damages of a sum equal to 2% of the Price of the Goods for each day (pro rata for any part day) by which the delivery of Goods is delayed, provided that in any event such liquidated damages will not exceed 20% of the Price of the Goods. The parties agree that the liquidated damages are a genuine pre-estimated of the loss that we will suffer as a result of the delay in delivery of the Goods, are a proportionate amount to protect our interests in performance and will not be regarded as penalty provisions. You waive any right to claim that the liquidated damages are penalty provisions.

4.4 Risk in and ownership of the Goods will pass to us on Delivery.

4.5 We are under no obligation to return any packaging or packing materials for the Goods to you.

5. **DEFECTIVE GOODS**

5.1 You will ensure that the Goods will, for a minimum period until at least one (1) year following the date of delivery:

5.1.1 be fit for any purpose held out by you or made known to you expressly or by implication and in this respect we rely on your skill and judgement;

5.1.2 conform to the Specification;

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

5.1.4 comply with all relevant applicable laws and British Standards and the requirements of any relevant statutory and regulatory bodies; and

- 5.1.5 be so formulated, designed, constructed, finished and packaged as to be safe and without risk to health.
- 5.2 Without prejudice to any of our other rights or remedies (whether express or implied), if any Goods do not conform with any of the terms of **Condition 5.1** we may (whether or not the Goods have been accepted):
- 5.2.1 terminate the Contract immediately by giving written notice to that effect to you; or
- 5.2.2 require you, at our option, to within seven (7) days of request repair or replace the relevant Goods free of charge or to refund the Price for the relevant Goods.
- 5.3 **Condition 5.2** will apply to any repaired or replacement Goods supplied under **Condition 5.2.2**.

6. INDEMNITY

- 6.1 You will indemnify us against all losses (including all direct, indirect and consequential losses), liabilities, costs, damages and expenses that we do or will incur or suffer, all claims or proceedings made, brought or threatened against us by any person and all losses (including all direct, indirect and consequential losses), liabilities, costs (on a full indemnity basis), damages and expenses we do or will incur or suffer as a result of defending or settling any such actual or threatened claim or proceeding, in each case arising out of or in connection with any breach by you of any of your obligations under the Contract (including any failure or delay in performing, or negligent performance or non-performance of, any of those obligations) including where they arise from our negligence. This **Condition 6.1** will not apply to any breach of, or failure or delay in performing, or negligent performance or non-performance of, any of your obligations under **Condition 9**.
- 6.2 Without prejudice to **Condition 6.1**, if any person claims that the possession and/or use and/or sale of the Goods by us and/or our customers, officers, employees, agents or sub-contractors infringes the intellectual property rights of that or any other person ("**IPR Claim**"), you will indemnify us, our customers, officers, employees, agents and sub-contractors against all losses (including all direct, indirect and consequential losses), liabilities, costs, damages and expenses that we, our customers, officers, employees, agents or sub-contractors do or will incur or suffer, all claims or proceedings made, brought or threatened against us, our customers, officers, employees, agents or sub-contractors by any person and all losses (including all direct, indirect and consequential losses), liabilities, costs (on a full indemnity basis), damages and expenses we, our customers, officers, employees, agents or sub-contractors do or will incur or suffer as a result of defending or settling any such actual or threatened claim or proceeding, in each case arising out of or in connection with that IPR Claim including where they arise from our negligence or the negligence of our customers, officers, employees, agents or sub-contractors. The indemnity in this **Condition 6.2** will not apply to the extent that an infringement is caused by any specification for the Goods which is created by us.

7. SERVICES

- 7.1 You will, in performing the Services:
- 7.1.1 use the degree of skill, care, prudence, supervision, diligence, foresight, quality control and quality management which would be adopted by a leading professional provider of the Services;
- 7.1.2 fulfil all requirements set out in the Order;
- 7.1.3 fully co-operate with our agents, representatives and contractors; and
- 7.1.4 comply with all relevant applicable laws, British Standards, requirements of any relevant statutory and regulatory bodies and health and safety and security policies and obey all our lawful and reasonable directions.

7.2 You will perform the Services on the performance dates set out in the Order. Time for provision of the Services will be of the essence of the Contract.

