

## TERMS & CONDITIONS OF AVIATION FUEL SUPPLY

### 1. Interpretation

1.1 In these Conditions unless the context otherwise requires the following words and expressions have the following meanings:

**Affiliate:** means any company or legal entity which (a) controls, either directly or indirectly a party, or (b) is controlled directly, or indirectly, by such party, or (c) is directly or indirectly controlled by a company or entity which directly or indirectly controls a party. For the purposes of this agreement, "control" means the right to exercise fifty (50) percent or more of the voting rights in the appointment of the directors of such company or legal entity;

**Agreement:** means the contract between the Seller and the Buyer for the sale and purchase of the Fuel in accordance with these Conditions;

**Airport:** means Bournemouth International Airport (BOH);

**Airport Fees:** means the variable airport fees applicable to the Buyer (and the Buyer's Aircraft's) use of the Airport, which are subject to change to reflect current fees at the Airport, as notified by the Seller to the Buyer from time to time;

**Business Day:** means a day other than a Saturday, Sunday or public or bank holiday in England;

**Buyer:** means the person or firm purchasing aviation fuel from the Seller for Delivery into the Buyer's nominated aircrafts at Bournemouth Airport;

**Buyer's Aircraft:** means any aircraft nominated by or on behalf of the Buyer to be supplied with Fuel by the Seller;

**Conditions:** means the terms and conditions set out here;

**Delivery:** has the meaning set out in Condition 6.1;

**Delivery Agent:** means the Seller or any person who delivers Fuel to the Buyer's Aircraft on behalf of the Seller;

**Delivery Note:** means a document, produced in writing or by electronic means in accordance with the Seller's normal practices, stating the date of receipt, product description, and quantity delivered and any additional information that the Parties may agree upon;

**Force Majeure Event:** means any circumstances whatsoever which are not within the reasonable control of the Seller or the Buyer as the case may be including act of God, fire, flood, lightning, compliance with any law or governmental order, rule, regulation or direction, war, revolution, act of terrorism, riot or civil commotion, any strike, lockout or labour dispute to which Seller (or its suppliers) or the Buyer as the case may be is or may be a party (whether or not the settlement thereof shall be at the discretion of the party in question) or the apprehension of any such strike, lockout or labour dispute, any public protest or civil commotion or any government order or restriction or compliance with any order

or request of any national, supra-national, provincial, port or any other public authority or any person purporting to act for such authority or by failure, total or in part, of any of Seller's or Seller's suppliers' existing or contemplated sources of supply of fuel or crude petroleum, the Fuel or any of them, or any other petroleum products or the means of delivery of them howsoever such failure is caused, industrial action by any airline or the imposition of any airport restrictions as a result of major security concerns or crime scene investigations or any volcanic eruption. The Parties acknowledge that an inability to pay any sums due or other economic distress shall not be a Force Majeure Event;

**Fuel:** means aviation jet fuel supplied by or on behalf of the Seller to the Buyer under this Agreement and pursuant to the Order;

**Insolvent:** a party is Insolvent where it:

- (a) gives notice of, proposes or passes a resolution for, its winding up or determines that it will be wound up (save for the purpose of a solvent reconstruction or amalgamation);
- (b) has a winding up petition presented against it;
- (c) has a winding-up order made or a notice of striking off filed in respect of it;
- (d) has an administration order made in respect of it or has a notice of appointment of an administrator filed in respect of it at any court;
- (e) proposes, makes or is subject to:
  - (i) a company voluntary arrangement;
  - (ii) a composition with its creditors generally;
  - (iii) an application to a court of competent jurisdiction for protection from its creditors generally; or
  - (iv) a scheme of arrangement under Part 26 Companies Act 2006 (save for the purpose of a solvent reconstruction or amalgamation);

- (f) has a receiver or a provisional liquidator appointed over any of its assets, undertaking or income;
- (g) ceases to trade;
- (h) is unable to pay its debts as they fall due or the value of its assets are less than its liabilities, including its contingent and prospective liabilities;
- (i) has any distraint, execution or other process levied or enforced on any of its property;
- (j) is the subject of any proceeding in any Member State of the European Union which is capable of recognition under Regulation (EU) 2015/848 on insolvency proceedings;
- (k) is the subject of an application for the recognition of a foreign insolvency proceeding under the CrossBorder Insolvency Regulations 2006 (SI 2006/1030); or
- (l) is the subject of anything analogous to the foregoing under the laws of any applicable jurisdiction.

