

## CONDITIONS OF PURCHASE

### A. DEFINITIONS

- (1) Comex McKinnon Limited is hereinafter termed the "Company". The person, firm or company supplying the goods is hereinafter termed the "Supplier".

### B. APPLICABILITY

- (1) These Conditions of Purchase shall govern every contract for supply of goods between the Company and the Supplier. All purchase orders ("POs") are placed and executed on the understanding that the Supplier is bound by these Conditions of Purchase. All goods shall be supplied pursuant to these Conditions of Purchase and the PO only, to the total exclusion of any terms and conditions of the Supplier. No quotation or standard terms of business or supply, in any confirmation dockets, invoice, purchase order or other similar document issued by or on behalf of the Supplier shall vary this Agreement or be binding upon the parties.
- (2) In the event of conflict between these Conditions of Purchase and any terms or conditions specifically set out in the PO, the terms or conditions so set out in the PO shall prevail.

### C. PRICES

- (1) The price payable shall be the price set out in the PO. Prices shall not be subject to variation except with the prior written consent of the Company. Unless otherwise stated in the PO, the price is inclusive of all charges, including but not limited to carriage, insurance and delivery of goods to the place or places specified in the PO.
- (2) Payment will be made within the time period stated in the applicable PO. In the event of late payment interest may be charged at an annual rate of 3% on all outstanding amounts.

### D. DELIVERY

- (1) If it is stated in the PO that the Supplier is to effect delivery of the goods, the Supplier, at his own risk and expense, shall deliver the goods to the location specified in that PO, or any alternative location agreed in writing by the Company.
- (2) The giving of a receipt by an employee of the Company or by an employee or agent or consignee of the Company to any railway company, shipment agent, carrier or other person or company whomsoever, shall be proof only of actual delivery and not of delivery in good condition, merchantable quality and/or quantity specified.
- (3) The risk in the goods will remain with the Supplier until they are delivered to and are accepted by the Company. Title to the goods will pass to the Company on delivery, or upon payment if earlier. Passing of title is without prejudice to any right of rejection of the goods within a reasonable period of time which may accrue to the Company hereunder or otherwise at law.
- (4) The time of delivery stated in the PO is binding upon the Supplier and is of the essence unless otherwise agreed to in writing by the Company.
- (5) If delivery of the goods is not made in accordance with the time of delivery stated in the PO, the Company may at its option (and without prejudice to any other rights the Company may have) without liability forthwith by written notice to the Supplier cancel the PO and delivery of any undelivered balance of the goods.
- (6) If the PO provides for delivery of the goods by the Supplier by instalments and the Supplier shall default in delivery of one or more instalments, the Company shall have the option specified in Clause D(5).
- (7) In the case of non or partial delivery, performance or completion, the Company reserves the right to charge the Supplier the difference in price the Company pays for substitute goods which the Company has purchased in lieu of those goods which the Supplier has failed to deliver and/or those goods which the Company does not accept and the price set out in the PO as

liquidated damages and not as a penalty. The Supplier shall make such payment within 15 (fifteen) days of being requested to do so. In the event of late payment interest may be charged at a rate of 1% on all outstanding amounts to be compounded monthly or such rate as permitted by law, whichever is the greater.

- (8) Notwithstanding anything to the contrary, the Supplier may not deliver the goods by separate instalments unless agreed in writing by the Company.

