

Aero Tec Laboratories Ltd

Supplier Terms and Conditions

About Aero Tec Laboratories Ltd

Aero Tec Laboratories Ltd (ATL) was founded in 1970 as a design and testing facility for 'flexible composite' materials. Shortly thereafter, the firm broadened its scope to include the actual fabrication of end products from its own outstanding fibre/elastomer composites. This led to the development of ATL's remarkable bladder-type cells, which deform under high-energy impacts.

ATL began with offices in New Jersey and now has facilities in Ramsey (New Jersey, USA), Bend (Oregon, USA), and Milton Keynes, (United Kingdom). With over 200 employees and over 300sq. feet of manufacturing facilities, ATL is the world leader in flexible composite technologies specialising in liquid and gas containment.

From ambitious beginnings in the engineered inflatables and crashworthy fuel cell bladders, ATL has further spread its technologies into compensators, accumulators, potable water vessels, self-healing ballistic tanks, bulk storage bladders and scores of similar endeavours. The common thread among ATL's products is the remarkable toughness and durability coupled with extreme light-weight, high flexibility and compactness.

With ATL's ongoing development into high performance fabrics and complete fuel system products ATL remains the World's leader in Fuel Cell Design and Technology, and is a supplier to every Formula 1 Team as well as boasting an enviable customer list in Marine, Industrial, Military and Subsea Markets.

ATL Terms and Conditions

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1. Definitions and Interpretations

1.1. In these terms and conditions:

"ATL Website" refers to www.atlltd.com which is the UK based website.

"ATL" refers to Aero Tec Laboratories Ltd. A UK company – registration number 3490552 trading from ATL Technology Centre, Denbigh Road, Bletchley, Milton Keynes, MK1 1DF, UK.

"Conditions" refers to the Terms and Conditions laid out in this Document.

"Contract" refers to the Order by ATL and the Supplier's acceptance of the Order.

"Delivery Note" refers to the supporting documentation to allow the import and export of all goods and services. This includes, but is not limited to, certificates of conformity, country of origin codes, mid codes, health and safety data/sheets and any other information necessary to support declarations to and compliance with International Customs regulations.

"Estimates" are quantities and dates that ATL may provide to Suppliers to give an estimation for the Order. They are not formal figures and cannot be binding.

"Expedite Report" refers to the weekly report that ATL sends out to Suppliers which allows Suppliers to inform ATL of any delays, outstanding work and any other information regarding open Purchase Orders.

"Formal Acceptance" refers to the formation of Contract as defined in Clause 3.

"Order" means the order placed by ATL for the Goods and/or Services incorporating these Conditions.

"Production" refers to any work done by ATL, including but not limited to agreements made based on the Contract and work started by ATL based on the Contract.

"Quotation" refers to the official price, quantity and date quotation that has been provided to ATL by the Supplier based upon the goods/services requested by ATL.

"Supplier" refers to the person, firm or company producing and providing the Goods and/or Services to ATL.

"Writing" includes and is limited to hand writing, e-mails, faxes and letters (only via postal service).

1.2. Any references in these Conditions to any provision of a statute, legislation or code shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3. Clause headings do not affect the interpretation of these Conditions.

1.4. The words "include", "including" and "in particular" shall be construed as being by way of illustration or emphasis only and shall not be construed as nor take effect as, limiting the generality of any preceding words.

2. What is Covered

2.1. These Conditions apply to the purchase by ATL of production goods and services from the Supplier, including (a) production and service parts, components, assemblies and accessories, (b) raw materials, (c) tooling; and (d) design, engineering or other services.

2.2. ATL has the right to alter the content of these Conditions and any policies that are referred to within these Conditions upon Written Notice, in accordance with Clause 26, to the Supplier.

3. When the Contract is Formed

3.1. The Contract, to which these Conditions apply, can only be formed upon confirmation of the Purchase Order unless Clause 3.6 applies.

3.2. The Purchase Order can be confirmed by:

(a) The Supplier receiving the Purchase Order from ATL; or,

(b) The Supplier confirming the order via written communication; or,

(c) ATL paying a deposit for the order, with the deposit amount having been received by the Supplier or ATL providing proof of transfer.

3.3. Formation of Contract will be deemed as acceptance of these Conditions.

3.4. Unless an alteration to these Conditions has been agreed by ATL in an earlier communication, these are the only ways that a Contract can be formed. Any altered Conditions will apply in the same manner provided the alteration is agreed by ATL.