**Order:** has the meaning set out in Condition 2.2;

**Posted Airfield Price:** means the standard price for Fuel quoted by the Seller or a Delivery Agent at the Airport;

**Prices:** means the prices or price calculation (as the case maybe) applicable to purchase of the Fuel, as set out in Condition 4;

**SAF Surcharge:** means the additional charge made by the Seller for supplying the SAF (sustainable aviation fuel) element of the Fuel as at the date of the supply of the Fuel;

**Seller:** means Bournemouth International Airport Limited, a company incorporated under the laws of England (02078270) with its registered office at Bournemouth Airport, Parley Lane, Christchurch, Dorset, England, BH23 6SE; and

**Specification:** means the specification for the Fuel, as set out in the Order, or as otherwise agreed in writing by the Buyer and Seller.

1.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.

1.3 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.5 A reference to any party shall include that party's personal representatives, successors and permitted assigns.

1.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time

and shall include all subordinate legislation made from time to time under that statute or statutory provision.

## 2. Basis of Agreement

2.1 These Conditions apply to the Agreement and are the only terms and conditions on which the Seller will supply Fuel to the Buyer and will apply to the exclusion of all other terms and conditions including any terms and conditions which the Buyer purports to apply under any purchase order, confirmation of order or similar document (whether or not such document is referred to in the Agreement) and any terms and conditions which may otherwise be implied by trade, custom, practice or course of dealing.

2.2 The Buyer shall place an order with the Seller setting out the (i) quantity and specification of Fuel it wishes it wishes to purchase, and (ii) the scheduled flight times at which this Fuel needs to be delivered ("Order"). The Order shall only be deemed to be accepted when the Seller issues a written acceptance of the Order or delivers the Fuel, at which point the Agreement shall come into existence.

2.3 On the Seller's acceptance of an Order, the Seller agrees to supply and the Buyer agrees to purchase Fuel for the Buyer's Aircraft in the quantity and on the dates specified in the Order in accordance with the Conditions.

## 3. Quality

3.1 The Seller warrants that any Fuel delivered to the Buyer shall meet:

- (a) the Specification; and
- (b) any applicable requirements as set by a regulatory authority with jurisdiction over the Airport.

3.2 Except as specifically provided in Conditions 3.1 above, all other warranties, representations, terms or conditions (including any with respect to the description, merchantability, quality or fitness of purpose), whether express or implied under statute or common law, are expressly excluded to the fullest extent permitted by applicable law.

3.3 The Seller may from time to time make changes to any relevant Specification to comply with any

applicable safety or statutory requirements or to follow any revision of such specification made by the organisation responsible for publishing that specification.

3.4 Subject to the time limits and process referred to in Condition 9, the Buyer must notify the Seller of and may reject any Fuel that does not conform to the Specification on Delivery. Should the process in Condition 8 demonstrate that the Fuel does not comply with the Specification the Seller (at its option) may:

- (a) remedy the defect (if practicable); or
- (b) replace the Fuel; or
- (c) repay the Price of the rejected Fuel (provided that the rejected Fuel is returned to the Seller),

and the Seller shall have no further liability to the Buyer with regards to the rejected Fuel.

#### **4. Payment Terms**

4.1 Subject to the following provisions of this Condition 4, the Price payable for Fuels to be supplied under this Agreement shall be:

- (a) where the parties have agreed separate pricing terms (in writing), in accordance with those pricing terms; or
- (b) where no pricing terms have been agreed in advance, as per the Posted Airfield Price (on the Day of Delivery) for the relevant Specification and quantity of Fuel Delivered (as set out in the Delivery Note),

and in each case, shall, unless otherwise stated, be exclusive of value added taxes, sales tax or any other tax of a similar nature that may be levied in any jurisdiction.

