

ALLEGHENY TECHNOLOGIES LTD
TERMS AND CONDITIONS OF SALE

1. **DEFINITIONS**

The definitions below apply in these conditions.

"Contract" shall be the Contract for the purchase and sale of the Goods incorporating these conditions.

"Days" shall be all calendar days.

"Goods" shall be the subject matter of the Contract.

"Purchaser" shall be such person, firm or company as is so designated in any quotations, correspondence or Contracts relating to the Goods in question.

"Seller" shall be ALLEGHENY TECHNOLOGIES LTD.

2. **APPLICATION OF TERMS AND ACCEPTANCE**

Acceptance of the Goods by Purchaser shall constitute acceptance of the terms and conditions set forth herein. Subject to any variation in accordance with these conditions the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms and conditions which the Purchaser purports to apply under any purchase order, confirmation of order, specification or other document). No terms or conditions endorsed on, delivered with or contained in the Purchaser's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract. All quotations are given and all orders are accepted only upon the conditions of sale as set out herein unless expressly agreed otherwise by the Seller in writing and signed by an authorised representative of the Seller. No quotation given shall constitute an offer for sale capable of acceptance so as to create a binding Contract and each order or acceptance of a quotation received from any Purchaser shall be deemed to be an offer by the Purchaser to buy Goods subject to these terms and conditions and shall require the Seller's acceptance before any Contract shall be deemed to have arisen. Each accepted order shall constitute an entire and separate Contract to which these terms and conditions shall apply. Where Goods are to be supplied from stock, such supply is subject to availability of stocks at the date of dispatch by the Seller. Any quotation is given on the basis that no Contract shall come into existence until Seller despatches an acknowledgement of order to Purchaser.

3. **PRICES**

The price for the Goods shall be the price agreed by the parties in writing. The price for the Goods is exclusive of the following charges which shall be paid by Purchaser to Seller in addition to the price (to the extent that such charges are paid or payable by Seller): all taxes which are in the nature of excise, sales, use, retailers or occupation taxes (including but not limited to value added tax) and freight, carriage and insurance. Any additional cost incurred in packing or making any special test or inspection which is requested by Purchaser, and is in addition to those regularly supplied by Seller, will be added to the price as a special charge. Such tests and inspections will be made only at the place of manufacture before the date of delivery. Seller may at any time prior to delivery, increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of Seller, such as, without limitation, foreign exchange fluctuations, currency alteration or regulation or significant increase in the cost of labour, materials or other cost. Where the Goods are sold DDP (or under other commercial terms as agreed by the parties in writing), the definitions and rules in INCOTERMS 2010 shall apply, except as expressly provided in the Contract.

Any purported changes in design, specification or quantity of or timing for delivery of the Goods ordered shall not be valid unless agreed in writing by the Seller and, if so agreed, shall entitle the Seller to adjust the price charged for the Goods.

4. **PAYMENT**

Unless otherwise expressly agreed in writing, accounts are due for payment not later than 30 Days from the end of the month following the month of invoice. All payments shall be made by Purchaser to Seller in full without any deduction or set-off whatsoever. If any payment is overdue Seller reserves the right to suspend any further deliveries and to charge interest on the amount due after as well as before judgment on a daily basis at the annual rate 4% above the Base Rate of Bank of England from time to time applicable until the amount due (including interest) is paid. Seller reserves the right at any time to demand full or partial payment before proceeding or proceeding further with an order. The Seller reserves the right where genuine doubts arise as to a Purchaser's financial position to suspend delivery or performance of any order or any part or instalment without liability until payment has been provided. Time for payment shall be of the essence. All payments payable to the Seller under the Contract shall become due immediately on its termination notwithstanding any other provision. Purchaser shall not be entitled to set off any sums owed to it by Seller against any payments due to Seller.

5. **DELIVERY**

Delivery of the Goods to Purchaser shall be made DDP, unless otherwise specified in writing by the Seller.

The Seller reserves the right to make delivery by instalments. All stipulated dates for dispatch and delivery are approximated and unless a delay in dispatch or delivery is unreasonable and without notice, neither the Purchaser nor its agent shall have the right to reject the delivery, to withhold payment of invoices in whole or in part or to claim damages ("Rejection Rights").