3.5. After the formal acceptance of ATL's Terms and Conditions ATL will supply, on request, the full Conditions document. If the Conditions are not requested then it will be the Supplier's responsibility to view the Conditions

document on the ATL website and ATL cannot be held liable for any disregard of the Conditions.

3.6. The exception to the above is when the point of purchase is circuit based. The following clauses apply:

3.6.1. Formation of contract will occur when there is acceptance of the offer made by the Supplier. The offer can be accepted in the following ways:

(a) Verbal acceptance

(b) Physical acceptance, where ATL has taken or used the product and/or service that the Supplier has provided at the circuit.

4. Term

4.1. The term of the agreement, of which these Conditions will be applicable against, will be from the time and date that the contract is formed, to the time that either ATL or the Supplier has provided a Written Notice of Termination (refer to Clause 18 for Termination).

5. Volume Projections

5.1. ATL has the right to provide the Supplier with estimates, forecasts or projections of volume or quantity requirements for the Good and/or Services the Supplier is providing ("**Volume Projections**").

5.2. The Volume Projections must be provided for informational purposes only and the Supplier cannot bind ATL by any Volume Projections nor can ATL bind the Supplier by any Volume Projections.

5.3. The Supplier's acceptance of the Volume Projections cannot be taken as the Supplier accepting commitment to these Volume Projections, it is merely acceptance that the Supplier understands the estimations and will take these estimations into consideration for any provisional quotes, schedules and forecasts.

6. Schedule

6.1. The Schedule is the agreed timeline that the Supplier will meet to be able to achieve the requests made by ATL.

6.2. The Supplier should not work to any other Schedule unless agreed in writing by ATL.

6.3. The Supplier should ensure that they fill out the Expedite Report weekly.

7. Alterations

7.1. Any alterations to these Conditions must be given in Written Notice, in accordance with Clause 28, and formally accepted by ATL in express terms.

7.2. If the Supplier requests alterations to these Conditions, the alterations will only be enforceable for future situations subsequent to ATL's acceptance of the alterations. The altered Conditions will not be applicable to situations prior to ATL's acceptance.

8. Delays in Production

8.1. ATL cannot hold the Supplier accountable for any delays that occur, and any consequences that may arise from the delay, which did not directly originate from the Supplier's actions.

8.2. ATL has a very high schedule demand, so if the Supplier has a small delay at any stage, they must give Written Notice to ATL informing them of the delays and their corrective action to ensure that they still meet the Schedule to the best of their ability.

8.3. ATL has the right to override the agreed Schedule and issue the Supplier with a new Schedule should any delay occur though the fault of the Supplier.

8.4. Neither ATL nor the Supplier will be liable for any delay or failure to perform directly due to a Force Majeure Event (defined in Clause 24.1).

9. Order Changes

9.1. ATL has the right to alter the ordered product, quantity or date however the following Clauses will apply.

9.2. If Production of the order has already started then one of the following Clauses will apply:

9.2.1. If the work started needs to be delayed by a period of time, then provided that the work can be put on hold

and restarted at the later date without needing to scrap or alter any work done, then no additional charge will be incurred and the Supplier must show that they are doing what is to be reasonably expected to meet the new Order requirements.

- 9.2.2. If the work started needs to be delayed by a period of time but it means that the work completed has to be scrapped or altered before it can be restarted then the Supplier has the right to charge ATL for the cost of the scrapped or altered work, in addition to the cost for the remaining Order.
- 9.3. If Production of the order has not already started then one of the following will apply:
 - 9.3.1. If the changes will alter the Schedule (defined in Clause 6) then the Supplier must do what is reasonably to be expected to ensure that they will achieve the delivery date that was agreed with ATL. However, if the changes alter the work too much then the Supplier must inform ATL so that ATL can agree a new Schedule with the Supplier.
 - 9.3.2. If the changes do not make any alterations to the Schedule then the agreed delivery date will remain and the Supplier will still be bound to the original Schedule.