7.3 You represent and warrant that:

7.3.1 you are UK tax resident or have a tax presence in the UK; and

7.3.2 no individuals who are or will be involved in the provision of the Services will be engaged via a third party which meets one of Conditions A to C set out in sections 61N(9) to (11) of the Income Tax (Earnings and Pensions) Act 2003.

8. **PRICE AND PAYMENT**

8.1 Subject to you performing your obligations in accordance with the terms of the Contract, we will pay the Prices and Charges to you in accordance with this **Condition 8**.

8.2 The only monies to be paid by us in connection with the supply of the Goods and the performance of the Services are the Prices and the Charges which will be inclusive of all costs and expenses incurred by you including all packaging, insurance, carriage and delivery costs.

8.3 Any sum payable under the Contract is exclusive of value added tax which will be payable in addition to that sum in the manner and at the rate prescribed by law from time to time, subject to receipt by the paying party of a valid value added tax invoice.

8.4 You will invoice us for the Prices for the Goods and the Charges following Delivery.

8.5 You will invoice us for the Charges for the Services following completion of performance of the Services.

8.6 You will not increase the Prices or Charges (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without our prior written consent.

8.7 We will be entitled to any discount for prompt payment, bulk purchase or 'volume of purchase' customarily granted by you.

8.8 Subject to **Conditions 8.9, 8.10 and 8.11**, each invoice will be payable by us within thirty (30) days after the end of the month in which the invoice is received by us. You will send invoices to the address specified in the Order and will quote the number of the Order on each invoice.

8.9 No payment made by us will constitute acceptance or approval by us of the Goods or Services or otherwise prejudice any rights or remedies which we may have against you including the right to recover any amount overpaid or wrongfully paid to you.

8.10 If we, on bona fide grounds, dispute any part of an amount invoiced by you (a "**Disputed Sum**"), we will be entitled to withhold payment of the Disputed Sum until the dispute is settled.

8.11 We will be entitled to set-off any liability which you have to us against any liability which we have to you, whether such liability is present or future, liquidated or unliquidated, under the Contract or any other contract between the parties or other cause of action.

9. **ANTI-CORRUPTION**

9.1 You will, and will procure that your officers, employees, agents and any other persons who perform services for you or on your behalf in connection with the Contract will:

9.1.1 not commit any act or omission which causes or could cause us or you (or that person) to breach, or commit an offence under, any laws relating to anti-bribery and/or anti-corruption, including the Bribery Act 2010;

- 9.1.2 comply with our anti-corruption policy as updated from time to time;
- 9.1.3 keep accurate and up to date records showing all payments made and received and all other advantages given and received in connection with the Contract and the steps taken to comply with this **Condition 9.1**, and permit us to inspect those records as reasonably required;
- 9.1.4 promptly notify us of:
 - 9.1.4.1 any request or demand for any improper financial or other advantage received by you (or that person); and
 - 9.1.4.2 any improper financial or other advantage you (or that person) give or intend to give,
 whether directly or indirectly in connection with the Contract; and
- 9.1.5 promptly give us written notice of any breach of this **Condition 9.1**.
- 9.2 You will indemnify us against all losses (including all direct, indirect and consequential losses), liabilities, costs, damages and expenses that we do or will incur or suffer, all claims or proceedings made, brought or threatened against us by any person and all losses (including all direct, indirect and consequential losses), liabilities, costs (on a full indemnity basis), damages and expenses we do or will incur or suffer as a result of defending or settling any such actual or threatened claim or proceeding, in each case arising out of or in connection with any breach by you of **Condition 9.1** (including any failure or delay in performing, or negligent performance or non-performance of, any of your obligations under **Condition 9.1**), including the costs of procuring the Goods and Services from a person other than you (including the costs of interim service provision, the costs of any re-tender and the amount by which any new service provider's prices exceed the Prices and Charges payable to you under the Contract).