Unless otherwise agreed in writing, the ordered or invoiced weight (the "Invoiced Weight") of Goods is to be construed as an estimate only such that the actual weight of a delivery may differ from the Invoiced Weight by not more than 10% of the Invoiced Weight without any Rejection Rights or other right or remedy accruing to the Purchaser.

If Seller's production or supply of the Goods is curtailed, suspended, or interrupted for any reason, deliveries hereunder may, at its option, be cancelled (the agreement to sell being deemed to be rescinded with respect to such deliveries) or may be prorated during the period of curtailment, suspension or interruption and thereafter resumed until delivery is made in full.

The taking of possession of the Goods by Purchaser shall constitute a waiver of all claims arising out of any delay in dispatch or delivery by Seller and agreement to any variation to the Contract specified in writing by the Seller.

6. **WARRANTY, LIMITATION OF LIABILITY**

To the fullest extent permitted by law, Seller makes no warranties express or implied, including, but not limited to any condition, warranty or term as to satisfactory quality or fitness for purpose except the following:

SELLER WARRANTS TO THE PURCHASER THAT THE GOODS SHALL CONFORM TO THE AGREED UPON SPECIFICATION(S) FOR A PERIOD OF NINETY (90) DAYS AFTER DELIVERY OF THE GOODS TO THE PURCHASER. PURCHASER SHALL BE RESPONSIBLE FOR INSPECTING AND/OR TESTING THE GOODS TO DETERMINE THEIR SUITABILITY FOR THEIR END-USE APPLICATION OR PURPOSE. GOODS CLAIMED NOT TO CONFORM MAY ONLY BE RETURNED TO SELLER IN ACCORDANCE WITH SELLER'S RETURN POLICY.

IF THE GOODS DO NOT CONFORM TO THE SPECIFICATION(S) FOR THE TIME PERIOD SET OUT ABOVE, THE SELLER WILL, SUBJECT TO THE REMAINDER OF THIS CLAUSE 6, AT ITS OPTION: (i) REPAIR OR REPLACE THE GOODS FOUND NOT TO CONFORM TO THE WARRANTY; (ii) TAKE SUCH STEPS AS THE SELLER DEEMS NECESSARY TO BRING THE GOODS INTO A STATE WHERE THEY CONFORM TO THE SPECIFICATION(S); OR (iii) TAKE BACK THE GOODS FOUND NOT TO CONFORM TO THIS WARRANTY AND REFUND THE PRICE OF SUCH GOODS. THE PERFORMANCE OF ANY OF THE ABOVE OPTIONS SHALL CONSTITUTE AN ENTIRE DISCHARGE OF SELLER'S LIABILITY UNDER THIS WARRANTY. THE PROVISIONS OF THE FOREGOING WARRANTY ARE IN LIEU OF ANY OTHER CONDITION, WARRANTY OR OTHER TERM WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL (INCLUDING ANY IMPLIED TERMS OF SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE OR TITLE OR NON-INFRINGEMENT). NOTWITHSTANDING ANYTHING IN THE REMAINDER OF THIS CLAUSE 6, SELLER'S LIABILITY ARISING OUT OF THE MANUFACTURE, SALE OR SUPPLYING OF THE GOODS OR THEIR USE OR DISPOSITION WHETHER BASED UPON WARRANTY, CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE ACTUAL PURCHASE PRICE PAID OR PAYABLE BY PURCHASER FOR THE GOODS. IN NO EVENT SHALL SELLER BE LIABLE TO PURCHASER OR ANY OTHER PERSON OR ENTITY FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, LIQUIDATED, INDIRECT OR PUNITIVE DAMAGES OR FOR LOSS OF PROFITS, LOSS OF A CHANCE, LOSS OF DATA OR LOSS OF USE DAMAGES ARISING OUT OF THE MANUFACTURE, SALE OR SUPPLYING OF THE GOODS, HOWSOEVER CAUSED AND EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES.