10. Order Cancellations

- 10.1. The Supplier must understand that demands may change after the Contract is made and so the following cancellation clauses apply;
 - 10.1.1. If production has not started then ATL has the right to cancel the order FOC as long as it is given by Written Notice five (5) working days before Production begins and provided Clause 10.2 does not apply but also that one of the following situations applies:
 - (a) ATL no longer has any demand for the goods/services to be provided by the Supplier.
 - (b) ATL no longer has the funds to finance the Project to the end.
 - 10.1.2. If production has started then ATL has the right to cancel the order but the Supplier may charge a cancellation fee on top of the payment for the work already completed.
- 10.2. If the Supplier wants to cancel the Order then Clause 10.3 must be adhered to as well as one of the following Clauses must apply:
 - 10.2.1. The Supplier no longer produces the material and/or product that ATL has ordered; and/or;
 - 10.2.2. The Supplier no longer wishes to do business with ATL.
- 10.3. If the Supplier cancels the Order then the Supplier must have found an alternative supplier that can meet ATL's Order without any changes to the delivery date, price or quantity. If the Supplier cannot find an alternative then the Supplier will be liable for any losses that ATL incurs, including but not limited to expenses and loss of income.
- 10.4. ATL will not accept Order Cancellations if the reason for cancellation is that the Supplier has found an alternative customer that they wish to supply to. If this is found to be the case then the Supplier will be liable for the full Order that was originally agreed between ATL and the Supplier.

11. Payment Terms

- 11.1. If ATL does not have an account with the supplier, then ATL will pay in full within thirty (30) days of receiving the invoice for the Order.
- 11.2. If ATL has an account with the Supplier then ATL will adhere to the terms of the account.

12. Quality Assurance

- 12.1. The Supplier will ensure that every product manufactured and sold to ATL has passed the Supplier Quality Checks. ATL has the right to reject any products that are of a sub-standard quality.

13. Shipping, Packaging and Delivery

- 13.1. Title and risk of loss or damage will pass at the time and place of delivery in accordance with (a) the delivery term on the Purchase Order for the Goods (and if none is so stated then FCA Free Carrier (named place) shall apply).
- 13.2. If requested by the Supplier, ATL will provide a Delivery Note.
- 13.3. The Supplier should not be delivery goods ahead of the agreed delivery date. If there is a need to do this then the Supplier communicate this to ATL and have their agreement before shipping.

14. Delivery of Non-Conforming Goods

- 14.1. The Supplier should do its utmost to ensure that products being delivery to ATL will be defect free and meet all the requirements requested by ATL.
- 14.2. If ATL does receive defective Goods, ATL should notify the Supplier of any Goods that do not conform to all of the requirements agreed (the "**Non-conforming Goods**") as soon as reasonably possible after ATL has discovered it.
- 14.3. ATL will give the Supplier the option to rework, replace or otherwise remedy a non-conformity in the Goods as long as:
 - (a) The Supplier can perform the remedial work at ATL's location without disruption to ATL's operations;
 - (b) The remedial work will not cause any delay in ATL's operations, including its production process, or cause ATL to incur any additional costs; and
 - (c) The cure can be completed by a reasonable deadline established by ATL.
- 14.4. If ATL determines in good faith, after consulting with the Supplier, that the remedial work cannot be done within the limits of Clause 14.3, ATL is entitled to do one of the following:
 - (a) Reject the Non-conforming Goods and, at ATL's discretion, request redelivery of conforming Goods which the Supplier will supply as soon as reasonably possible. If the Non-conforming Goods are rejected in accordance with this Clause 14.4, ATL has the option to either return them to the Supplier or to scrap the Non-conforming Goods, both will be at the cost of the Supplier. ATL may scrap the Non-conforming Goods if they are not collected within ten (10) working days of ATL informing the Supplier which option has been chosen; or,
 - (b) if the Non-conforming Goods have been fitted onto the cell it was intended to be fitted into by the time notice has been given to the Supplier in accordance with Clause 14.2, ATL shall at its own discretion, carry out or engage others to carry out remedial works on the Non-conforming Goods. The Supplier shall reimburse ATL for all reasonable costs, losses, expenses or damages incurred by ATL in carrying out the remedial works or engaging others to carry out the remedial works.
- 14.5. Without prejudice to ATL's rights under Clause 14.4 (a) and (b), the Supplier may request that ATL holds and makes available to the Supplier, at Supplier's expense, any Non-conforming Goods for up to five (5) working days. After this period, ATL may, at its option, scrap the Non-conforming Goods at the cost of the Supplier.
- 14.6. The Supplier is liable for all direct, indirect and consequential damages, losses, costs, and expenses incurred by ATL resulting from the failure of the Supplier to deliver conforming Goods punctually or to comply with the shipping and delivery or other requirements of ATL, even if the Supplier has cured the failure under Clause 14.03. These include costs associated with the holding of Cells or the Goods, interruptions or delays in production, reduced Production speeds. The Supplier shall notify ATL of such costs, and whether:
 - (a) The Supplier is required to reimburse such sums to ATL; or
 - (b) ATL will set off such sums from amounts due to the Supplier.
- 14.7. The Supplier is not liable for damage to the Goods after delivery due to actions directly taken by ATL or third parties. Neither collection nor payment by or on behalf of ATL will constitute acceptance of Non-conforming Goods, nor will it limit or affect any of ATL's rights.