10. **ANTI-SLAVERY**

- 10.1 You will not engage in any Modern Slavery Practice.
- 10.2 You will:
 - 10.2.1 comply, and will procure that your officers, employees, agents and any other persons who perform services for or on behalf of you in connection with the Contract will comply, at all times with the Anti-Slavery Policy and the Customer Ethical Code of Conduct;
 - 10.2.2 conduct proper and adequate checks on any agency or person used by you to provide labour, employees, contractors or other persons to undertake tasks for you (in each case whether on a permanent or temporary basis) to ensure that any such agency or person does not engage in any Modern Slavery Practice or abuse of human rights;
 - 10.2.3 provide us with such reasonable assistance and information as we may require from time to time to enable us to:
 - 10.2.3.1 perform any activity required by any government, regulatory entity or agency in any relevant jurisdiction for the purpose of compliance with any applicable Anti-Slavery Laws or as required by us;
 - 10.2.3.2 prepare a slavery and human trafficking statement as required by section 54 of the Modern Slavery Act and to include the matters referred to in section 54(5) of that Act;

- 10.2.3.3 comply with any requirement to report on respect for human rights or to enable us to demonstrate compliance with any human rights code or policy to which we adhere or which applies to us;
- 10.2.3.4 identify any non-compliance with the Customer Ethical Code of Conduct or Anti-Slavery Policy; and
- 10.2.3.5 conduct due diligence and to measure the effectiveness of the steps we are taking or wish to take to ensure that Modern Slavery Practices or abuse of human rights are not taking place in our business or supply chains; and
- 10.2.4 permit us, and any person nominated by us for this purpose, to have such access on demand to your premises, personnel, systems, books and records as we may require to verify your compliance with this **Condition 10**.
- 10.3 You will immediately give written notice to us upon the occurrence of a breach or suspected breach of any of your obligations referred to in this **Condition 10**. The notice will set out full details of the breach or suspected breach.
- 10.4 We will be entitled, by giving written notice to that effect to you, to require you to:
 - 10.4.1 remove from the performance of the Contract any of your officers, employees or agents whom we believe to be engaging in any Modern Slavery Practice; or
 - 10.4.2 take such action as we require to ensure that you fully comply with any Anti-Slavery Law, the Anti-Slavery Policy, the Customer Ethical Code of Conduct and any applicable guidance issued by any competent or statutory authority.

11. **TRADE CONTROL COMPLIANCE**

- 11.1 You will not, directly or indirectly, source, supply, export, re-export, transfer or otherwise make available the Goods or Services, or use them in any manner, or be involved in any act, that could result in us being in violation of, or being subject to negative consequences under, Trade Control Laws.
- 11.2 We shall have the right to suspend our obligations under, or terminate, the Contract with immediate effect in the event that:
 - 11.2.1 we determine that, in our reasonable opinion, you have breached or are likely to breach **Condition 11.1**; or
 - 11.2.2 you and/or the Goods or Services become subject to Trade Control Laws and, as a result, we determine that, in our reasonable opinion, the continued performance of our obligations under the Contract could result in us being in violation of, or being subject to negative consequences under, Trade Control Laws.
- 11.3 Nothing in the Contract or these Conditions is intended, and nothing should be interpreted or construed, to induce or require either party to act or refrain from acting (or to agree to act or refrain from acting) in any manner which is inconsistent with, penalised, or prohibited under any applicable Trade Control Laws.

12. **TERMINATION**

- 12.1 If you commit a material breach of the Contract we may terminate the Contract immediately by giving written notice to that effect to you. For the avoidance of doubt this **Condition 12.1** will not apply to any failure to deliver Goods on the date specified in **Condition 4.1** or where Goods do not conform with any of the terms of **Condition 5.1**.
- 12.2 Any breach of any of the following Conditions will be a material breach: **Conditions 3.3, 9.1 and 10** irrespective of:

