

INTELLIGENT ENERGY STANDARD TERMS AND CONDITIONS OF SALE

1. INTERPRETATION

1.1 Definitions

1.2 **ABC Laws:** anti-bribery and corruption laws applicable to a party including without limitation:

- (a) any such laws of the jurisdiction in which either party operates or in which this Contract is performed;
- (b) the Foreign Corrupt Practices Act of the United States of America; and
- (c) the Bribery Act 2010 of the United Kingdom.

Affiliate: in relation to a company, that company and any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Buyer: the natural or legal person that purchases the Products from Intelligent Energy as detailed in the Quotation or, if different, the Order.

Conditions: the terms and conditions set herein as amended from time to time in accordance with clause 17.4.

Confidential Information: all information in respect of the business of Intelligent Energy and any Intelligent Energy Affiliate disclosed to or obtained by the Buyer or its agents or representatives in connection with this Contract and which is either marked as confidential or should reasonably be understood to be confidential including, without limitation, pricing and any technical information relating to the Products and/or Services.

Contract: the contract between Intelligent Energy and the Buyer for the sale and purchase of the Products in accordance with these Conditions.

Field of Use: the field of use in which the Products are to be used as set out in the Quotation.

Force Majeure Event: an act, event, omission, accident or circumstance beyond a party's reasonable control, including but not limited to: (a) governmental delays or refusals to grant an applicable export licence or the suspension or revocation thereof; (b) any other acts of any government that would limit the ability for contract performance; (c) fires, earthquakes, floods, severe weather conditions, or any other acts of God; (d) quarantines or regional medical crises; (e) labour strikes or lockouts; (f) riots, strife, insurrection, civil disobedience, armed conflict, terrorism or war, declared or not (or impending threat of any of the foregoing, if such threat might reasonably be expected to cause injury to people or property); (g) epidemics or pandemics; or (h) shortages of or inability to obtain services, materials or components.

Incoterm: the specific Incoterm of the Incoterms 2020, as specified in the Quotation.

Intellectual Property: all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Intelligent Energy: Intelligent Energy Limited (company registration number 03958217) or such other Intelligent Energy Affiliate listed in the Quotation as being the supplier of the Products and/or Services.

Order: the Buyer's written order for the Products and/or Services, which incorporates or is otherwise consistent with the Quotation.

Products: the products (or any part of them) set out in the Quotation.

Product Documentation: the user manual and any other instructional documentation provided by Intelligent Energy to the Buyer relating to the use of the Products as may be amended or updated from time to time in accordance with these Conditions.

Quotation: the quotation issued by Intelligent Energy to the Buyer specifying *inter alia* the Products and Services to be supplied.

Restricted Person: any person employed or engaged by Intelligent Energy or any Intelligent Energy Affiliate during the term of the Contract either as principal, agent, employee, independent contractor or in any other form of employment or engagement.

Services: where relevant, those services provided by Intelligent Energy to the Buyer as set out in the Quotation.

Specification: the specification for the Products made available to the Buyer by Intelligent Energy.

Warranty: the warranties set out in clause 6.1.

Warranty Period: the period specified in the Quotation, and in the absence of such period being specified the Warranty Period shall be the earlier of the expiry of 12 months following delivery and 1,000 hours of operation.

WEEE: waste electrical and electronic equipment as defined in the Waste Electrical and Electronic Regulations 2013.

- 1.3 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.
- 1.4 A reference to legislation or a legislative 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.
- 1.5 A reference to **writing** or **written** includes email but not fax.
- 1.6 Any words following the terms **including**, **include**, **in particular**, **for example** or any other similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or terms preceding those terms.

2. BASIS OF CONTRACT

- 2.1 These Conditions together with the Quotation and any other documents appended to the Quotation constitute the Contract and apply to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing (including, without limitation, the Buyer's own terms and conditions). In the event of conflict between these Conditions and terms contained in the Quotation, the Quotation terms shall take precedence.
- 2.2 The Quotation constitutes an offer by Intelligent Energy to sell the Products to the Buyer in accordance with these Conditions and the terms of the Quotation. The Order shall be deemed to be accepted when the Buyer signs the Quotation and returns it unamended to Intelligent Energy, at which point the Contract shall come into existence.
- 2.3 A Quotation shall expire 30 Business Days after its issuance to the Buyer unless the Buyer accepts the Quotation in accordance with clause 2.2 prior to such expiry.