4.2 The Buyer shall pay the Seller the Price in full:

- (c) where the parties have agreed separate credit terms (in writing), within the period agreed in these credit terms; or
- (d) where no credit terms have been agreed in advance, immediately upon the completion of the Delivery (at the point of Delivery).

Time of payment is of the essence and payment shall be made in British Pounds Sterling (GBP).

(e) Unless stated otherwise by the Seller in writing the Price does not include the additional cost of the SAF (sustainable aviation fuel) element of the Fuel. Therefore, the Price charged to the Buyer shall be increased by the SAF Surcharge.

4.3 Any invoices or Delivery Notes (as the case maybe) shall state the Price payable for the Fuel delivered, taxes, duties, applicable Airport Fees and any other charges as separate line items.

4.4 Payments made under any agreed credit terms must be made electronically, in cleared funds, to such bank account as specified by the Seller, in writing at any time and from time to time. Any costs incurred in making such payments are to be met by the Buyer.

4.5 The Seller shall have the right to require the Buyer to provide security acceptable and adequate in the sole opinion of the Seller to cover any level of credit being made available by the Seller to the Buyer. If the Buyer is unable or refuses to give or procure such security in a form and/or in a wording acceptable to the Seller within a Seller specified time or if the Seller in its sole discretion is not satisfied as to the creditworthiness of the Buyer (without being required in any way to reveal its reasons for its dissatisfaction) then the Seller shall have the right to withdraw or vary the then level of credit being made available to the Buyer, and/or vary the then existing payment terms, forthwith and as it sees fit.

4.6 The Price is exclusive of amounts in respect of value added tax ("VAT"). The Buyer shall, on receipt of a valid VAT invoice

from the Seller, pay the Seller such additional amounts in respect of VAT as are chargeable on the supply of Fuel.

4.7 The Buyer shall pay all amounts due under the Agreement in full without any deduction or withholding except as required by law and the Buyer shall not be entitled to assert any credit, set-off or counterclaim against the Seller in order to justify withholding payment of any such amount in whole or part. The Seller may at any time, without limiting any other rights or remedies it may have, set-off any amount owing to it by the Buyer against any amounts payable by the Seller to the Buyer.

#### **5. Insurance**

5.1 During the term of the Agreement, the Seller shall maintain insurance as required by law, as well as general third party liability insurance at coverage and limits deemed adequate by the Seller to cover its liabilities and obligations under this Agreement and applicable law.

#### **6. Delivery**

6.1 The Fuel shall be delivered by Seller into the Buyer's Aircraft ("into plane") at the Airport ("**Delivery**") in accordance with the following conditions:

- (a) Provided that the Buyer's Aircraft arrives at its scheduled flight time, the Seller shall use all reasonable endeavours to complete Delivery promptly and take all reasonable measures not to delay the departure of Buyer's Aircraft;