- 12.2.1 whether or not any financial loss or reputational damage arises as a consequence of the relevant breach; and
 - 12.2.2 the level of any financial loss or deprivation of benefit arising as a consequence of the relevant breach.
- 12.3 We may terminate the Contract immediately by giving written notice to that effect to you if you:
- 12.3.1 have a receiver, administrator or provisional liquidator appointed;
 - 12.3.2 are subject to a notice of intention to appoint an administrator;
 - 12.3.3 pass a resolution for your winding-up;
 - 12.3.4 have a winding up order made by a court in respect of you;
 - 12.3.5 propose or enter into any composition or arrangement with creditors;
 - 12.3.6 cease to carry on business;
 - 12.3.7 take any steps or actions or have any steps or actions taken in connection with any of these procedures;
 - 12.3.8 are the subject of anything analogous to the foregoing under the laws of any applicable jurisdiction;
 - 12.3.9 are the subject of any proceeding in any Member State of the European Union which is capable of recognition under the EC Regulation on Insolvency Proceedings (EC 1346/2000) or the EU Regulation on Insolvency Proceedings (Recast) (EU 2015/848); or
 - 12.3.10 are the subject of an application for the recognition of a foreign insolvency proceeding under the Cross-Border Insolvency Regulations 2006 (SI 2006/1030),
- and you will notify us immediately upon the occurrence of any such event or circumstance.
- 12.4 Following expiry or termination of the Contract:
- 12.4.1 any Conditions which expressly or impliedly continue to have effect after expiry or termination of the Contract will continue in force; and
 - 12.4.2 all other rights and obligations will immediately cease without prejudice to any rights, obligations, claims (including claims for damages for breach) and liabilities which have accrued prior to the date of expiry or termination.
- 12.5 Within seven (7) days after the date of expiry or termination of the Contract you will, subject to the exception set out in **Condition 12.6**:
- 12.5.1 if requested to do so, return to us all of our Confidential Information (including all copies and extracts) in your possession or control; and
 - 12.5.2 cease to use our Confidential Information.
- 12.6 Each of us may retain any of the other's Confidential Information which we or you has to keep to comply with any applicable law or which we or you are required to retain for insurance, accounting or taxation purposes. The provisions of **Condition 1314** will continue to apply to retained Confidential Information.

13. **BREXIT**

13.1 The occurrence of Brexit will not:

- 13.1.1 have the effect of altering or invalidating any term of the Contract or of discharging or excusing performance under the Contract;
- 13.1.2 permit the Supplier to increase any of the Prices or Charges or to exercise any right or discretion to do the same; or
- 13.1.3 have the effect of terminating the Contract or permit either party to exercise any contractual right of termination or give either party the right to vary or to terminate the Contract.

14. **CONFIDENTIALITY**

14.1 Both you and we will, subject to **Condition 14.2**:

- 14.1.1 only use the other's Confidential Information for the purpose of performing our respective obligations and exercising our respective rights under the Contract;
- 14.1.2 keep the other's Confidential Information secret, safe and secure; and
- 14.1.3 not disclose the other's Confidential Information to any other person.

14.2 Each of you and us may disclose the other's Confidential Information:

- 14.2.1 to the extent required by law, by an order of a court of competent jurisdiction or as required by any securities exchange, listing authority, governmental or regulatory authority; and
- 14.2.2 to those of our officers, directors, employees and professional advisers and, in the case of us alone, also to our agents and sub-contractors, who need access to that Confidential Information so that our respective obligations can be performed and our respective rights can be exercised under the Contract. If either you or we disclose the other's Confidential Information under this **Condition 14.2.2**, either you as the discloser or us where we are the discloser will procure that each person to whom that Confidential Information is disclosed will not do or omit to do anything which if done or omitted to be done by the relevant discloser would be a breach of this **Condition 14**.

14.3 For the purposes of this **Condition 14**, "**Confidential Information**" means the terms of the Contract and any information that relates to either you or us (or any of our respective Group Companies or businesses) and which is disclosed to the other in connection with the Contract and any trade secret disclosed by either you or us where discloser of that the information is the trade secret holder, but excluding information that:

- 14.3.1 is at the relevant time in the public domain (other than by virtue of a breach of this **Condition 14**);
- 14.3.2 was received by the other from a third party who did not acquire it in confidence; or
- 14.3.3 is developed by the other without any breach of the Contract.

14.4 Each of you and us acknowledges and agrees that damages alone would not be an adequate remedy for breach of this **Condition 14** by the other. Accordingly, the other will be entitled, without having to prove special damages, to equitable relief (including injunction and specific performance) and to all remedies of a trade secret holder for any breach or threatened breach of this **Condition 14**.

15. **NOTICE**

- 15.1 Subject to **Condition 15.5**, any notice given under or in connection with the Contract will be:
- 15.1.1 sent to the relevant party's address by pre-paid first class post or mail delivery service providing proof of delivery;
 - 15.1.2 delivered to or left at the relevant party's address (but not, in either case, by one of the methods set out in **Condition 15.1.1**); or
 - 15.1.3 sent by e-mail to that party's e-mail address.