### E. COLLECTION

- (1) If it is stated in the PO that the Company or an agent of the Company is to collect the goods, the Company or an agent of the Company, at the Supplier's risk and expense, shall collect the goods from the location specified in the PO, or any alternative subsequently agreed in writing by the Company.
- (2) The giving of a receipt by an employee of the Company or by an employee or agent or consignee of the Company to the Supplier or an employee or agent of the Supplier, shall be proof only of actual collection and not of collection in good condition, merchantable quality and/or quantity specified.
- (3) The risk in the goods will remain with the Supplier until they are collected and accepted by the Company. Title to the goods will pass to the Company on collection or upon payment if earlier. Passing of title is without prejudice to any right of rejection of the goods within a reasonable period of time which may accrue to the Company hereunder or otherwise at law.
- (4) In the case of non or partial delivery, performance or completion, the Company reserves the right to charge the Supplier the difference in price the Company pays for substitute goods which the Company has purchased in lieu of those goods which the Supplier has failed to deliver and/or those goods which the Company does not accept and the price set out in the PO as liquidated damages and not as a penalty. The Supplier shall make such payment within 15 (fifteen) days of being requested to do so. In the event of late payment interest may be charged at a rate of 1% on all outstanding amounts to be compounded monthly or such rate as permitted by law, whichever is the greater.
- (5) If delivery of the goods is not made in accordance with the time of delivery stated in the PO, the Company may at its option (and without prejudice to any other rights the Company may have) without liability forthwith by written notice to the Supplier cancel the PO and delivery of any undelivered balance of the goods.

### F. QUALITY

- (1) The Supplier warrants that the goods supplied by the Supplier to the Company under this Contract shall be free from defects and shall conform in all respects with any sample and/or the specification for such goods. Any article found to be inferior in quality, or in any manner defective may be rejected by the Company. Acceptance of delivery or collection (as the case may be) shall not preclude the Company from later exercising this right.
- (2) If within twelve months after delivery or collection of the goods (as applicable) or such longer guarantee period that may be offered by the Supplier with respect to the goods the Company gives notice in writing to the Supplier of any defect in the goods which shall arise under proper use or of any non-conformity with this Contract then the Supplier, if the Company so requests, shall replace the goods so as to remedy the defects without any additional costs to the Company. The relevant goods shall be deemed to be defective if shown to be so as a result of testing carried out by the Company or an agent of the Company.
- (3) If a substantial proportion of the goods are defective, or do not conform as aforesaid, the Company may, without prejudice to any other rights and remedies, reserve the right to cancel the relevant PO and reject any or all goods already delivered or collected (as applicable), and the Supplier shall thereupon immediately repay to