- (b) If a scheduled Buyer's Aircraft arrives ahead of its scheduled time of arrival, or after its scheduled time of arrival, or is operating as a non-scheduled flight, the Seller shall use reasonable endeavours to complete Delivery, subject to its operating hours for fuelling at the Airport any operational requirements imposed by the Seller's other delivery commitments to
    - (i) aircraft operating scheduled flights at the time of arrival of the Buyer's Aircraft; and
    - (ii) to other aircraft operating irregular, nonscheduled flights that have arrived before the Buyer's Aircraft;
  - (c) Except as otherwise agreed in writing by Seller, the Seller shall not be obliged to make Delivery unless a representative of Buyer (and, where applicable for operation of aircraft switches & valve indicators, a suitably qualified engineer provided by the Buyer) is present. The Seller shall provide one copy of the Delivery Note to the Buyer on Delivery;
  - (d) Title to and risk of loss of the Fuel shall pass to Buyer at the time the Fuel passes the inlet coupling of the receiving aircraft;
  - (e) Seller shall be responsible for measurement of the quantity of Fuel delivered to the Buyer and Seller's measurement shall be accepted as evidence of the quantities of Fuel delivered. Such quantity shall be determined by reference to the quantity set out in the Delivery Note and signed by the Buyer which shall be final and binding except in the case of fraud or manifest error. It is the responsibility of the Buyer to check that the Fuel has been fully discharged from the delivery vehicle by checking the site glasses on the delivery vehicle or the vehicle delivery meter (as the case may be). The Seller does not accept any responsibility whatever for discrepancies in the Buyer's tanks, dip rods or other measuring devices or any discrepancies arising from such items.
  - (f) Upon Buyer's request, Seller may provide the most current specific gravity or density measurement of Fuel from airport storage, or provide Buyer with appropriate devices to measure it at the Buyer's Aircraft. Notwithstanding the foregoing, Buyer shall not hold Seller responsible for any claims and expense related to Seller providing the specific gravity or density measurement or such devices.
  - (g) Buyer shall be entitled to check the accuracy of the instruments used by Seller upon reasonable notice during Seller's normal operating hours in the presence of Seller's representative. In the event of missing consignments or short delivery of Fuel, the Seller will investigate the circumstance, subject to the time limits and process referred to in Condition 9. Seller will not be liable for rectifying short deliveries notified outside the time limits referred to in Condition 9.1.
  - (h) Deliveries shall be made in accordance with all applicable governmental laws and regulations. Furthermore, unless otherwise agreed, Seller shall use or apply its standard quality control and operating procedures (as amended from time to time) or those of its Delivery Agent (if any), provided however that failure to use or apply such procedures shall not be grounds for termination pursuant to Conditions 1.1(d) (d) or (ii) unless such failure is in material breach of this requirement and is one affecting safety, environmental and/or quality control.
- 6.2 The Seller shall not be obliged to deliver Fuel to the Buyer's Aircraft (and shall have no liability for any such non-Delivery) where the Seller is unable to fulfil its obligations due to the Buyer not carrying out its obligations under Condition 6.1 (or any other relevant provision of this Agreement).
- 6.3 Notwithstanding anything to the contrary express or implied in the Agreement, the Seller shall not be obliged to deliver fuel to Buyer's Aircraft (and shall have no liability for any such non-Delivery) if it is reasonably believed by the Seller to be a substantial health, safety or environmental issue or under the control of hijackers, or if any other circumstances of a similar nature (including circumstances of duress) are reasonably believed by Seller to exist. Any fuelling by the Seller of such Buyer's Aircraft shall be carried out on terms and conditions agreed by the Parties at the time of that fuelling.
- 6.4 Where the Seller uses a Delivery Agent, the references to the Seller in Condition 6.1 shall be held as a reference to the Delivery Agent.
- 7. Buyer's Responsibilities**
- 7.1 The Buyer will provide the Seller and/or Delivery Agent with all such information and assistance as the Seller and/or Delivery Agent may require from time to time to perform its obligations under the Agreement.
- 7.2 Buyer shall have sole responsibility for operating all appropriate aircraft fuelling switches, valve, indicators and pre- set quantities gauges.
- 7.3 It is the Buyer's absolute responsibility to be satisfied that its receiving aircraft has sufficient volume in tank after fuelling to complete its next scheduled flight safely.
- 7.4 If the Buyer requests Seller to perform the obligations as described as Buyer's responsibilities in Conditions 6 and 7, or additional obligations other than those applicable as normal Delivery obligations under the Agreement, (including determination of Fuel density, calculation of Fuel weight, operation of aircraft

fuelling switches, valves and pre-set quantities gauges and defuelling procedures (including defuelling aircraft, and refuelling aircraft with the resultant Fuel) ) and Seller agrees (in writing) to perform same (the “**Additional Services Indemnified Event**”), Buyer shall indemnify, defend and save harmless the Seller, and/or any of its Affiliates, the Delivery Agent and /or any of its or their respective servants, agents, employees, sub-contractors, contractors and/or representatives from and against any and all claims, demands, proceedings, damages and liabilities for loss of or damage to property or for death of or injury to any person and against all associated direct costs (including reasonable attorney’s fees) losses and expenses resulting from an Additional Services Indemnified Event notwithstanding and regardless of any negligent act or omission or breach of statutory duty or regulation by the Seller and/or any of its Affiliates and/or any of its or their respective servants, agents, employees, subcontractors, contractors and/or representatives.

