1. INTERPRETATION. “Business Day” means any day other than a Saturday, a Sunday or a bank or public holiday. “Commercial Conditions” means the commercial terms as set out in our Order acknowledgement or such other document as we have expressly agreed contains commercial conditions. “Contract” means any contract of sale and purchase of Goods comprising these Conditions and the Commercial Conditions. “Contract Price” means the price for the Goods as set out in the Commercial Conditions or, if not set out in the Commercial Conditions, “Personal Data”, “Process”, “Processing” and “Data Subject” have the meanings given under the Data Protection Laws. “Data Protection Laws” means all data protection legislation in force from time to time in the European Union or (b) delivered to a member of the European Union you shall and, where applicable, shall procure that your freight forwarder, customs broker or agent will (i) export the Goods (other than to a country within the EU) on or before the Date of Despatch, or (ii) if the Goods are shipped to a country within the EU, within ninety (90) days of invoice by us and (ii) provide adequate documentation to us within five (5) days of date of export or dispatch (but not less than 90 days from date of our invoice), to demonstrate that the applicable Goods have been (a) exported outside of the European Union or (b) delivered to a member of the European Union.

7. QUANTITIES. Although we will use best endeavours to supply the exact quantity of Goods ordered, you shall accept the supply of Goods under an Order (whether more or less) within ten (10) per cent of the stipulated quantity in your Order. In such circumstances, the invoice value of the Goods for the Order shall be adjusted accordingly. Contract Prices quoted are for the quantities and despach Conditions stipulated in the relevant quotation only and may not be used as the basis of quotation for larger quantities or to different Conditions of despatch.

8. DESPATCH DATES.
8.1 Although we will use reasonable efforts to meet our forecasted Date of Despatch, such forecast is an estimate only.
8.2 Time for despatch or delivery of Goods by us shall not be of the essence and, accordingly, we shall have no liability to you if there is any delay in despatch or delivery of the Goods. If the Goods are not despatched or delivered on the Date of Despatch, you shall have the option to terminate the Contract provided the Goods are not being delivered on such date and you have not given us written notice of your intention to despatch, including, in respect of the Goods described in your Order which are already in transit. If the Goods are not delivered within thirty (30) days of the Date of Despatch then the Contract Price shall be adjusted accordingly. Contract Prices quoted are for the quantities and despach Conditions stipulated in the relevant quotation only and may not be used as the basis of quotation for larger quantities or to different Conditions of despatch.

9. WITHHOLDING OF DELIVERY. Without prejudice to any of our other remedies, we are entitled to withhold delivery of any Goods (a) if any amount is overdue from you in respect of any invoice issued by us or by any other company in our Group, or (b) if, following giving of notice of the Goods being delivered on such day or the previous day, delivery has not been made, we shall, at your expense, detain such Goods until the amount overdue is paid.

10. PASSING OF RISK. Risk in the Goods shall pass to you on delivery unless an earlier transfer of risk is set out in the Commercial Conditions or unless the Goods are collected from us in which case risk shall pass at the point of collection on the Date of Despatch. Trade terms shall be interpreted according to Incoterms 2010 published by the International Chamber of Commerce.

11. TITLE.
11.1 Notwithstanding despatch or delivery of the Goods and/or the passing of risk, the following shall apply until you have received payment in full for all amounts due and owing in respect of the Goods:
11.2 You shall have the right to sell the Goods and/or to pass all or any part of the Goods to a third party. You shall be entitled to possession of the Goods only, shall hold the Goods as a bailee on our behalf and, shall not sell or pledge or otherwise encumber the Goods. 

11.2 You shall keep the Goods insured against all risks to our reasonable satisfaction in full cover for the full contract price. You shall ensure that such insurance is in force upon the despatch of the Goods and that you will be entitled to receive the insurance proceeds.

11.3 Notwithstanding the provisions of clause 11.1.1, you shall have a licence to sell (by way of bona fide sale at arm’s length) the Goods which licence may be immediately terminated by us in the event that you provided (without prejudice to any other right of ours) such licence shall automatically terminate if you (being an individual) become bankrupt or (being a company) adopt a resolution for your winding up or (being a company) the appointment of an administrator or a receiver or an administrative receiver is appointed in respect of any part of your undertaking or assets or if you are unable to pay your debts as they fall due.