3. SALE OF PRODUCTS

- 3.1 In consideration for the price, Intelligent Energy agrees to sell the Products and the Services (if appropriate) to the Buyer on the terms contained in the Contract.

4. PRODUCTS

- 4.1 The Products are as detailed in the Quotation and as may be further described in the Specification.
- 4.2 Intelligent Energy reserves the right to amend the Specification and/or the Product Documentation where such amendments are required by any applicable statutory or regulatory requirements.

4.3 Intelligent Energy may communicate to the Buyer from time to time revised instructions on the use of the Products, whether through changes to the Product Documentation or otherwise, and Buyer shall ensure that it complies with such instructions.

5. DELIVERY

5.1 Intelligent Energy shall ensure that:

- (a) each delivery of the Products is accompanied by a delivery note that shows the date of the Order, the Quotation number, the type and quantity of the Products (including the code number of the Products, where applicable), special storage instructions (if any) and, if the Products are being delivered by instalments, the outstanding balance of Products remaining to be delivered; and
- (b) if Intelligent Energy requires the Buyer to return any packaging materials to Intelligent Energy, that fact is clearly stated on the delivery note. The Buyer shall make any such packaging materials available for collection at such times as Intelligent Energy shall reasonably request. Returns of packaging materials shall be at Intelligent Energy's expense.

5.2 Intelligent Energy shall deliver the Products in accordance with the Incoterm.

5.3 Should the Incoterm require the Buyer to collect the Products from Intelligent Energy's, or its subcontractor's or agent's, premises then the Buyer shall do so within seven Business Days of Intelligent Energy notifying the Buyer that the Products are ready for collection. If the Buyer fails to take delivery of the Products within seven Business Days of Intelligent Energy notifying the Buyer that the Products are ready for delivery, then, except where such failure or delay is caused by a Force Majeure Event or Intelligent Energy's failure to comply with its obligations under the Contract, Intelligent Energy shall store the Products until delivery takes place, and the Buyer shall pay to Intelligent Energy all related costs and expenses (including insurance).

5.4 Any agent appointed by the Buyer to take delivery of the Products shall be a reputable company with adequate insurance provision.

5.5 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Intelligent Energy shall not be liable for any delay in delivery of the Products that is caused by the Buyer's failure to provide Intelligent Energy with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.

5.6 If delivery by instalments is provided for in the Quotation, Intelligent Energy may deliver the Products by instalments, which shall be separately invoiced and paid for by the Buyer. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

6. QUALITY

6.1 Intelligent Energy warrants that on delivery to the Buyer and during the Warranty Period, the Products shall:

- (a) conform with the Specification; and
- (b) be free from material defects in design, material and workmanship.

6.2 Subject to the remainder of this clause 6, if:

- (a) the Buyer gives notice in writing to Intelligent Energy within 28 days of the breach of Warranty becoming apparent;
- (b) Intelligent Energy is given a reasonable opportunity of examining such Products; and
- (c) the Buyer (if asked to do so by Intelligent Energy) returns such Products to Intelligent Energy's place of business at the Buyer's cost and risk,

then Intelligent Energy shall, at its option, repair or replace the defective or non-conforming Products, and subject to clause 6.3 below such repair or replacement shall be the Buyer's sole remedy in respect of the breach of the Warranty.

