



## TERMS AND CONDITIONS OF SALE

**Unless a current signed customer agreement is already in place, these terms and conditions shall apply to all Orders (defined below) placed through Cummins Turbo Technologies (a division of Cummins Technologies India Private Limited).**

**1. Acceptance of Orders, Delivery and Returns.** An order constitutes an offer by the person or entity placing such order ("Buyer") to purchase goods ("Goods") from Cummins Turbo Technologies, a division of Cummins Technologies India Private Limited, ("CTT"), in accordance with these terms and conditions (an "Order"). All Orders are subject to acceptance by CTT (evidenced by written acknowledgment and confirmation, CTT commencing manufacture of the Goods and/or Goods being dispatched to Buyer), in its sole discretion. CTT shall be under no obligation to supply Goods to Buyer until such confirmation is given, at which point a contract which incorporates these terms and conditions and any special terms on the written order acknowledgment comes into existence (a "Contract"). CTT reserves the right to fulfill any Order from any of its global manufacturing plants. Buyer cannot cancel Orders, nor can delivery of Goods made up or in process be deferred or extended beyond the original delivery date, except with CTT's prior written consent and upon terms which will indemnify CTT against any loss. Buyer may return Goods only after receiving advance written approval from CTT. Unless otherwise agreed in writing, Buyer will prepay return transportation and customs charges and will bear the risk of all Goods returned to CTT.

### **2. Specification.**

**A.** To the extent that Goods are to be manufactured by CTT to Buyer's specification (which has been agreed/accepted in advance by CTT), Buyer shall be solely responsible for and hereby warrants the accuracy of Buyer's designs, drawings, specifications and other data supplied to CTT by Buyer, or Buyer's employees or agents, and CTT shall have no responsibility in relation thereto even if CTT examines, inspects, studies or comments to Buyer upon any such designs, drawings, specifications or other data. Buyer shall indemnify and keep CTT indemnified and harmless from any costs, losses or damages arising out of any action or claim of infringement brought by a third party.

**B.** All performance figures, specifications, particulars of weight and dimension, drawings or descriptive matter, information, illustrations or details of Goods in brochures, catalogues or advertising material, issued by CTT are approximate only and will not form part of the Contract unless otherwise agreed in writing.

**3. Product Changes.** CTT reserves the right to change specifications and/or designs without obligation to Buyer. CTT shall revise the purchase price to cover any increased cost arising from changes Buyer requests.

**4. Technical Advice.** CTT assumes no liability for any technical advice, or results obtained therefrom, all such advice being given and accepted at Buyer's risk. Buyer will use and/or install Goods in accordance with applicable regulations, codes, industry standards and CTT's recommendations, and will defend, indemnify and hold CTT harmless from and against all claims, damages and causes of action arising out of its failure to do so. Buyer shall ensure that the original purchaser of Goods for use receives all of CTT's manuals, instructions, warnings, application guidelines and other literature accompanying or associated with the Goods.

### **5. Warranty, Limitation of Liability and Notice of Claims.**

#### **A. Warranty.**

(i) Subject to the terms of this Section 5.A. and any application or region which may limit the warranty below in terms of time in service and or hours/miles/kilometers of usage for a maximum period, CTT warrants to Buyer, that the Goods will be free of defects in materials and workmanship for twelve (12) months from the date on which the Goods are placed in service or twenty four (24) months from dispatch of the Goods from CTT's premises, whichever is sooner.

(ii) In the event of a warrantable failure, CTT shall (provided that the Goods were at all times stored under suitable conditions and were applied in accordance with CTT's recommendations) at CTT's option either supply replacement Goods or repair such defective Goods free of charge. Goods when repaired/replaced shall carry the same warranty as before, with the warranty period for the repaired/replaced part being the greater of the original unexpired warranty or six (6) months after such repair/replacement.

(iii) Buyer assumes all risk and liability resulting from use of the Goods, whether used singly or in combinations with other products. For purposes of clarification, CTT shall not be responsible for progressive damage and does not assume or warrant any other obligations regarding any other products including but not limited to Buyer's systems.