UNLESS OTHERWISE AGREED BY SELLER, THE FOREGOING WARRANTY IS FOR THE BENEFIT OF ONLY THE PURCHASER AND IS NON-TRANSFERABLE AND NON-ASSIGNABLE EITHER DIRECTLY, INDIRECTLY OR BY OPERATION OF LAW. Purchaser, its employees, agents and representatives shall not claim, represent, imply nor permit its customers, distributors, processors or others to claim, represent or imply that such warranty extends or is available to persons or entities other than Purchaser and shall indemnify and hold Seller harmless from all claims and actions of other persons or entities irrespective of whether such claims or actions are based upon contract, tort, negligence, strict liability or otherwise. To the limit of its legal right to do so, Purchaser shall cause any third party to cease and desist from making any such representation.

All recommendations and advice given by or on behalf of the Seller to the Purchaser as to the methods of storing, applying or using the Goods, the purposes to which the Goods may be applied and the suitability of the Goods in any manufacturing process or in conjunction with any other materials or for any other purposes are given without liability on the part of the Seller, its servants or agents.

The foregoing warranty is conditional on:

- (i) the Purchaser giving written notice to the Seller of the alleged defect within seven days of the time when the Purchaser discovers or ought to have discovered the defect;
- (ii) the Purchaser affording the Seller a reasonable opportunity to inspect the Goods, if so requested by the Seller, returning the allegedly defective Goods to the Seller DDP (subject to refund in the event that the claim is found to be justified) for inspections to take place there;
- (iii) no repairs or alterations having been carried out to the Goods without the prior written approval of the Seller;
- (iv) the Goods having been installed, stored, used and maintained properly and carefully and in accordance with any instructions issued by the Seller; and
- (v) the Goods being suited to the function for which they were used.

Nothing in these conditions excludes or limits the liability of the Seller:

- (i) for death or personal injury caused by the Seller's negligence;
- (ii) for fraud or fraudulent misrepresentation; or
- (iii) for any matter in respect of which it would be illegal for Seller to exclude or attempt to exclude its liability.

7. **TECHNICAL DATA, ADVICE, SPECIFICATIONS**

Any technical data, production data, production estimates and performance figures, advice, drawings and specifications furnished by Seller with respect to Goods and/or services supplied and the use of such Goods and/or services is given without charge but does not create any Warranties for which Seller would be liable. To the extent permitted by law, Seller assumes no obligation or liability for any damages, special, incidental, consequential, liquidated, indirect, punitive, loss of profits or otherwise, for such data, estimates, advice, drawings and specifications given or result obtained irrespective of whether claims or actions with respect to such are based upon contract, tort, negligence, strict liability, warranty or otherwise. All of such data, estimates, figures, advice, drawings and specifications shall be given and accepted at Purchaser's risk. Catalogues, circulars and similar pamphlets of the Seller are issued for general information purposes only and shall not be deemed to modify the provisions hereof or create any warranties. In the event that Seller is providing Goods that are experimental or are made by an experimental process, then Purchaser shall treat as confidential any technical data, specifications, and information of Seller relating thereto and will not disclose to others nor use the same for any purpose other than the purpose for which they were supplied.

8. **FORCE MAJEURE**

This agreement shall not be subject to rescission or cancellation by Purchaser in whole or in part by reason of, and Seller shall not be liable to Purchaser for any loss or damage incurred by Purchaser arising out of, any failure of performance by Seller which results from any cause beyond its reasonable control. Such causes include but are not limited to fire; strike; inability to procure raw material; labour difficulties; government orders or regulations; insurrection; riot, flood; epidemics; embargoes; quarantine restriction; war; acts of God; acts done or suffered to be done by Purchaser; computer system or software failures; acts, regulations or orders of civil or military authority; car shortages or other delays or interruption of transportation; and inability to obtain necessary labour, materials, or manufacturing facilities, whether such cause(s) affect Seller or the suppliers of Seller.

9. **CANCELLATION**

Purchaser may not terminate or cancel its order without the written consent of Seller and then, only upon indemnifying the Seller in full against all loss suffered and all costs and expenses incurred by the Seller in connection with such order, including without limitation any administrative or other costs, charges, expenses or damages incurred or loss suffered by the Seller in connection with or as a result of the cancellation or termination of the Purchaser's order, promptly following receipt of written notification from the Seller of the amount due.