- 6.3 Intelligent Energy may, as an alternative to repairing or replacing the Product, in its sole discretion, pay to the Buyer a sum equal to the Price multiplied by the lower of the remaining fraction of (i) the time period in the Warranty Period and (ii) the hours of operation in the Warranty Period.
- 6.4 Intelligent Energy may comply with its repair or replace obligation under clause 6.2 above by:
- (a) using old or used products, parts or components;
 - (b) using a newer or different version of the Products,
in each case provided that it complies with the Specification.
- 6.5 The Warranty Period will not be extended as a result of any repairs or replacements of the Products, and the Warranty shall apply as if the repaired or replaced Product were the original Product.
- 6.6 Intelligent Energy shall not be liable under the Warranty if:
- (a) the non-conformance or defect arises as a result of the Buyer's failure to comply with the Product Documentation or any other written or oral instructions of Intelligent Energy;
 - (b) the Buyer uses the Product after it becomes aware of the defect or non-conformance;
 - (c) the non-conformance or defect arises as a result of the Buyer's use of the Products outside of the Field of Use or the operating parameters set out in the Product Documentation or the Specification;
 - (d) the Buyer has carried out any alterations or repairs to the Products without the consent of Intelligent Energy; or
 - (e) the non-conformance or defect arises as a result of fair wear and tear, wilful damage, negligence or abnormal working or storage conditions.
- 6.7 All other terms, conditions, and warranties implied by law and statute, including the conditions implied by sections 13 to 15 of the Sale of Goods Act 1979 (or any jurisdictional equivalent provisions) are, to the fullest extent permitted by law, excluded from the Contract.
- 7. TITLE AND RISK**
- 7.1 Risk in the Products shall pass to the Buyer in accordance with the Incoterm.
- 7.2 Title to the Products shall not pass to the Buyer until Intelligent Energy receives payment of the price in full (in cleared funds) for the Products.
- 7.3 Until title to the Products has passed to the Buyer, the Buyer shall:
- (a) store the Products separately from all other products held by the Buyer so that they remain readily identifiable as Intelligent Energy's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Products;
 - (c) maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - (d) notify Intelligent Energy immediately if it becomes subject to any of the events listed in clause 11.1(d) to clause 11.1(f); and
 - (e) give Intelligent Energy such information relating to the Products as Intelligent Energy may require from time to time.
- 7.4 Subject to the restrictions in clause 9, the Buyer may sell the Products in the ordinary course of its business (but not otherwise) before Intelligent Energy receives payment for the Products, and in such event title to the Products shall pass from Intelligent Energy to the Buyer immediately before the time at which the resale by the Buyer occurs.
- 7.5 If at any time prior to title in the Products passing to the Buyer the Buyer becomes subject to any of the events listed in clause 11.1(d) to clause 11.1(f) (inclusive), then, without limiting any other right or remedy Intelligent Energy may have, Intelligent Energy may at any time:
- (i) require the Buyer to return to Intelligent Energy all Products in its possession; and

- (ii) if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Products are stored in order to recover them (and the Buyer shall procure permission from the relevant third party to enable Intelligent Energy such access).

8. PRICE AND PAYMENT

- 8.1 The price of the Products and Services (if relevant) shall be the price and in the currency set out in the Quotation, or, if no price is quoted, the price set out in Intelligent Energy's standard price list in force as at the date of delivery.
- 8.2 Intelligent Energy may, by giving notice to the Buyer at any time before delivery, increase the price of the Products and Services to reflect any increase in the cost of the Products that is due to:
 - (a) any factor beyond Intelligent Energy's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (b) any request by the Buyer to change the delivery date(s), quantities or types of Products ordered, or the Specification; or
 - (c) any delay caused by any instructions of the Buyer or failure of the Buyer to give Intelligent Energy adequate or accurate information or instructions.
- 8.3 The price of the Products and Services excludes:
 - (a) amounts in respect of value added tax (VAT) or equivalent jurisdictional sales tax, which the Buyer shall additionally be liable to pay to Intelligent Energy at the prevailing rate, subject to the receipt of a valid VAT or sales tax invoice; and
 - (b) the costs and charges of packaging, insurance and transportation of the Products, which shall be invoiced to the Buyer and be payable by the Buyer, whether in the Quotation or otherwise and irrespective of the Incoterm specified.
- 8.4 Intelligent Energy shall raise invoices in accordance with the Quotation.
- 8.5 The Buyer shall pay the invoice in full and in cleared funds within 30 days of the date of the invoice unless stated otherwise in the Quotation. Payment shall be made to the bank account nominated in writing by Intelligent Energy. Time of payment is of the essence.
- 8.6 If the Buyer fails to make any payment due to Intelligent Energy under the Contract by the due date for payment, then the Buyer shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Buyer shall pay the interest together with the overdue amount.
- 8.7 The Buyer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law).
- 8.8 Intelligent Energy may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer or a Buyer Affiliate (whether under the Contract or otherwise) against any amount payable by Intelligent Energy to the Buyer or a Buyer Affiliate (whether under the Contract or otherwise).
- 8.9 Notwithstanding anything to the contrary in the application of the Incoterm, the Buyer shall pay (i) any taxes duties and other government levies applied on the import of the Products and (ii) any additional amounts which may be charged by a governmental authority on payments to be made to Intelligent Energy under this Contract.