(iv) The warranty set forth in **this Section 5** shall not apply in the event of defects or damages caused by: (a) failure of Buyer to comply with any of CTT's installation, operational or maintenance guidelines, requirements or recommendations; (b) physical abuse of the Goods or any component or acts of vandalism by any persons other than CTT, its employees, agents or subcontractors; (c) alterations, modifications, additions or repairs made during the applicable warranty period by anyone other than CTT, its employees, agents or subcontractors; (d) reasonable wear and tear; or (e) accidents or damage resulting from fire, water, wind, hail, lightning, electrical surge or failure, earthquake, theft or similar causes not caused or contributed to by the negligence of CTT or its employees, agents or subcontractors.

(v) The warranty set forth in **this Section 5** is the sole and exclusive warranty made by CTT in regard to the Goods. Except for the warranty set forth in **this Section 5**, the Goods are assigned, conveyed, sold, transferred and delivered to Buyer on an "AS IS, WHERE IS" basis. EXCEPT AS PROVIDED IN **THIS SECTION 5**, CTT MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ANY REPRESENTATION OR WARRANTY ARISING FROM USAGE OF TRADE OR COURSE OF DEALING OR ANY OTHER REPRESENTATION OR WARRANTY AND SUCH REPRESENTATIONS AND WARRANTIES ARE EXPRESSLY DISCLAIMED AND EXCLUDED. IF NOT EXCLUDED BY THESE TERMS AND CONDITIONS, IMPLIED WARRANTIES ARE LIMITED TO THE PERIODS OF WARRANTY SET FORTH IN **THIS SECTION 5**. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES.

**B. Limitation of Liability.** IN NO EVENT SHALL CTT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE LOSS OR DAMAGE OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, PROPERTY DAMAGE, LOSS OF PROFIT (WHETHER DIRECT OR INDIRECT), LOSS OF REVENUE, DAMAGE TO GOODWILL, ENHANCED DAMAGES, AND/OR MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY) HOWSOEVER CAUSED ARISING FROM THE CONTRACT OF SALE OR THE USE OF GOODS. WITHOUT PREJUDICE TO ANY OF THE FOREGOING, THE SOLE AND EXCLUSIVE LIABILITY OF CTT ON ANY CLAIM FOR LOSS OR LIABILITY ARISING OUT OF OR CONNECTED WITH ANY ORDER, OR THE MANUFACTURE, SALES, DELIVERY, RESALE OR USE OF ANY GOODS COVERED BY ANY SUCH ORDER (INCLUDING, BUT NOT LIMITED TO, LOSS OR LIABILITY ARISING FROM BREACH OF CONTRACT) SHALL, BE LIMITED TO THE TERMS OF THE **WARRANTY SET FORTH IN SECTION 5**. CTT shall have no liability whatsoever unless CTT deems there to be a warrantable failure as set out in **Section 5** and Buyer complies with the provisions of **Section 5**. Nothing in these conditions shall in any way exclude or limit CTT's liability for death or personal injury caused by CTT's negligence, for fraudulent misrepresentation or otherwise not permitted to be excluded by law. THE MAXIMUM LIABILITY, IF ANY, OF CTT FOR ALL DAMAGES, INCLUDING WITHOUT LIMITATION, CONTRACT DAMAGES AND DAMAGES FOR OR PROPERTY, WHETHER ARISING FROM CTT'S BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT, IS LIMITED TO AN AMOUNT NOT TO EXCEED THE AGGREGATE PURCHASE PRICE OF THE APPLICABLE GOODS PAID TO CTT BY BUYER UNDER THE APPLICABLE ORDER.

**C. Notice of Claim.** Without prejudice to Section 6.C. below, all claims must be brought to the attention of CTT or its authorized distributor within fourteen (14) days after discovery of a breach of warranty. No person will be authorized to give any other warranties or to assume any other liabilities on CTT's behalf, unless expressly made in writing by CTT.

## **6. Delivery**

**A.** While CTT will use its reasonable endeavours to avoid any delay in delivery on notified delivery dates, failure to deliver by the specified date will not be accepted as sufficient cause for cancellation, nor will CTT be liable for late delivery arising out of any cause whatsoever or for any loss arising therefrom. Where delivery is to be made by instalments, delay in delivering one instalment shall not entitle Buyer to refuse to accept the remaining instalments. For the avoidance of doubt, time for delivery shall not be of the essence of the Contract.