## 8. Samples

8.1 Buyer or its representative shall have the right, on reasonable advance notice, to obtain samples of the Fuel intended to be delivered to Buyer. Any such sample will be taken by Seller or Seller’s representative with Buyer having the right to be present. The method and time at which the sample is taken must be agreed between the Parties acting reasonably (or, if the Parties fail to reach agreement, as determined by the Seller acting reasonably).

## 9. Complaints, Claims

9.1 Complaints and/or claims as to short delivery or delays shall be notified to Seller at the time of Delivery, followed by a written claim to be made within five Business Days after the date of the Delivery in question.

9.2 Complaints and/or claims as to defects in quality and/or any other matter (including invoicing discrepancies) shall be notified to Seller as soon as practicable, followed by a written claim to be made within seven (7) days from the date of the Delivery in question.

9.3 The Buyer must:

- (a) use its reasonable endeavours to minimise loss or damage arising from any alleged quality defect;
- (b) give the Seller reasonable opportunity to take samples, inspect and test the Fuel in respect of which the claim is based; and
- (c) be able to demonstrate that the alleged defect arose as a result of Seller's negligence or breach of the Agreement.

9.4 If a written claim is not made within seven (7) days from the date of the Delivery, it represents a waiver of the respective right to claim and the Buyer shall not have a right to make

such a claim and the Seller shall have no liability to the Buyer in respect of such claim.

9.5 In no event is a waiver of the right to claim made or implied by a signature or any statement on a Delivery Note, irrespective of whether or not such Delivery Note contains conditions implying such waiver.

## 10. Codeshare Arrangements

10.1 Where flight operations involving more than one airline company exist, there is an obligation (responsibility) on the Buyer to inform and agree with the Seller on refuelling arrangements. The Seller is authorised by the Buyer to assume that an Aircraft which carries a light prefix of the Buyer is operated by or on behalf of the Buyer and that any Fuel delivered to such Aircraft is for the Buyer's account.

## 11. Duties, Taxes and Charges

11.1 Buyer shall pay any taxes, fees (including Airport Fees) or other charges, imposed by any national, local or airport authority on the delivery, sale, inspection, storage and use of Fuel, except for taxes on Seller’s income and taxes on raw material. To the extent allowed, Seller shall show these taxes, fees and other charges as separate items on the invoice for the account of Buyer.

11.2 Seller shall keep Buyer informed at all times about the taxes, duties, fees and charges existing or to be charged to Buyer (“**Mandatory Charges**”). Should Seller, in good faith, provide inaccurate or incomplete information on the Mandatory Charges to Buyer, Buyer shall not be relieved of the obligation to pay such amounts.

11.3 The Buyer (or at Buyer’s request, the Seller, as an applicable nominal party) may take all actions necessary to contest the validity, amount and/or applicability of the Mandatory Charges and may institute actions to recover past or anticipated payments thereof, provided, as to withholding of any tax.

11.4 At Buyer’s request, the Seller (as an applicable nominal party) may take the actions set out in Condition 11.3 provided that the Buyer gives Seller an indemnity which meets the Seller's reasonable requirements. Unless other arrangements are made, all actions taken in this respect (under Conditions 11.3 or 11.4) shall be at Buyer's sole expense

11.5 If Buyer is entitled to purchase any Fuel sold pursuant to the Agreement free of any taxes, duties or charges, the Buyer shall deliver to Seller a valid exemption certificate for such purchase.

## **12. Health and Safety and Legal Compliance**

12.1 Buyer shall ensure that all relevant Affiliates, employees, agents, contractors and users comply with:

- (a) all relevant health, safety and environmental laws, regulations and government recommendations applicable to the recipe, storage and usage of the Fuel (whether or not notified by the Seller),
- (b) all applicable rules and regulations at the Airport;
- (c) any other agreement between the Buyer and the Seller or its Affiliates; and
- (d) any reasonable request from the Seller and Delivery Agent in respect of all safety measures.