Our address, e-mail address and representative are set out below and your address and e-mail address are those detailed in any quotation, acknowledgement of order or other document received by us from you, and may be changed by the relevant party giving at least ten (10) Business Days' notice in accordance with this **Condition 15**.

BGB Engineering Ltd
357 Dysart Road
Grantham
Lincolnshire
NG31 7NB

purchasing@bgbinnovation.com

For the attention of: Purchasing Manager

- 15.2 Any notice given in accordance with **Condition 15.1** will be deemed to have been served:
- 15.2.1 if given by first class post or mail delivery service, in each case as set out in **Condition 15.1.1**, at 9.00am on the second Business Day after the date of posting;
 - 15.2.2 if given as set out in **Condition 15.1.2**, at the time the notice is delivered to or left at that party's address; and
 - 15.2.3 if given as set out in **Condition 15.1.3**, at the time of sending the e-mail,

provided that if a notice is deemed to be served before 9.00am on a Business Day it will be deemed to be served at 9.00am on that Business Day and if it is deemed to be served on a day which is not a Business Day or after 5.00pm on a Business Day it will be deemed to be served at 9.00am on the immediately following Business Day.

- 15.3 If a notice is given in accordance with **Condition 15.1.3** the title to the e-mail will begin with the words "Service of Notice".
- 15.4 To prove service of a notice it will be sufficient to prove that the provisions of **Condition 15.1** were complied with.
- 15.5 This **Condition 15** will not apply to the service of any proceedings or other documents in a legal action to which the Civil Procedure Rules apply.

16. GENERAL

- 16.1 The Contract constitutes the entire agreement between you and us and supersedes any prior agreement or arrangement in respect of its subject matter and:
- 16.1.1 neither you nor us has entered into the Contract in reliance upon, and neither you nor us will have any remedy in respect of, any misrepresentation, representation or statement (whether made by the other or any other person) which is not expressly set out in the Contract;

- 16.1.2 the only remedies available for any misrepresentation or breach of any representation or statement which was made prior to entry into the Contract and which is expressly set out in the Contract will be for breach of contract; and
- 16.1.3 nothing in this **Condition 16.1** will be interpreted or construed as limiting or excluding the liability of any person for fraud or fraudulent misrepresentation.
- 16.2 A delay in exercising or failure to exercise a right or remedy under or in connection with the Contract will not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor will the single or partial exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and signed by the party giving it and only in the circumstances and for the purpose for which it was given and will not constitute a waiver of any other right, remedy, breach or default.
- 16.3 If any term of the Contract is found by any court or body or authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term will be deemed to be severed from the Contract and this will not affect the remainder of the Contract which will continue in full force and effect.
- 16.4 No variation to the Contract will be effective unless it is in writing and signed by a duly authorised representative on behalf of each of you and us.
- 16.5 Nothing in the Contract and no action taken by either you or us in connection with it or them will create a partnership or joint venture or relationship of employer and employee between you and us or give either of you or us authority to act as the agent of or in the name of or on behalf of the other or to bind the other or to hold itself out as being entitled to do so.
- 16.6 Each of you and us agrees that it is an independent contractor and is entering into the Contract as principal and not as agent for or for the benefit of any other person.
- 16.7 We and you may vary or rescind the Contract without the consent of our customers, officers, employees, agents and sub-contractors.
- 16.8 You and we do not intend that any term of the Contract will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person.
- 16.9 Our rights and remedies set out in these Conditions are in addition to and not exclusive of any rights and remedies provided by law.
- 16.10 You will not be entitled to assign, transfer, charge, hold on trust for any person or deal in any other manner with any of your rights under the Contract or to sub-contract any of your obligations under the Contract.
17. **GOVERNING LAW AND JURISDICTION**
- 17.1 The Contract and any non-contractual obligations arising out of or in connection with it will be governed by the law of England and Wales.
- 17.2 The courts of England and Wales have exclusive jurisdiction to determine any dispute arising out of or in connection with the Contract (including in relation to any non-contractual obligations).
- 17.3 Each party waives any objection to, and agrees to submit to, the jurisdiction of the courts of England and Wales. Each party agrees that a judgment or order of any such court is binding upon it and may be enforced against it in the courts of any other jurisdiction.