**B.** In the event of strikes, lockouts, slowdowns, riots, work stoppages, trade disputes, embargo or other governmental act, regulation or request, delay or non-delivery of components or materials, accidents, fire, explosions, flood, civil strife, war, acts of terrorism, acts of God, acts of Buyer, equipment failure, inability to obtain necessary labour, equipment, materials or any failure of the usual sources of supply or modes of transportation or any circumstances not within the reasonable control of CTT causing delay in manufacture or delivery, CTT may suspend delivery of Goods contracted for until resumption of work, and may extend the period of delivery to cover such time as is lost by the circumstances stated above or may suspend or cancel (either immediately or any time after a suspension under this condition) any or all of its obligations then unperformed. If because of any such circumstances CTT is unable to supply the total demand for the Goods, CTT may allocate its available supply among itself and all of its customers, including those not under contract. CTT shall not be liable to Buyer under this Contract for any damages, losses or expenses caused by such circumstances.

**C.** Buyer shall accept and inspect all shipments immediately upon arrival. All claims in respect of loss or damage in transit or non-delivery must be settled between the carrier and Buyer and will not be the subject of a claim against CTT. Where Goods are alleged to be visibly defective or visibly damaged from a reasonable inspection by Buyer, written notice of the defect or damage must be given to CTT within three (3) working days from the date of receipt of the Goods. Where Goods are otherwise alleged to be defective or faulty, written notice of the defect must be given to the Company within fourteen (14) working days from the date of receipt of the goods after which time such Goods shall be deemed accepted by Buyer. Claims in respect of rejected or defective Goods will not be accepted until such claims have been received at CTT's premises and notification of dispatch by Buyer will not be accepted as proof of delivery.

**D.** Where Goods delivered are not as specified in CTT's invoice, or where Goods have been incorrectly delivered, Buyer undertakes to protect such Goods and to notify CTT so that proper disposition can be effected.

**E.** The Buyer is responsible for obtaining, at its own cost, such import licences and other consents in relation to the Goods as requested from time to time, and if requested by CTT, the Buyer shall make these licences and consents available to CTT prior to the relevant shipment.

**7. Waiver.** No waiver or failure to assert any right or remedy, and no course of dealing shall be deemed to constitute a waiver of any other breach or default of any other right or remedy, unless such waiver is expressed in writing and signed by the party to be bound.

**8. Assignment.** Buyer may not assign this Contract or the obligations hereunder without CTT's prior written consent.

**9. Title and Risk.** Risk shall pass to Buyer from the point of Ex Works delivery according to Incoterms 2010, or in accordance with any alternative Incoterms agreed between the parties in writing. Title to Goods shall not pass to Buyer until the full purchase price thereof has been received by CTT.

## **10. Invoicing and Payment**

**A.** CTT reserves the right to invoice at prices prevailing at the time of dispatch. Charges will be applied to the invoice for all applicable taxes, carriage and freight (including insurance), packing, boxing and special tests or inspections. In the event of a variation to an order placed by Buyer, the prices already stated shall be adjusted accordingly.

**B.** Time of payment shall be of the essence. No payment to CTT shall be dependent upon the receipt by Buyer of any payment or the issue of any certificate by any third party. No payment shall be deemed to be received until CTT has received cleared funds. Buyer shall make the payment in the same currency as appears on the tax/ commercial invoice raised by CTT. CTT may demand remittance to its designated Bank account via normal banking channels. All invoices will be paid in full, without any set-off, discount or reduction whatsoever. Notwithstanding the foregoing, if payment is not received when due, in addition to any charges that CTT may levy against the Buyer under statute, CTT may also charge Buyer interest at the lesser of the highest statutory rate or the rate stated on the written order acknowledgement sent by CTT to the Buyer pursuant to Section 1. Unless otherwise expressly agreed in writing by the parties, Buyer shall pay the purchase price for all Goods shipped net within thirty (30) days after delivery or such shorter period as may be requested by CTT in writing. No discounts for early payment may be taken except in accordance with CTT's then-current written policy, if any. Notwithstanding any other provision, all payments payable to CTT under the Contract shall become due immediately upon termination of the Contract for whatever reason.