- the Company any sums already paid in respect of goods so rejected or not then delivered or collected (as the case may be). Rejected goods will be returned at the Supplier's risk and expense.
- (4) In circumstances where the Supplier has agreed to deliver the goods to a specified location, the Supplier shall with all possible speed replace, free of charge, goods damaged or lost in transit provided that the Company shall give the Supplier written notification of such damage or loss within a reasonable time.
  - (5) The Company reserves the right to inspect any goods before dispatch or collection (as the case may be) from the Supplier's premises, but such inspection shall not relieve the Supplier from responsibility or liability nor be interpreted in any way to imply acceptance of such goods. Goods must be to the entire satisfaction and approval of the Company's designated inspector when examined at time of delivery or collection (as the case may be) or subsequent thereto at its address for delivery as stated in this PO.
  - (6) Where it is specified or agreed that a sample of a good(s) is to be submitted for approval prior to delivery or collection (as applicable), such sample shall, in the event of the sample being acceptable to the Company and unless otherwise agreed, be taken as the standard by which the supply in bulk or any future supplies shall be governed.
- G. HEALTH, SAFETY & ENVIRONMENT**
- (1) It is a condition of this Contract that all goods and the like, supplied to the Company comply with all applicable legal and regulatory requirements, as well as all Irish/EU Standards (whichever in each case is the higher) and any certification where applicable. The goods and the like must be fit for the purpose required.
  - (2) The Supplier shall comply with all the Company's applicable safety policies and instructions.
- H. CONFIDENTIALITY**
- In providing the goods and in dealing with the Company and its representatives, the Supplier may be exposed to confidential information and materials of the Company. This Contract and all information disclosed about the Company and its businesses are given to the Supplier in confidence. The Supplier, its agents and/or its subcontractors and all other persons involved shall retain in confidence and shall not copy or disclose to any third party, without the Company's prior written approval, any information obtained from the Company or deduced from information obtained from the Company. The Supplier shall assume responsibility for ensuring the confidentiality of information disclosed to an agent and/or a subcontractor.
- I. INSURANCE**
- (1) The Supplier undertakes to take out and maintain adequate insurance cover with a reputable insurance company against liability which the Supplier or any of its subcontractors may incur under this Contract.
  - (2) The Supplier shall produce on request to the Company a copy of the relevant policy or policies of insurance and evidence that any premiums have been paid. However, neither inspection nor receipt of such copies shall constitute acceptance by the Company of the terms thereof nor waiver of the Supplier's responsibility thereunder.
- J. INDEMNITY**
- The Supplier agrees on demand to indemnify and to keep indemnified (on an after tax basis) the Company and hold the Company harmless from and against all loss, liabilities, actions, claims, proceedings, demands, damages and expenses (including reasonable legal fees) arising out of or in connection with the Supplier's negligence, default or breach of this Contract or of any PO, including any act or omission of its personnel or subcontractors or any damage occasioned as a result of the goods. This Clause K shall survive termination of this Agreement.
- K. TERMINATION**
- (1) The Company is entitled to terminate the Contract immediately on the Supplier committing a material breach of any provision of the Contract or as otherwise set out in the Contract.
  - (2) Termination of this Contract shall be without prejudice to any other rights or remedies a party may be entitled to under this Contract or at law and shall not affect any accrued rights or liabilities of either party.
  - (3) All provisions of this Contract which in order to give effect to their meaning need to survive its termination shall remain in full force and effect thereafter.
- L. GENERAL**
- (1) If requested to do so by the Company, it shall be a condition of this Contract that the Supplier shall produce, as appropriate, either a tax clearance certificate or, in the case of Suppliers resident outside the state, a statement from the Revenue Commissioners as to their suitability for appointment on tax grounds.
  - (2) The Company accepts no liability whatsoever for goods not ordered on the official PO form and invoices for such goods not officially ordered will not be honoured.
  - (3) Any variation of the PO or these Conditions of Purchase shall become binding only if first agreed in writing by a duly authorised representative of the Company.
  - (4) In circumstances where in the sole opinion of the Company, the details set out in the PO contain a manifest error the Company retains the right to have the PO amended as per the Company's instructions. Any amendment of the PO shall be communicated to the Supplier.
  - (5) No terms and conditions in any confirmation, docket, invoice, or other similar document of the Supplier will form part of any contract or this Contract between the Company and the Supplier, and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.
  - (6) The Company's rights shall not be prejudiced or restricted by any indulgence or forbearance extended to the Supplier and no waiver express or implied by the Company in respect of any breach shall operate as a continuing waiver or as a waiver of any other breach.
  - (7) The Supplier shall not assign, transfer, mortgage, charge, subcontract, declare a trust of or deal in any other manner with any of its rights and obligations under this Contract without the prior written consent of the Company.
  - (8) Nothing in this Contract shall constitute or be deemed to constitute the Supplier an employee or agent of the Company or a partnership or joint venture between the Company and the Supplier for any purpose whatsoever.
  - (9) If any provision of this Contract is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, all other terms of this Contract shall remain in full force and effect.
  - (10) This Contract constitutes the entire agreement between the parties and supersedes all previous agreements, promises, proposals, representations, understandings and negotiations, whether written or oral, between the parties. However, nothing in this Clause K(10) shall exclude any liability which one party would otherwise have to the other party in respect of any statements it has made fraudulently to the other party.
  - (11) The parties shall do their utmost to resolve any dispute or controversy with respect to the interpretation or application of any provision of this Contract in an amicable, timely and efficient manner for the purposes of seeking a just and equitable solution. Proposals and information exchanged during informal dispute resolution proceedings will be privileged, confidential and without prejudice to a party's legal position in any formal proceedings.
  - (12) Both parties acknowledge that this Contract commercially binding on the parties and that the Supplier hereby expressly waives its rights in the defence of any claim to seek to rely upon the defence of frustration of contract due to any unforeseen event or otherwise.
  - (13) This Contract and any non-contractual disputes arising out of it will be governed by, and interpreted in accordance with, the laws of Ireland and will be subject to the exclusive jurisdiction of the Irish courts.