15. Confidentiality

- 15.1. The Mutual Confidentiality Agreement (**MCA**) is the document that both ATL and the Supplier, at ATL's option, will sign to at the start of any communication to ensure confidentiality at all time.
- 15.2. Any deviation from the conditions set out in the MCA will provide ATL with the right to terminate, in full or in part, any contract that the breached confidentiality agreement applies to, at any time after notice of the breach has been served in writing to the Supplier.
- 15.3. In these Conditions, "**Confidential Information**" means any and all information in whatever form, whether disclosed in writing, orally, visually, electronically or in any other media format, including without limitation, Volume Projections, future product plans, the form, materials and design of any relevant plant and equipment or any part thereof, methods of operation and applications, processes, formulae, plans strategies, data, know-how, designs, trade secrets, patent applications, software, market opportunities, photographs, drawings, specifications, technical literature and any other material gained or made available by either Party (or any of its representatives or advisors) to the other (or any of its representatives) as a result of the relationship of the Parties under the Purchase Order.
- 15.4. The Parties acknowledge that as part of their relationship they may from time to time share confidential information that is outside the scope of a specific Purchase Order. In order to facilitate the successful collaboration of the Parties, both Parties acknowledge that such information shall be deemed to fall within the scope of "Confidential Information".
- 15.5. ATL expects certain obligations and standards of care when dealing with Confidential Information. The following

clauses must be adhered to:

- (a) The Supplier shall keep and intend to be kept secret and confidential all Confidential Information provided by ATL by using at least the same degree of care as the would use to protect its own Confidential Information, but in any event no less than a reasonable degree of care, to prevent the unauthorised use, disclosure, dissemination or publication of ATL's Confidential Information.
 - (b) Neither ATL or the Supplier shall use nor disclose Confidential Information, save for the purposes of the Approved Performance or with the prior written consent of the other Party.
- 15.6. The obligations under Clause 16.5 do not apply to the receiving Party with respect to Confidential Information that the receiving Party can show by evidence was:
- (a) in, or has become part of, the public domain other than as a result of a breach of the confidentiality obligations under these Conditions;
 - (b) disclosed with the prior written approval of the disclosing party by Written Notice;
 - (c) rightfully obtained from a third party entitled to disclose the same;
 - (d) in its possession or already known by it prior to entering into the Purchase Order;
 - (e) independently developed by it; or,
 - (f) required to be disclosed under any applicable law, or by order of a court or governmental body or authority of competent jurisdiction – this exception shall only apply if the receiving party has, to the fullest extent permitted by law, provided the disclosing party with a Written Notice of the court order, and has fully cooperated with the disclosing party in seeking confidential treatment for the disclosures.
- 15.7. The Supplier and ATL may share Confidential information of the other Party with their:
- (a) Group Companies; and
 - (b) consultants, contractors, experts and agents;
- Provided, that the person or entity with whom or which the information is being shared has agreed in writing to be bound by confidentiality provisions comparable to those specified in this Clause 16.
- Both Parties must first obtain the written consent of the other Party if they or any of their Group Companies want to share the Confidential Information with any party (including any of its Group Companies) that is a motor vehicle manufacturer or distributor. Both Parties shall procure that its employees and contractors shall comply with this Clause 16.
- 15.8. Subject to Clauses 16.2 and 16.4, neither the Supplier nor ATL will share any Confidential Information of the other Party with any third party, including any competitor of the other Party, without the prior written agreement of the other Party, except as may otherwise be permitted under the Purchase Order, these Conditions or in writing between the Parties.
- 15.9. The Supplier, ATL and their Group Companies have no other obligation for Confidential Information supplied to them from whatever source, unless otherwise agreed to in writing.