**C.** CTT reserves the right, among other remedies, either to terminate or suspend deliveries hereunder in the event Buyer fails to pay for any one shipment when payment becomes due. CTT (in its absolute discretion), may require cash payments, bank transfers or satisfactory security for future deliveries and for Goods already delivered. CTT reserves the right to request and review Buyer's financial information to establish credit terms and limits from time to time. Such terms and limits may be changed at CTT's discretion with or without notice to Buyer.

**11. Set-off.** CTT may set-off any amounts which Buyer may owe CTT whether arising hereunder or otherwise against any amounts which may become payable by CTT to Buyer hereunder or otherwise.

## **12. Termination**

**A. Insolvency.** CTT shall be entitled upon written notice to Buyer to terminate any Contract with Buyer if Buyer becomes bankrupt or, being a company, becomes insolvent or makes any composition for the benefit of its creditors, goes into liquidation, voluntarily or compulsorily (other than for the purpose of reconstruction or amalgamation) or if a receiver is appointed or security is enforced over any of its assets or any event that occurs in relation to the Buyer that is analogous to the aforementioned events in any jurisdiction. Any such termination shall be without compensation to Buyer and without prejudice to any rights of CTT under these terms and the Contract.

**B. Breach of Contract** CTT may, as it thinks fit, (without prejudice to any other rights or remedies it may have against Buyer) immediately suspend further performance of the Contract or cancel any outstanding delivery of the Goods or stop any Goods in transit or by notice in writing to Buyer terminate the Contract without liability to CTT if (i) Buyer (A) commits a material breach of any of its obligations under the Contract which is incapable of remedy or (B) fails to remedy a breach of its obligations under the Contract which is capable of remedy after having been requested in writing by CTT to remedy or desist from such breach within a period of fourteen (14) days; or (ii) any sum payable under the Contract is not paid within seven (7) days of its due date for payment in accordance with this Contract; or (iii) Buyer experiences a change of control in its ownership or its voting interests.

## **13. Intellectual Property Ownership, Use, and Defence.**

**A.** Subject to Section 14 below, CTT shall indemnify and hold Buyer harmless from costs and damages arising out of any claim or action brought by a third party for infringement of a valid patent by reason of the sale and/or CTT's recommended use of Goods purchased hereunder; provided that Buyer notifies CTT promptly in writing of any such action and gives CTT full and exclusive control of the defence and settlement thereof, and such infringement arises at the point of transfer of ownership of such Goods from CTT to Buyer, and provided further that Buyer shall (a) not have made any changes, alterations or modifications to the Goods in a manner not authorized by CTT; (b) not have provided CTT with drawings, specifications or other directions to which the Goods are required to

conform; (c) have made all payments to CTT then due under the Contract; and (d) provide all needed or requested information, assistance and authority to enable CTT to defend against such claims.

**B.** If any Goods sold to Buyer under this Contract are held in and of themselves, by final court decision from which no appeal can be taken, to infringe any formal intellectual property of any third party and their use is enjoined, or in the event of a settlement or compromise approved in writing by CTT that precludes future use of any Goods sold to Buyer under this Contract, then CTT (a) shall pay any final and unappealable award of damages in such suit to the extent such damages are directly attributable to such infringement and (b) shall, at CTT's own expense and at CTT's sole option (i) procure for Buyer the right to continue using such Goods to the extent contemplated in the Contract; (ii) modify such Goods to render them non-infringing; (iii) replace such Goods with non-infringing Goods; or (iv) refund the price paid by Buyer for such Goods after Buyer's return of such Goods to CTT. This Section 13.B states CTT's sole obligation and Buyer's exclusive remedy with respect to any loss for alleged patent, trademark or copyright infringement, and, as set forth in Section 5.B, CTT's liability for any such alleged infringement shall not exceed the total price paid by Buyer for such Goods under this Contract.

**C.** Notwithstanding the foregoing, any intellectual property rights created by CTT in the course of the performance of any Contract or otherwise in the manufacture of the Goods shall remain CTT's property. Nothing in these conditions shall be deemed to have given Buyer a licence or any other rights to use any of the intellectual property rights of CTT. Buyer's rights in and to the CTT's intellectual property are limited to those rights as expressly set forth in this Contract. All rights not expressly granted to Buyer under this Contract are expressly reserved by CTT.