10. **TITLE AND RISK OF LOSS**

Notwithstanding delivery of the Goods to Purchaser or Purchaser's agent, title to the Goods shall not pass to Purchaser until payment for the Goods and all other Goods agreed to be sold by Seller to Purchaser, payment for which is due has been received by Seller in full (in cash or cleared funds). All risk of loss or damage to the Goods shall pass to Purchaser from and after delivery of the Goods to Purchaser or Purchaser's agent.

11. **CREDIT APPROVAL**

Payment terms, work to be performed by Seller as set forth on the purchase order and deliveries shall at all times be subject to approval of Seller's Credit Department and in case Seller shall have any doubt as to Purchaser's responsibility or if Purchaser fails to fulfil the terms and conditions of payment herein. Seller may decline to perform any further delivery hereunder, except upon receipt of satisfactory security including, but not limited to, full or partial prepayment. In the event of anticipatory breach by Purchaser, or if the financial condition of Purchaser at any time does not in the reasonable judgment of Seller justify continuance of the work to be performed by Seller hereunder on the terms of payment originally specified, Seller may require full or partial payment in advance or may cancel any agreement and work then outstanding and Purchaser shall reimburse Seller for its cancellation charges.

12. **DEFAULT IN PAYMENT**

If Purchaser shall fail to make payments on this or any other agreement between Purchaser and Seller in accordance with the terms hereof or thereof, Seller may defer further deliveries and defer rendering further services until such payments are made or, at its option, cancel this agreement with respect to any balance. If pursuant to this provision Seller defers any deliveries or service or cancels in whole or in part this agreement, Purchaser shall be liable for and reimburse Seller for all damages, including any and all direct and consequential damages incurred by Seller by reason of such deferral or cancellation.

13. **NO WAIVER**

Failure of Seller to enforce any of the terms, conditions and limitations set forth herein shall not be construed as a waiver thereof or a waiver of any other terms, conditions and limitations herein, and the failure of Seller to exercise any rights arising from default of Purchaser, or otherwise shall not be deemed to be a waiver of such right or any other right. The terms, conditions and limitations herein may be enforced and the rights of Seller may be enforced at any time in whole or in part.

14. **ENTIRE AGREEMENT**

The Contract represents the whole agreement and understanding between Purchaser and Seller and supercedes all other agreements, proposals, negotiations, representations and understandings between the Purchaser and Seller relating to the subject matter of this Agreement. Purchaser acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Seller which is not set out in the Contract.

15. **PATENTS; TRADEMARKS; UNPATENTED INFORMATION**

If any Goods sold hereunder are to be prepared or manufactured according to Purchaser's specifications, Purchaser shall indemnify and hold the Seller harmless against any claims or liability for patent or trademark infringement or infringement of other intellectual property rights on account of such preparation or manufacture. Any unpatented knowledge or information concerning Purchaser's products, methods, or manufacturing processes which Purchaser may disclose to Seller incidental to the manufacture or sale of the Goods and/or performance of the services covered by a purchase order shall, unless otherwise specifically agreed in writing, be deemed to have been disclosed as a part of the consideration hereunder, and Purchaser agrees not to assert any claim, (other than a claim for patent infringement) against Seller by reason of Seller's use or alleged use thereof. The sale of Goods covered by a purchase order shall not expressly or by implication grant to Purchaser any right or license of any kind under any patent, patent application, or other industrial property right owned or controlled by Seller or its affiliates, but the foregoing shall not be understood to limit in any way the right of Purchaser to use and sell such Goods, in the event that such Goods, as sold hereunder are covered by any such patent. There is no warranty that the use of any services, materials, Goods, or information supplied by Seller hereunder are supplied free of the rightful claim of any third party by way of infringement of any patent right.

16. **THIRD PARTY RIGHTS**

No person other than a party to this agreement shall have any rights to enforce any term of this agreement.

17. **GOVERNING LAW**

The Contract shall in all respects be governed by and construed in accordance with English law and Purchaser hereby submits to the exclusive jurisdiction of the English courts.