12.2 Subject to Condition 14.1, the Seller shall not be responsible for any loss, damage or injury resulting from any hazards which are inherent in the nature of the Fuel it delivers. The Buyer shall ensure that passengers are kept at a safe distance and no maintenance work or operation of equipment which may create a source of ignition is carried out in the vicinity of any delivery or removal of Fuel.

12.3 If Buyer fails to comply or co-operate with the provisions of this Condition 12, the Seller may in its absolute discretion cease or suspend delivery or removal and any exercise or forbearance in exercising such discretion shall be without prejudice to any other rights of the Seller.

12.4 The Buyer shall indemnify and keep indemnified, defend and hold harmless the Seller and its Delivery Agents against all liabilities, claims, damages, losses and/or proceedings directly or indirectly arising out of or in any way connected with the failure by Buyer to comply with all or any of Buyer's obligations under this Condition 12.

## **13. Force Majeure**

13.1 Neither Seller nor the Buyer shall be responsible for any failure to fulfil any term or condition of this Agreement if fulfilment has been delayed, hindered or prevented by a Force Majeure Event.

13.2 If either party seeks to rely on a Force Majeure Event, that party shall as soon as possible advise the other party of the particulars thereof.

13.3 The party not claiming to be affected by the Force Majeure Event in question is entitled to suspend its own performance of this Agreement while the Force Majeure Event in question continues without liability to the other party. Notwithstanding the foregoing, neither party shall be relieved of any accrued obligation to make payment under the Agreement.

13.4 The party delayed or prevented by Force Majeure Event shall use all reasonable endeavours to remove such reasons or mitigate the effects thereof, and upon removal and remedying of such reason said party shall promptly resume the performance of its obligations, provided, however, that a party in removing such reasons or mitigating such efforts shall not be required to settle strikes or lockouts or government claims by acceding to any demands when, in the discretion of that party, it would be inappropriate to do so.

13.5 In the event deliveries are delayed, hindered or prevented due to Force Majeure on Seller's part, Buyer shall be free to purchase replacement aviation fuel from third parties, however the Seller shall not be responsible for any additional cost thereby incurred by the Buyer.

13.6 If there is such shortage of Fuel that Seller is unable to meet its own requirements and those of its Affiliate(s) for sales to customers at the Airport due to Force Majeure on Seller's part (or that of its suppliers), Seller shall, in consultation with said customers, be entitled to make a fair allocation of Fuel among these customers.

13.7 Should a Force Majeure Event continue or be expected to continue for a period extending after the agreed date of delivery, either party is entitled to cancel the affected part of the Agreement without any liability to the other party.

## **14. Liability**

14.1 Nothing in this Agreement shall exclude or limit the liability of either party for:

- (a) death or personal injury arising from its negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) any liability to the extent the same may not be excluded or limited as a matter of applicable law.

14.2 Subject to Condition 14.1, neither party shall be liable to the other party under or in connection with this Agreement for the other party's:

- (a) loss of actual or anticipated profit;
- (b) losses caused by business interruption;
- (c) loss of goodwill or reputation; and (d) any indirect, special or consequential losses

arising under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise.

14.3 Subject to Conditions 14.1 and 14.2, the total liability of the Seller to the Buyer in respect of all losses arising under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise shall not exceed in aggregate the Price paid or payable for the Fuel supplied under the Agreement.

## **15. Termination**

15.1 The Seller may terminate the Agreement immediately by written notice to the Buyer:

- (a) on the termination of any of the underlying supply agreement (between the Seller and a supplier) in relation to the Fuel;
- (b) if the Buyer fails to make any payment by its due date;
- (c) in the event the Buyer ceases its operation at the Airport for any reason;
- (d) if the Buyer has committed a material breach of the Agreement which is:
  - (i) incapable of remedy;
  - (ii) capable of remedy and the Buyer fails to remedy its breach of the Agreement within ten (10) days of receiving written notice of the default from the Seller; and
- (e) in the event the Buyer becomes Insolvent.

15.2 Upon termination or expiry of this Agreement the rights and obligations of the Parties under this Agreement shall terminate and be of no further effect with the exception of (i) any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement; and (ii) any other rights or obligations which have accrued at termination or expiry.