16. Indemnification Obligations of the Supplier

- 16.1. For the purposes of this Clause 16, an "Indemnified Person" includes the Buyer, its Group Companies and their directors, officers, and employees. "Litigation Costs" includes all costs, damages, losses, claims and expenses (including actual fees for legal representatives, experts and consultants, settlement costs and judgments) incurred in defending against a claim.
- 16.2. The Supplier shall keep ATL indemnified in full against all direct, indirect or consequential liabilities, loss, damages, injury, costs and expenses awarded or incurred ("Loss") against ATL as a result of or in connection with:
- 16.2.1. Defective workmanship, quality or materials;
 - 16.2.2. Any breach by the Supplier of any infringement or alleged infringement of any intellectual property rights caused by the use, manufacture or supply of the Goods and the performance of the Services;
 - 16.2.3. Any claim made against ATL in respect of Loss sustained by any of ATL's employees, officers, against, consultants, contractors, sub-contractors, staff and/or other representatives to the extent that such Loss was caused by, relates to, arises from or was contributed to the Supplier's provision of the Goods and/or Services or as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of the Contract by the Supplier; and,
 - 16.2.4. Any recall of the Goods or any products incorporating or sold together with the Goods, which is directly or indirectly due to a defect in the Goods; and
 - 16.2.5. Any breach by the Supplier of these Conditions.
- 16.3. The Supplier will indemnify and hold an Indemnified Person harmless against all Litigation Costs occasioned by,

resulting from, or arising out of any claim by a third party for death, personal injury, or property damage which results from:

- (a) any defect or alleged defect in the Goods supplied by the Supplier;
 - (b) any noncompliance or alleged noncompliance by the Supplier with any of its representations, warranties or obligations under a Purchase Order; or
 - (c) any negligence or fault or alleged negligence or fault of the Supplier in connection with the design or manufacture of the Goods.
- 16.4. Upon the filing of any third-party claim against an Indemnified Person that is subject to Clauses 17.2 and 17.3, ATL and the Supplier will, in good faith, attempt to reach agreement concerning whether, notwithstanding the provisions of Clauses 16.2 and 16.3, it is appropriate under the circumstances of the particular case to apportion Litigation Costs between ATL and the Supplier.
- 16.5. In determining whether and to what extent Litigation Costs should be apportioned between ATL and the Supplier under Clauses 16.4, all relevant factors should be considered, including the relative strength of the claim, whether the claimant alleges solely that the Indemnified Person is vicariously liable for the Supplier's fault (or a defect in the Goods for which the Supplier is primarily responsible), and whether any independent fault alleged on the part of an Indemnified Person consists of a mere failure to discover or guard against the Supplier's negligence or an alleged defect in the Goods. Absent an agreement on apportioning Litigation Costs, the terms of Clauses 16.2 and 16.3 will apply.
- 16.6. If the Supplier performs any work on an Indemnified Person's premises or utilises the property of an Indemnified Person, whether on or off the Indemnified Person's premises, the Supplier will indemnify and hold the Indemnified Persons harmless from and against any liability, claims, demands or expenses (including actual fees of legal representatives and other professionals) for damages to the property of or injuries (including death) to Indemnified Persons, their employees or any other person arising from or in connection with the Supplier's performance of work or use of the Indemnified Person's property, except for such liability, claim, or demand arising out of the sole negligence of an Indemnified Person.

17. Termination

- 17.1. ATL may terminate a Purchase Order, in whole or in part, upon Written Notice to the Supplier if the Supplier fails to comply with any of the requirements in these Conditions, the "**Non-Compliance**". If the Non-Compliance relates to an obligation of the Supplier that is, in the opinion of the Supplier, capable of cure, ATL may only terminate the contract under this Clause 18.1 if the Supplier has failed to either:
- (a) Timely cure the noncompliance; or
 - (b) Provide ATL with adequate assurances of performance acceptable to ATL.
- 17.2. ATL shall be entitled to terminate the Contract immediately by written notice to the Supplier, without prejudice to any other rights or remedies of ATL, if any of the following apply:
- (a) The Supplier is in material breach of these Conditions; and/or,
 - (b) The Supplier is dissolved or struck off the register of companies maintained by the Companies Registration Office or a winding up order is made against the Supplier or a meeting is convened, resolution passed or any step taken by the Supplier with a view to the winding-up of the Supplier except for the purpose of a solvent reconstruction, reorganization, merger or consolidation; and/or,
 - (c) A receiver (including fixed charge or court appointed), administrative receiver, manager, insolvency practitioner or similar officer shall be appointed over the whole or a substantial part of the undertaking, property or assets of the Supplier; and/or,
 - (d) The Supplier is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; and/or,
 - (e) The Supplier enters into (or proposes to enter into) a composition, scheme of arrangement or voluntary arrangement with any of its creditors or otherwise or a moratorium is agreed imposed or declared in respect of or affecting all or a material part of (or of a particular type of) the debts of the Supplier; and/or,
 - (f) Notice of intention to appoint an administrator is given by any person (including the Supplier's directors, the Supplier or any qualifying floating charge holder as defined in the Insolvency Act 1986) or any step is taken by any person with a view to placing the Supplier into administration as defined by the Insolvency Act 1986; and/or,
 - (g) The Supplier (being an individual or firm) becomes bankrupt; and/or,
 - (h) Control of the Supplier is transferred to any person or persons other than the person or persons in Control of the Supplier at the date hereof; and/or,
 - (i) Any event or circumstance occurs which under the law of any relevant jurisdiction has an analogous or equivalent effect to any of the events listed in the above sub-conditions in relation to the Supplier; and/or,