**14. Indemnities.** Buyer acknowledges that CTT places particular reliance upon the provisions of the Contract and in addition to any other remedy available to CTT. Buyer irrevocably and unconditionally agrees to indemnify CTT, its employees, sub-contractors and agents (who shall have no duty to mitigate their loss) in full and on demand and keep them so indemnified against all claims, demands, actions, proceedings and all direct and indirect damages, losses, costs and expenses incurred or suffered by any of them and whether wholly or in part resulting directly or indirectly from the matters listed below whether or not such losses or the consequences of the matters listed below were foreseeable at the date of the Contract: (i) the manufacture and sale of the Goods by CTT in accordance with Buyer's designs, drawings, specifications or other data or information furnished or instructions given by Buyer; (ii) any breach by Buyer of its obligations under the Contract; and (iii) where, upon resale by Buyer, the **warranty set forth in Section 5** provided by CTT with the Goods is not assigned on the same terms and conditions as set out in this Contract. Notwithstanding the foregoing, in the event that any claim for which CTT is entitled to indemnification under this Section 14 arises out of a claim of intellectual property infringement by a third party, CTT shall have the right to control and manage the defence of such claim and the settlement thereof.

#### **15. Prototypes.**

**A.** Any prototypes provided under this Contract are for experimental or testing purposes to determine whether prototypes function for the intended purpose under normal operation, and prototypes shall not be transferred, delivered or sublet to any third party with the written consent of CTT. Buyer acknowledges all charges associated with a transaction involving a prototype are for engineering services and ordinary material costs for provision of parts. No part of any charge associated with a transaction involving a prototype under this Contract is related to any novel aspect of any prototype.

**B.** The prototype shall at all times remain, and be the sole and exclusive property of CTT. Buyer shall not make any changes or modifications to the prototype except with prior express written permission from CTT. CTT retains all rights and control of all prototypes and data generated in testing activities, and Buyer agrees that any details about the prototypes, all testing and data, and the fact of receiving the prototypes are all confidential information that must not be disclosed to third parties unless permitted under Section 21.

**C.** CTT shall not be liable to the Buyer or any third party for any claim, loss or damage, including without limitation any injury or property damage caused in the case the Buyer transfers or otherwise provides the prototypes to a third party and/or has used prototypes inappropriately.

## **16. Compliance**

### **A. Compliance with Export Controls.**

Buyer acknowledges that the Goods, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export, making available and/or transfer, directly or indirectly, of such Goods or technology, and/or the provision of related services, to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of CTT to comply with these laws, rules and regulations. Any other provision of this Contract to the contrary notwithstanding, Buyer shall comply with all such applicable export control and economic sanctions, rules and regulations relating to the cross-border movement of goods or technology or the provision of services, including but not limited to: the economic sanctions regulations administered by the U.S. Office of Foreign Assets Control, the U.S. Export Administration Regulations, the U.S. International Traffic in Arms Regulations, the UK Export Control Act of 2002 and all related orders in effect from time to time, and equivalent measures. Buyer shall act as the importer of record with respect to the Goods and shall not resell, export, re-export, distribute, transfer, make available or dispose of the Goods or related technology, directly or indirectly, without first obtaining all necessary written permits, consents and authorizations and completing such formalities as may be required under such laws, rules and regulations. In addition, CTT has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations, including but not limited to UN, U.S., UK, and European Union regulations. This Contract has been entered into on the basis that the Goods are not sold, will not be re-sold, made available or in any way used in any such country in breach of CTT policies. CTT reserves the right to refuse support of any Goods that are in breach of this section 16A. Any failure by Buyer to comply with this provision and all applicable laws pertaining to the importation, exportation, distribution, sales, promotion and marketing of Goods will constitute a default giving CTT the right to immediate termination of this Contract and/or the right to elect not to recognize the warranties associated with the Goods. Buyer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify and hold CTT harmless from and against any and all fines, damages, levies, costs and judgments which CTT may be required to pay. Buyer represents and warrants that it is not a party listed as a specially designated terrorist, Specially Designated National, and/or Blocked Person or party which otherwise appears on any list maintained by the U.S. Treasury Department Office of Foreign Assets Control, U.S. Commerce Department Bureau of Industry and Security, U.S. State Department, EU or UK designated parties lists.