15.3 On termination of this Agreement, Seller shall submit invoices for any Fuel that it has supplied but for which no invoice has previously been submitted and any outstanding invoices shall become immediately due and payable.

## **16. Assignment and Subcontracting**

16.1 The Buyer shall not assign its rights and/or obligations under the Agreement in whole or in part without prior written consent of the Seller. The Seller may however assign its rights and/or obligations without the prior written consent of Buyer.

16.2 Seller may, without the prior consent of Buyer, subcontract the performance of its obligations under the Agreement in whole or in part to a third party.

## **17. Waiver**

17.1 A failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy.

17.2 A waiver of any right or remedy under the Agreement is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

17.3 No single or partial exercise of any right or remedy provided under the Agreement or by law shall preclude or restrict the further exercise of that or any other right or remedy.

17.4 The provisions of this Condition 17 are without prejudice to the provisions of Condition 9.

## **18. Confidentiality**

18.1 Neither party shall, during the term of this Agreement or after its expiry, use or disclose, other than to carry out its obligations under the Agreement:

- (a) the information contained in the Agreement (and any associated documents i.e. Delivery Notes); (b) any information disclosed by the other party (the "**Confidential Information**").

18.2 A party may disclose Confidential Information to a Person outside its own organisation to the extent necessary to perform the Agreement or upon the prior written consent of the other party (which shall not unreasonably be withheld). However, each party is allowed to disclose information to any governmental or supranational authority to the extent disclosure is legally compulsory.

## **19. Notices**

19.1 Any notice or other communication required to be given to a party under or in connection with the Agreement must be in writing, in English, and must be (i) delivered by hand, or (ii) sent by recorded delivery or (iii) sent by fax, to the registered address for each relevant recipient or at such other address as the relevant party may give notice to the other party for the purpose of service of notices under this Agreement.

19.2 Any notice or communication shall be deemed to have been received at (i) time of delivery or receipt (if between 9.00am and 5.00pm on a Business Day) or (ii) 9.00am on the next Business Day (if received outside of 9.00am and 5.00pm on a Business Day).

## **20. Entire Agreement**

20.1 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter.

20.2 Each party acknowledges that in entering into the Agreement it does not rely on, and shall have no remedies in respect of, any misrepresentation, representation, statement or warranty (whether made innocently or negligently) that is not expressly set out in the Agreement.

20.3 The only remedies available for any misrepresentation or breach of any representation or statement which was made prior to entry into the Agreement and which is expressly set out in the Agreement will be for breach of contract.

20.4 Nothing in this Condition 20 shall limit or exclude any liability for fraud or fraudulent misrepresentation.

## **21. Severability**

21.1 If any court or competent authority finds that any provision of the Agreement (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 the Agreement shall not be affected which will continue in full force and effect.

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

## **22. Variation**

22.1 No variation of the Agreement shall be effective unless it is in writing and signed by a duly authorised representative of each party.

## **23. Third Party Rights**

23.1 A Person which is not a party to the Agreement shall not have any rights (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise) to enforce any provision of the Agreement.

## **24. Governing Law and Jurisdiction**

24.1 The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.

24.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement

or its subject matter or formation (including noncontractual disputes or claims).

## **25. Modern Slavery**

25.1 BIAL is committed act at all times in compliance with all applicable laws (including but not limited to the Modern Slavery Act 2015) in relation to helping in the fight against modern slavery and expects the Customer also to comply with such applicable laws. The Customer undertakes, warrants and represents that it shall comply with all applicable modern slavery laws, including but not limited to the Modern Slavery Act 2015. If required to do so, in accordance with applicable laws and/or if reasonably requested to do by BIAL, the Customer shall publish its own anti-slavery statement incorporating a declaration in relation to the Customer's modern slavery commitments. In the event that there is any material change in applicable anti-slavery laws (including the Modern Slavery Act 2015) and continuation of performance of BIAL's obligations under this Agreement would adversely affect its ability to comply with such laws, BIAL shall be entitled to, at its option and effective immediately upon delivery of written notice to the Customer, either terminate this agreement or vary the terms of the agreement to the extent necessary to ensure compliance with applicable laws.