# CONDITIONS OF SALE

## A. DEFINITIONS

Comex McKinnon Limited is hereinafter termed the "Company". The person, firm or company buying the goods (the "Goods") from the Company is hereinafter termed the "Buyer".

## B.

## C. APPLICABILITY

(1) These Conditions of Sale shall govern every contract for the sale of Goods by the Company to the Buyer. All purchase orders ("POs") are placed and executed on the understanding that the Buyer is bound by these Conditions of Sale. All goods sold to the Buyer are sold pursuant to these Conditions of Sale and the PO only, to the total exclusion of any terms and conditions which the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

(2) In the event of conflict between these Conditions of Sale and any terms or conditions specifically set out in the PO, the terms or conditions so set out in the PO shall prevail.

(3) Any typographical, clerical or other accidental errors or omissions in the PO issued by the Company shall be subject to correction without liability on the part of the Company.

## D. SOLVENCY OF BUYER

(1) The Buyer acknowledges that before entering into any agreement for the purchase of the Goods from the Company the Buyer has expressly warranted and represented that, if being a company, the Buyer or the board of the Buyer knows of no circumstances which would entitle any debenture holder or secured creditor to appoint a receiver, to petition for winding up of the company, or exercise any other rights over the company's assets, or knows of no circumstances which would justify the bringing of a petition for the appointment of an examiner.

(2) The Buyer's right to possession of the Goods shall cease if it, being a company, does anything or fails to do anything which would entitle a receiver to take possession of any assets or which would entitle any person to present a petition for winding up. The Company may for the purpose of recovery of the Goods enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same.

## E. ORDERS

(1) No order which has been accepted by the Company may be cancelled except with the agreement in writing of the Company on the terms that the Buyer shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of the cancellation.

## F. PRICE

(1) The price of the Goods shall be the price set out in the PO.

## G. PAYMENT

(1) The Buyer shall pay the invoice in full and in cleared funds within ten (10) calendar days of the date of the invoice. Payment shall be made to the bank account nominated in

writing by the Company. Time of payment is of the essence. Receipts for payment will be issued only upon request.

(2) The price quoted in this Contract for the Goods is based on the rate of duty, tax or impost, if any, applicable at the date of the contract and any increase in such duty, tax or impost levied on the Goods at any time up to delivery by reason of changes in Domestic / EU / Customs / Revenue Regulations shall be for the account of the Buyer in addition to the price quoted.

(3) If the Buyer fails to make any payment due to the Company under this Contract by the due date for payment, then the Buyer shall pay interest on the overdue amount at the rate of eight (8)% per annum above the European Central Bank's base lending rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Buyer shall pay the interest together with the overdue amount.

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

## H. DELIVERY, RISK AND RETENTION OF TITLE

(1) All risks whether insurable or otherwise relating to the Goods shall pass to the Buyer immediately on issuance of the invoice by the Company. Each part delivery or instalment of the Goods shall be deemed to be sold under a separate sub-contract to this Contract and no default by the Company in respect of any part delivery or instalment shall entitle the Buyer to treat this Contract as repudiated in regard to any balance or instalment remaining deliverable. The Company reserves the right to sub-contract in fulfilment of any Buyer's order or any part thereof.

(2) Any storage cost will be charged to the Buyer's account on a weekly basis unless otherwise set out in the PO or agreed in writing by the Company.

(3) An instruction and/or delivery order from the Company to the storekeeper of the Goods sold hereunder shall constitute a delivery of the Goods to the Buyer pursuant to this Contract. All Goods supplied to the Buyer shall remain the sole and absolute property of the Company until the entire purchase price payable therefor by the Buyer to the Company has been paid in full and until such full payment is received by the Company, the Buyer acknowledges that the Buyer is in possession of the Goods solely as bailee for the Company.