**B. Compliance with Anti-Bribery Laws.** Buyer represents and warrants that it has not and shall not, directly or through any intermediary, pay, give, promise to give or offer to give anything of value to a government official or representative, a political party official, a candidate for political office, an officer or employee of a public international organization or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities for the purposes of inducing such person(s) to use their influence to assist CTT in obtaining or retaining business or to benefit CTT or any other person in any way, and will not otherwise breach any applicable anti-bribery legislation, including but not limited to the Foreign Corrupt Practices Act of the United States, the UK Bribery Act and the Prevention of Corruption Act of India, each as amended from time to time. Any breach of this obligation shall constitute a material breach of the Contract. Any breach of this Section shall be grounds for immediate termination of this Contract. Buyer shall protect, indemnify and hold harmless CTT and its affiliates from any claim, damages, liabilities, costs, fees and expenses incurred by CTT or its affiliates as a result of Buyer's breach.

**17. Applicable Law.** This Contract is to be governed by and construed according to the laws of India. The parties irrevocably agree that the courts of Pune shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

**18. Entire Agreement.** This Contract constitutes the entire agreement between the parties in connection with its subject matter and supersedes any previous agreement, terms issued as part of any order, warranty, statement, representation, understanding or undertaking (in each case whether written or oral) given or made before the date of this Contract by or on behalf of the parties and relating to the Goods. For the avoidance of doubt, in the event of a conflict or contradiction between this Contract and any Buyer agreement or terms and conditions that the Buyer

may seek to rely upon, the terms of this Contract shall prevail. Neither party has relied on any statement, representation, agreement, understanding or promise made by the other except as expressly set out in this Contract. If any provision in this Contract shall be held to be illegal, invalid or unenforceable, in whole or in part, the provision shall be modified or deleted only to the extent necessary so that the provision is legal, valid and enforceable and gives effect to the commercial intention of the parties. To the extent it is not possible to delete or modify the provision, in whole or in part, under this Section, then such provision or part of it shall, to the extent that it is illegal, invalid or unenforceable, be deemed not to form part of this Contract and the legality, validity and enforceability of the remainder of this Contract shall, subject to any deletion or modification made under this Section, not be affected.

**19. Duties, Taxes and Tariffs.** Subject to any applicable local laws and regulations of the jurisdiction where the Goods are to be delivered or as otherwise agreed in writing, Buyer shall be responsible for paying any and all duties, taxes and tariffs levied on the Goods including without limitation by the government of the country of the ultimate destination of the Goods.

**20. Insurance and Freight Charges.** Unless otherwise agreed to in writing, Buyer shall be responsible for the freight charges and insurance coverage and charges for all risks upon taking the delivery of the Goods Ex Works. All such insurance charges are for Buyer's account. Freight and insurance charges are merely estimates based on currently prevailing rates. As these charges are beyond the control of CTT, any variations existing at the time of shipment are for the account of Buyer.

**21. Confidentiality.** Buyer shall safeguard and prevent the unauthorized disclosure of CTT's trade secrets; business, technical, manufacturing, marketing, sales, financial, know-how, and other confidential information ("Confidential Information"). Buyer shall hold such Confidential Information in confidence for a period of five (5) years from the date a Contract comes into force and shall not disclose such Confidential Information to any third party unless prior written consent by CTT is given. Notwithstanding the provisions of Section 21 of this Contract, Buyer shall not be required to maintain confidentiality or be restricted in its use of any Confidential Information if the information is (i) subject to an obligation to disclose under law, or that is required to be disclosed by any competent regulatory authority, by notice or otherwise; or (ii) already in its possession other than as a result of a breach of the Contract; (iii) in the public domain other than as a result of a breach of the Contract; or (iv) independently developed by Buyer without reference to or reliance upon the CTT's confidential information. All information and related data supplied by CTT to Buyer must be returned to CTT upon request and any duplications or copies must be destroyed.

**22. Variation of Contract.** No variation of the Contract shall be effective unless it is made in writing and English and is signed by both of the parties.

**23. Notices.** All notices or other communication required or permitted to be given under this Contract shall be in writing and shall be deemed to be valid and effective if personally served on the other party at their registered office address (if a company) or its principal place of business (in any other case). Notice shall be deemed to have been given (i) in the case of personal service: at the time of service and (ii) in the case of e-mail: at the time of receipt.