- (j) The Supplier ceases or threatens to cease to carry on business; and/or,
- (k) ATL reasonably believes that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly; and/or,
- (l) Termination or expiry of the Contract for any reason, whether under this Clause 18 or not, shall be without prejudice to the accrued rights and liabilities of ATL on the date of such termination or expiry.

18. Supplier's Obligations upon Expiration or Termination

- 18.1. Upon the expiration (i.e. when the Supplier ceases to supply Goods under the Purchase Order) or termination of the Purchase Order, both Parties will:
- (a) Take all actions necessary to protect any of the other Party's property (including Intellectual Property rights and confidential information) that they, or their suppliers or subcontractors, have in their possession;
 - (b) Cooperate with the other Party to help avoid production disruptions while the production of the Goods is being transferred to either another Supplier or another Customer;
 - (c) Transfer title and possession of the Goods, Supplier-Owned Tooling, work-in-progress and raw materials if the Supplier has agreed to acquire from ATL and return Tooling and other property of ATL to ATL or a third party nominated by ATL; and,
 - (d) Cease all work under the Purchase Order.

19. Subcontracting

- 19.1. The Supplier has the right to subcontract parts needed for Production where it deems necessary, to either meet ATL's demand or for economic benefit, and the Supplier will inform ATL of any subcontracts that may occur and the reason that it will occur.
- 19.2. If ATL has a satisfactory reason not to agree to the subcontracts, including but not limited to increases in price and lower standard of quality, and the Supplier cannot provide a suitable alternative, then ATL has the right to terminate the contract.

20. Insurance

- 20.1. ATL can supply evidence of the appropriate Insurance Policies upon request by the Supplier.

21. Protection of Purchase

- 21.1. The Supplier will provide ATL with Written Notice:
- (a) at least thirty (30) days in advance of the expiration of any labour contract; or,
 - (b) concerning any potential labour dispute involving the Supplier that could affect ATL's operations or the supply of the Goods under the Purchase Order.
- 21.2. Upon ATL's request, the Supplier will provide ATL with its plan to avoid adversely affecting ATL's operations or to ensure that ATL's requirements for the Goods will be met without disruption for at least a thirty (30) day period after the expiration of the labour contract or the commencement of a labour dispute affecting the Supplier. The Supplier will keep ATL informed of any changes to the plan, its implementation and the Supplier's efforts to resolve the labour dispute. ATL shall treat information provided by ATL under this Clause 21 as confidential in accordance with its obligations under Clause 15.

22. Dispute Resolution

- 22.1. Negotiation: In the event of a dispute between the Parties relating to the Purchase Order, the one raising the matter in dispute will notify the other by Written Notice describing in sufficient detail the nature of the dispute. Each Party will then appoint one or more representatives to resolve the dispute. These representatives will promptly meet and negotiate in good faith to reach a fair and equitable settlement. At the end of thirty (30) days, if no settlement has been reached, either Party may end discussions and declare an impasse.
- 22.2. Mediation: If an impasse is declared under Clause 23.1, the Parties will participate in non-binding mediation by a third-party mediator in good faith. Mediation will be by a sole mediator and the language of the mediation will be English. The rules and procedures to be followed will be the applicable Mediation Rules specified by ATL and in place from time to time. The Parties will promptly agree on the mediator and the cost of the mediator will be shared equally. The mediator has thirty (30) days from the date of appointment to help resolve the dispute. If the Parties fail to agree on a mediator within twenty (20) days of an impasse being declared under Clause 23.1, the Parties will

seek assistance from the organisation promulgating the applicable Mediation Rules.