(4) The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company, but if the Buyer does so all money owing by the Buyer to the Company shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

- (5) If any amount owing by the Buyer to the Company is overdue, the Company may without prejudice to any of its other rights and remedies, repossess without notice and resell any or all of the Goods. The Buyer irrevocably authorises the Company to enter the Buyer's premises or any other premises under the control of the Buyer during normal business hours for the purpose of repossessing the Goods in which the Company retains title.

(6)

Subject to the terms hereof, the Buyer may in the ordinary course of business sell on the Goods or any product produced from or with the Goods subject to the express condition that the Buyer shall be under a fiduciary duty to account to the Company for the proceeds of such sale and that the entire proceeds thereof are held in trust for the Company and are not mingled with other monies or paid into any overdrawn bank account and shall at all times be identifiable as the Company's money.

- (7) The Buyer's right to possession of the Goods in which the Seller maintains legal and beneficial title shall terminate if;

1.1 The Buyer commits or permits any material or persistent breach of its obligations under this Contract;

1.2 The Buyer enters into a voluntary liquidation under the Companies Acts 1963-2009, or any other similar scheme or arrangement is made with his creditors;

1.3 The Buyer is or becomes the subject of a bankruptcy order or takes advantage of any other statutory provision for the relief of insolvent debtors;

1.4 The Buyer convenes any meeting of its creditors, enters into compulsory liquidation, has a receiver, manager, administrator, administrative receiver or examiner appointed in respect of its assets or undertaking or any part thereof, any documents are filed with the court for the appointment of an administrator or examiner in respect of the Buyer, notice of intention to appoint an administrator is given by the Buyer or any of its directors or by a creditor(s) (as set out in Section 3 Companies (Amendment) Act 1990 (as amended)), a resolution is passed or petition presented to any court for the winding up of the Buyer or for the granting of an administration/examinership order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer.

#### I. INSPECTION

- (1) The Buyer is under a duty whenever possible to ensure that the Goods on delivery or on collection as the case may be conform with the specifications set out in the PO.
- (2) The Company shall be under no liability for non-conformance with the specifications set out in the applicable PO that would be apparent on reasonable careful inspection if the terms of this Clause I are not complied with and, in any event will be under no liability whatsoever or howsoever arising if a written

complaint is not delivered to the Company within five (5) calendar days of delivery detailing the alleged non-conformance with the specifications set out in the applicable PO.

- (3) In all cases where non-conformance with specifications is complained of the Company shall be under no liability in respect thereof unless an opportunity to inspect the Goods is supplied to the Company or its agent before any use is made thereof or any alteration or modification is made thereto by the Buyer.
- (4) Subject to Clause I(2) and Clause I(3), the Company shall make good any non-conformance with the specifications set out in the applicable PO as soon as it is reasonable to do so, but otherwise shall be under no liability whatsoever.

#### J. QUALITY

- (1) All guarantees, warranties or conditions whether expressed or implied or otherwise arising are excluded and the Company makes no representation or warranty nor shall there be any implied condition as to the quality of fitness of any Goods supplied by the Company for any particular purpose unless expressly stated in writing by a duly authorised officer of the Company.
- (2) Goods are only suitable as raw materials for further processing and mixtures with other materials and no warranty is given or to be implied as to the percentage of these Goods to be used in any such operation which is at the Buyer's sole risk.
- (3) The Company reserves the right to tender replacement goods without prior notice.

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#### M. LIABILITY

- (1) The following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
- 1.1 any breach of these Conditions;
- 1.2 any use made (including but not limited to modifications) or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
- 1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- (2) All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1893 (as amended)) are, to the fullest extent permitted by law, excluded from this Contract.
- (3) Nothing in this Contract excludes or limits the liability of the Company:

3.1 for death or personal injury caused by the Seller's negligence; or

3.2 for any matter which it would be illegal for the Seller to exclude or attempt to exclude its liability; or for fraud or fraudulent misrepresentation.