9. BUYER OBLIGATIONS

- 9.1 The Buyer acknowledges that the Products are intended to be used only in the Field of Use.
- 9.2 The Buyer shall comply with all applicable laws, rules, regulations, codes of practice, and other requirements of regulatory authorities (in each case as amended from time to time) in its use and integration of the Product(s), and on the sale of any products incorporating the Product(s).

- 9.3 The Buyer shall not:
- (a) use the Products for any purpose connected with chemical, biological or nuclear weapons, or missiles capable of delivering such weapons;
 - (b) re-export or otherwise re-sell or transfer products incorporating the Products if it is known or suspected that the Products are intended or likely to be used for such purposes;
 - (c) re-export or otherwise re-sell or transfer the Products to a destination subject to sanctions or embargo imposed by any of the United Nations, United States of America, United Kingdom, European Union or the Organization for Security and Co-operation in Europe where that act would be in breach of the terms of that sanction or embargo; or
 - (d) use the Products, or any replica of them, in any nuclear explosive activity or in connection with unsafeguarded nuclear fuel.
- 9.4 The Buyer shall provide such access to the Products as Intelligent Energy reasonably requests to obtain performance data from the Products and the Buyer agrees that Intelligent Energy may use such data for the purposes of assessing and improving the performance of its products and services.
- 9.5 The Buyer shall indemnify Intelligent Energy and all Intelligent Energy Affiliates and their respective agents against any losses, expenses, damages, costs suffered by Intelligent Energy or any Intelligent Energy Affiliate arising out of or in connection with:
- (a) the Buyer's use of any Products outside of the Field of Use; and/or
 - (b) the Buyer's breach of this clause 9.

10. INTELLECTUAL PROPERTY

- 10.1 Intelligent Energy shall retain ownership of all Intellectual Property in and to the Products (other than, where applicable, any third party from whom its right to use any Intellectual Property has derived) and its Confidential Information, and nothing in the Contract shall operate to transfer any such Intellectual Property to the Buyer.
- 10.2 The Buyer shall not open, disassemble, reverse engineer or otherwise tamper with the Products, nor decompile, disassemble, reverse engineer, alter or amend any part of the Products in any way without the prior written consent of Intelligent Energy.
- 10.3 This Contract does not convey to the Buyer any right, title or interest in or to any of Intelligent Energy's Intellectual Property by implication, estoppel or otherwise other than the right to use the Product in the Field of Use.
- 10.4 The Buyer shall procure that its customers abide by terms equivalent to the terms set out in this clause 10.

11. TERMINATION

- 11.1 Without limiting its other rights or remedies, Intelligent Energy may terminate the Contract with immediate effect by giving written notice to the Buyer if:
- (a) the Buyer fails to pay any sum due under the Contract by the due date;
 - (b) the Buyer commits any other material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 Business Days of that party being notified in writing to do so;
 - (c) the Buyer repeatedly breaches any terms of the Contract;
 - (d) the Buyer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

- (e) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- (f) the Buyer's financial position deteriorates to such an extent that the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

11.2 Without limiting its other rights or remedies, Intelligent Energy may suspend the Contract or any other contract between the Buyer and Intelligent Energy if the Buyer becomes subject to any of the events listed in clause 11.1(d) to clause 11.1(f) (inclusive), or Intelligent Energy reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under the Contract on the due date for payment.