- 22.3. Arbitration: A Party may request the other to participate in binding arbitration following the declaration of an impasse under Clause 23.1 or the conclusion of mediation under Clause 23.2. The request will be made by Written Notice provided within thirty (30) days following the end of the applicable resolution time period, and the other Party must respond within thirty (30) days after receipt of the request. Neither Party is required to participate in any arbitration proceeding under this Clause 23.3. If both agree to do so, they will participate in good faith and each of the following requirements will apply to the arbitration:
- (a) arbitration may be required in the place of litigation based on the country where the principal place of business of ATL is located;
 - (b) the Arbitration Rules specified by ATL and in place at the time the arbitration is initiated will apply;
 - (c) the arbitration will be the sole and exclusive recourse between the Parties for any dispute not amicably resolved directly by them through negotiation under Clause 22.1 or mediation under Clause 22.2;
 - (d) the arbitration will be by a sole arbitrator, unless the Parties otherwise agree in writing. The Parties will jointly appoint a mutually acceptable arbitrator. If the Parties are unable to agree on an arbitrator within twenty (20) days after the Parties have agreed to arbitration, the Parties will seek the assistance of the organisation promulgating the applicable Arbitration Rules;
 - (e) the language of the arbitration will be English, the arbitrator must be fluent in English, and a daily transcript of the proceedings will be prepared in English;
 - (f) to the extent not prohibited by the Governing Law, equitable remedies will be available in any arbitration, and punitive or exemplary damages will not be awarded. This limitation will not, however, affect any right of an Indemnified Person to recover any punitive or exemplary damages under Clause 17;
 - (g) any monetary award must be denominated in the currency in which payment is required to be made by ATL under the applicable Purchase Order and must stipulate a rate of interest, deemed appropriate by the arbitrator, which will run from the date of breach until the date when the award is fully satisfied. The arbitration award must be promptly and fully satisfied by the Party against whom it is granted. An award or judgment will not be considered satisfied until the money is received by the prevailing Party in available funds in its country of its principal place of business; and
 - (h) judgment upon any arbitration award may be entered in any court having jurisdiction thereof, or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the case may be.
- 22.4. Litigation: If the dispute has not been resolved within sixty (60) days after the end of the mediation period specified in Clause 22.2, litigation may be initiated, unless the Parties agree to arbitration under Clause 22.3. In any litigation, the Parties agree that the litigation will be filed only in the courts of England, regardless of where ATL may be located or the Goods may have been designed, manufactured, sold or delivered, unless otherwise provided in these Conditions.
- 22.5. Effect on ATL's Rights: The dispute resolution processes specified in this Clause 22 are not preconditions to the exercise by ATL of any of its rights or remedies under the Purchase Order or applicable law. ATL's exercise of its rights will not, however, affect either Party's obligations to comply with the requirements of this Clause 22.
- 22.6. Costs: The Parties will each bear the costs they incur in preparing for and conducting any negotiation, mediation, arbitration or litigation, and will share equally the costs of any mediator or arbiter (or related costs); however all costs incidental to enforcing the arbitration award (if any) will, to the maximum extent permitted by law, be charges against the Party resisting enforcement.
- 22.7. Tolling of Statute of Limitations: While the dispute resolution provisions of Clause 22 are being followed relating to a dispute, any statute of limitations, or similar time limitation on the filing of a claim or on the enforcement of a judgment or award rendered relating to a claim, under the governing law or any other law that may affect a Party's right and ability to enforce the judgment or award rendered (such as, for example, the law of the principal place of business of ATL), relating to the dispute will be tolled and suspended until such time as the dispute has been resolved in accordance with Clause 22. The requirements of this Clause 22.7 will, however, only apply to the extent not prohibited by the governing law or such other law that may affect a Party's right and ability to enforce the judgement or award rendered, as applicable.

23. Force Majeure

- 23.1. Neither ATL nor the Supplier will be liable for a delay or failure to perform directly due to a "**Force Majeure Event**". This means a cause or event that is beyond the reasonable control of either ATL or the Supplier that is not attributable to its fault or negligence. Force Majeure Events include fire, flood, earthquake, and other extreme natural events, acts of God, riots, civil disorders and war or acts of terrorism, whether or not declared as such by a Government. In every case, the failure to perform must be beyond the reasonable control and not attributable to the fault or negligence of the Party claiming the Force Majeure Event. Force Majeure Events also include delays or non-performance of a subcontractor, agent or Supplier of a Party only if and only to the extent that the cause or event would be a Force Majeure Event. Force Majeure Events exclude labour problems (including strikes, lockouts

and slowdowns regardless of their lawfulness), or failure of supplies of power, fuel transport, raw materials or other goods and services, or the failure to comply with applicable law or to take actions reasonably necessary to schedule performance in anticipation of any customs, export-import, or other Government Requirement of which public notice has been given.