(4) Subject to Clause M(2) and Clause M(3):

4.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the Contract price; and

4.2 the Company shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with this Contract.

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**Q. TERMINATION**

(1) The Company is entitled to terminate this Contract immediately on the Buyer committing a material breach of any provision of this Contract or as otherwise set out in this Contract.

(2) Termination of this Contract by the Company shall be without prejudice to any other rights or remedies the Company may be entitled to under this Contract or at law and shall not affect any accrued rights or liabilities of the Company.

(3) All provisions of this Contract which in order to give effect to their meaning need to survive its termination shall remain in full force and effect thereafter.

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**V. FORCE MAJEURE**

(1) For the purposes of this Contract, a "*Force Majeure Event*" means an event beyond the reasonable control of the Company including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

(2) The Company shall not be liable to the Buyer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

(3) If the Force Majeure Event prevents the Buyer from carrying out any its obligations under this Contract for more than 60 (sixty) days, the Company shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

**W. CONFIDENTIALITY**

In purchasing the Goods and in dealing with the Company and its representatives, the Buyer may be exposed to confidential information and materials of the Company. This Contract and all information disclosed about the Company and its businesses are given to the Buyer in confidence. The Buyer, its agents and/or its subcontractors and all other persons involved shall retain in confidence and shall not copy or disclose to any third party, without the Company's prior written approval, any information obtained from the Company or deduced from information obtained from the Company. The Buyer shall assume responsibility for ensuring the confidentiality of information disclosed to an agent and/or a subcontractor.

**X. GENERAL**

(1) The Company accepts no liability whatsoever for goods not ordered on the official PO form.

(2) Any variation of the PO or these Conditions of Sale shall become binding only if first agreed in writing by a duly authorised representative of the Company.

(3) In circumstances where in the sole opinion of the Company, the details set out in the PO contain a manifest error the Company retains the right to have the PO amended as per the Company's instructions. Any amendment of the PO shall be communicated to the Buyer.

(4) The Company's rights shall not be prejudiced or restricted by any indulgence or forbearance extended to the Buyer and no waiver express or implied by the Company in respect of any breach shall operate as a continuing waiver or as a waiver of any other breach.

- (5) The Company may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this Contract. The Buyer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this Contract without the prior consent of the Company (which may be withheld in the Company's sole discretion and without providing a reason for doing so).
- (6) Nothing in this Contract shall constitute or be deemed to constitute the Supplier an employee or agent of the Company or a partnership or joint venture between the Company and the Supplier for any purpose whatsoever.
- (7) If any provision of this Contract is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, all other terms of this Contract shall remain in full force and effect.
- (8) A waiver by the Company of any right or remedy under this Contract is only effective if given in writing and any written waiver shall not be deemed a waiver of any subsequent breach or default by the Buyer. No failure or delay by the Company to exercise any right or remedy provided under this Contract, in equity or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise by the Company of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (9) This Contract constitutes the entire agreement between the parties and supersedes all previous agreements, promises, proposals, representations, understandings and negotiations, whether written or oral, between the parties. However, nothing in this Clause X(9) shall exclude any liability which one party would otherwise have to the other party in respect of any statements it has made fraudulently to the other party.
- (10) The parties shall do their utmost to resolve any dispute or controversy with respect to the interpretation or application of any provision of this Contract in an amicable, timely and efficient manner for the purposes of seeking a just and equitable solution. Proposals and information exchanged during informal dispute resolution proceedings will be privileged, confidential and without prejudice to a party's legal position in any formal proceedings.
- (11) This Contract and any non-contractual disputes arising out of it will be governed by, and interpreted in accordance with, the laws of Ireland and will be subject to the exclusive jurisdiction of the Irish courts.