11.3 On termination of the Contract for any reason the Buyer shall immediately pay to Intelligent Energy all of Intelligent Energy's outstanding unpaid invoices and any accrued interest.

11.4 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.

11.5 Clauses 8, 9, 10, 12, 14, 16, 17.2, and any other provision of the Contract that expressly or by implication shall continue in force after termination shall survive termination of this Contract.

12. LIMITATION OF LIABILITY

THE BUYER'S ATTENTION IS SPECIFICALLY DRAWN TO THIS CLAUSE

12.1 Nothing in the Contract shall limit or exclude Intelligent Energy's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation; or
- (c) any matter in respect of which it would be unlawful for Intelligent Energy to exclude or restrict liability.

12.2 Subject to clause 12.1:

- (a) Intelligent Energy shall under no circumstances whatsoever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any:
 - (i) loss of profit;
 - (ii) loss of revenue;
 - (iii) loss of anticipated savings;
 - (iv) loss of sales or business;
 - (v) loss or damage to goodwill; or
 - (vi) indirect or consequential loss.
- (b) Intelligent Energy's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed an amount equivalent to the price of the Products (determined in accordance with clause 8).

12.3 Without prejudice to clause 6.2 and clause 15.4, Intelligent Energy shall have no liability under this Agreement unless the Buyer notifies Intelligent Energy in writing that it intends to make a claim within three months of the date on which it became, or ought reasonably to have become, aware of the breach, and such notification specifies the grounds for the claim in reasonable detail.

13. FORCE MAJEURE

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for 12 weeks, then the party not affected by the

Force Majeure Event may terminate the Contract by giving two weeks' written notice to the affected party.

14. NON-SOLICITATION OF EMPLOYEES OR CONTRACTORS

- 14.1 In order to protect the legitimate business interests of Intelligent Energy, the Buyer agrees that it shall not (except with the prior written consent of Intelligent Energy) attempt to solicit or entice away; or solicit or entice away from the employment or service of Intelligent Energy or any Intelligent Energy Affiliate the services of any Restricted Person other than by means of a national advertising campaign not specifically targeted at such staff of Intelligent Energy or any Intelligent Energy Affiliate.
- 14.2 The Buyer shall be bound by the covenant set out in clause 14.1 above until the date that is six months after delivery of the Product or final delivery of Products if the deliveries are in instalments.

15. SERVICES

- 15.1 Intelligent Energy shall:
- (a) perform the Services with reasonable care and skill; and
 - (b) use its reasonable endeavours to perform the Services in accordance with the service description set out in the Quotation.
- 15.2 The Buyer shall ensure that it:
- (a) co-operates with Intelligent Energy in all matters relating to the Services;
 - (b) provides, for Intelligent Energy, its agents, subcontractors, consultants and employees in a timely manner and at no charge, access to the Buyer's premises, data and other facilities as reasonably required by Intelligent Energy for the provision of the Services; and
 - (c) provides in a timely manner, such information as Intelligent Energy may reasonably require in order to provide the Services and ensure that such information is accurate and complete in all material respects.
- 15.3 If Intelligent Energy's performance of its Service obligations under the Contract is prevented or delayed by any act or omission of the Buyer, its agents, sub-contractors, consultants or employees, Intelligent Energy shall:
- (a) not be liable for any costs, charges or losses sustained or incurred by the Buyer that arise directly or indirectly from such prevention or delay;
 - (b) be entitled to raise invoices, and to receive payment of those invoices, in accordance with the terms of the Contract; and
 - (c) be entitled to recover any additional costs, charges or losses Intelligent Energy sustains or incurs that arise directly or indirectly from such prevention or delay.
- 15.4 Intelligent Energy shall have no liability under clause 15.1 unless the Buyer notifies Intelligent Energy in writing that it intends to make a claim within 28 days of the date on which it became, or ought reasonably to have become, aware of the breach, and such notification specifies the grounds for the claim in reasonable detail.