- 23.2. The Party claiming Force Majeure will be required, by Written Notice, to provide the other Party of its occurrence and its termination as soon as practicable.
- 23.3. In the event of a Force Majeure Event, ATL will be required to acquire all finished Goods, work-in-progress, and raw materials produced or acquired for the work under the Purchase Order at a reasonable price agreed between ATL and the Supplier.
- 23.4. If the Force Majeure event will cause more than a minimal delay to ATL's Schedule, ATL has the right to find a substitute from elsewhere for the Goods and/or Services that the Supplier was to provide until a time when the Supplier can meet ATL's demands again. Once the Supplier can meet ATL's demand, a revised Schedule will be agreed and ATL will no longer have the right to find a substitute for the Goods and/or Services that the Supplier provides until termination of the agreement.
- 23.5. ATL will have the right to terminate the agreement, in part or in full, provided a Written Notice has been given and provided that the Supplier cannot prove that the Force Majeure Event will cause only a minimal disruption. If the Supplier can prove that the Force Majeure Event will cause only minimal disruption then ATL will still be bound by the agreement.
- 23.6. The Supplier will be able to prove only minimal disruption to ATL by supplying ATL with their Business Continuity Plan which sets out the steps that the Supplier will take to ensure that ATL's demands are met. Provided that ATL can prove that they are adhering to the Business Continuity Plan and only minimal disruption will occur, ATL will not have a right to terminate the agreement.

24. General

- 24.1. No waiver of any breach of any of the provisions of these Conditions shall be effective unless set forth in a written instrument executed by the Party against which enforcement of such waiver is sought and no waiver of any such breach shall be construed or deemed to be a waiver of any other or subsequent breach.
- 24.2. These Conditions shall be binding on and inures to the benefit of the Parties and their respective heirs, representatives, successors and assigns provided that neither ATL nor the Supplier may assign these Conditions or any of their rights hereunder to any person or entity without the prior written consent of the other. A person who is not a Party has no rights under the Agreements (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any provision of these Conditions but this does not affect any right or remedy of a third party which exists or is available apart from that Act.
- 24.3. These Conditions shall be governed by and construed in accordance with the laws of England and the Parties submit to the exclusive jurisdiction of the Courts of England.
- 24.4. For the duration of the Contract that these Conditions apply to, Incoterms 2010 will be applied.

25. Written Notices

- 25.1. All notices between the Parties with respect to the Contract shall be in writing and signed by or on behalf of the Party giving it.
- 25.2. Any notice shall be duly served either;
 - (a) On delivery if delivered by hand;
 - (b) 48 hours after sending if sent by first class post or recorded delivery; or,
 - (c) On sending if sent by fax or email (provided that a copy is also sent by post).

Provided that in each case the notice is sent to the registered office address of the addressee or such other address as the addressee may from time to time have notified for the purpose of this condition.

- 25.3. Any notice or communication given under the Contract shall not be validly served if sent by text messaging via mobile phone or solely by email.

26. Documents Used in Sale of Goods

- 26.1. "**CAD Data**" means 3 dimensional computer aided design defined information in any format.
- 26.2. "**Engineering Drawing**" means a drawing defining critical dimensions, features and components of products.
- 26.3. "**Statement of Work (SoW)**" means the document used to detail additional requirements not defined in 25.1 or 25.2.

- 26.4. **"Delivery/Shipping Note"** means the document that is received with the Goods/Services.
- 26.5. **"Earlier Agreements"** means any written agreements entered into with ATL relating to the Goods or Services.
- 26.6. **"Purchase Order"** means the document received by the Supplier from ATL stipulating the full requirement of Goods and/or Services that ATL wants to purchase.
- 26.7. **"Request for Quotation"** means a document used by ATL to provide the Supplier with a Quotation for the Goods and/or Services. Any Quotation must be based on and subject to these Conditions and no other Conditions. The only exception is defined in Clause 6.
- 26.8. **"Sales Invoice"** means the document used to instruct ATL of the value of the Goods and/or Services. The value on the document will be the agreed price between the Supplier and ATL.
- 26.9. **"Schedule"** means the specified quantity of the Goods and/or Service and the specified delivery time, date and location that has been agreed between ATL and the Supplier. It is the schedule that the Supplier will be working to. Refer to Clause 6 for the complete definition.
- 26.10. **"Terms and Conditions"** means these Conditions, which shall apply to all Purchase Orders for the purchase of Goods, Tooling, Service Parts and Component Parts.
- 26.11. **"Written Notice"** means a notice given by either ATL or the Supplier in accordance with Clause 25.