16. WEEE COMPLIANCE

- 16.1 The Buyer shall be responsible for the arrangements and costs of treatment, recovery and environmentally sound disposal of all WEEE arising or deriving from the Products.
- 16.2 The Buyer shall be responsible for all costs and expenses arising from and relating to its obligations in clause 16.1.

17. GENERAL

- 17.1 **Assignment and other dealings.**
- (a) Intelligent Energy may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

- (b) The Buyer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Intelligent Energy.

17.2 Confidentiality.

- (a) The Buyer undertakes that it shall not at any time disclose to any person any Confidential Information of Intelligent Energy or of any Intelligent Energy's Affiliates, except as permitted by clause 17.2(b).
- (b) The Buyer may disclose Intelligent Energy's Confidential Information:
 - (i) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising its rights or carrying out its obligations under or in connection with the Contract. The Buyer shall ensure that its employees, officers, representatives or advisers to whom it discloses Intelligent Energy's confidential information comply with this clause 17.2; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) The Buyer shall not use any of Intelligent Energy's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

17.3 Entire agreement. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

17.4 Variation. No variation of the Contract shall be effective unless it is in writing and duly signed by the parties (or their authorised representatives).

17.5 Waiver. A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy nor prevent or restrict the further exercise of that or any other right or remedy.

17.6 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 17.6 shall not affect the validity and enforceability of the rest of the Contract.

17.7 Notices. Any notice, demand or communication in connection with this Contract must be in writing and must be delivered by hand, post or email addressed to the Business Contact set out in the Quotation (or such other address as a party may have notified the other of in writing). The notice, demand or communication will be considered to have been served:

- (a) if delivered by hand, at the time of delivery;
- (b) if delivered by post/courier, the third working day following but excluding the day of posting or in the case of airmail the seventh Business Day following but excluding the day of posting;
- (c) in the case of email, the working day following the day on which the email is sent provided that no delivery failure message is received, and the notice is confirmed in writing by post within five Business Days;

- (d) any notice to Intelligent Energy must also be copied to Intelligent Energy's Legal Department at Intelligent Energy's registered address or by email to legal@intelligent-energy.com; and
- (e) the provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

17.8 **Third party rights.** No one other than a party to the Contract and its permitted assignees shall have any right to enforce any of its terms, save that Intelligent Energy Affiliates shall have a right to directly enforce clause 9.5, clause 14 and clause 17.2 against the Buyer.

17.9 **Anti-bribery and corruption.**

- (a) Each party shall co-operate in good faith to allow the other party to comply with and verify its compliance with its obligations under the ABC Laws.
- (b) The Buyer warrants, represents and undertakes as at the date of this Contract and on an on-going basis that:
 - (i) it is aware of and understands the ABC Laws and the acts that the ABC Laws prohibit;
 - (ii) it shall comply with the ABC Laws at all times; and
 - (iii) it has in place a clear anti-bribery and corruption policy and that its personnel, Affiliates and agents are required to comply with such policy and the ABC Laws.
- (c) The Buyer shall indemnify and hold harmless Intelligent Energy from any claims, losses, damages and expenses suffered by Intelligent Energy arising out of or in connection with the Buyer's breach of this clause 17.9 and/or the ABC Laws.

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

17.11 **Jurisdiction.** The Contract and any dispute or claim arising out of or in connection with it or its subject matter, formation, validity or enforceability shall be subject to (i) in the event that the Buyer is in the UK or Europe, the exclusive jurisdiction of the English Courts; (ii) in the event that the Buyer is situated in any other territory, arbitration in London in accordance with the Arbitration Rules of the London Court of International Arbitration ("**LCIA**") for the time being in force, which rules are deemed to be incorporated by reference in this clause. The Tribunal in the case of arbitration shall consist of one arbitrator appointed by the LCIA. The language of arbitration shall be English. The parties' submission to arbitration shall be without prejudice to Intelligent Energy's right to seek injunctive relief or equitable relief in any jurisdiction to restrain any breach or threatened breach of the Contract by any person or to require return of the Products, any associated material or documents or any Confidential Information of Intelligent Energy.