11.4 You acknowledge and understand that phone calls to us may be recorded for the purpose of documenting the Transaction and the recordings retained for such period as may be necessary for the verification of the terms of the Transaction.

12. INSURANCE FOR OVERSEAS CONSIGNMENTS. If the Commercial Conditions specify, we may, on your behalf, arrange insurance to destination on consignments of Goods Overseas at your expense. The premium will cover the invoice value of the Goods plus insurance charges but in no circumstances will our insurance cover be available upon request. The arrangement of any additional insurance required by you shall be your responsibility.

13. DAMAGE IN TRANSIT AND NON-DELIVERY.
13.1 Where risk in the Goods has not passed to you, we will, at our sole discretion, either repair, replace, recover, refund or issue a credit note in respect of the Goods in the event of: (a) damage in transit provided we are given written notice of such damage promptly after delivery; (b) the Goods are not delivered properly upon the Good being delivered on such date; (c) the Goods are not delivered to the agreed port or counter of delivery; (d) the Goods are not delivered to the agreed destination prior to despatch or delivery; (e) you have notified us of your intention to despatch, including, in respect of the Goods described in your Order which are already in transit.

13.2 For the avoidance of doubt, you agree that you shall have no right to terminate the Contract in the event of the occurrence of any of the circumstances set forth in Clauses 13.1 or 13.2.

14. PAYMENT.
14.1 Unless otherwise agreed, payment in full is due no later than 30 days after the invoice date in the currency and to the bank account stated on the invoice.
14.2 In circumstances where, exceptionally, we agree that payment may be made in a currency other than Swiss Francs, payment must be made in accordance with the instructions on the invoice or as otherwise set out in writing to you by us. We may, at our discretion, make payment possible by an irrevocable letter of credit, confirmation is required by a Swiss clearing bank or any bank with our prior written approval.
14.3 Payment by you must be made without deduction, set-off or counter claim.
14.4 Time for payment you is of the essence.
14.5 Where we have procured a bank guarantee for your benefit in respect of the Goods, you agree that within five Business Days of performance of our obligations in accordance with this Contract you shall, together with all pre-existing accounts that have been placed but not invoiced.

14.6 We may, at any time, request that you provide us with written notice to the relevant bank (with a copy to us) that the bank guarantee shall be released. We reserve the right to pass
on to you any charges incurred by us arising out of or in connection with your failure to provide such notice.

15. FAILURE TO PAY.
15.1 If you fail to make payment when due, the amount unpaid may, in our sole discretion, incur interest at the rate of 4 per cent per annum above the Swiss National Bank’s base rate from time to time from the invoice date to the date of actual payment (both before and after judgement). The Swiss National Bank’s base rate is below 1%, the minimum base rate applicable shall be 1%.

15.2 Without prejudice to any other remedies we may have, if you fail to make due payment of any sum due under the Contract, we shall be entitled to treat the Contract as repudiated by you.

16. GENERAL LIEN. Without prejudice to any other remedies we may have, we shall have a general lien on all of your goods or property in our possession (whether worked on or off site) for all sums due under the Contract and may exercise such lien by detaining such goods or property, be entitled, on the expiration of 21 days’ notice in writing to you, to dispose of such goods or property as we think fit and to apply any proceeds received towards all sums due from you to us.

17. METAL ACCOUNTS. You shall ensure that your Metal Account with us is operated at all times in accordance with our Unallocated Metal Account Terms and Conditions in force from time to time, a copy of which is available on request.

18. PACKING. Packing is non-returnable. You shall be responsible for its safe and proper disposal.

19. WARRANTY AND LIABILITY.
19.1 We warrant that all Goods will comply with the Specifications at the Date of Despatch (the “Warranty”).

19.2 We accept no liability for misuse of the Goods or for the suitability or fitness of the Goods for any particular purpose or your failure to carry out statutory or contractual obligations. You are responsible for ensuring that the terms of any Specification supplied by you are complete and accurate.

19.3 If you claim that the Goods do not comply with the Warranty, you must give us written notice of the defect within 8 days of the date of receipt and, if requested, promptly return the Goods to us properly packed, carriage paid. If you fail to do so within 8 days, you will be deemed to have accepted the Goods.

19.4 If any Goods do not comply with the Warranty, our only obligation shall be (at our sole discretion in respect of which side of the contract it falls) to (i) replace the Goods, (ii) refund the purchase price or (iii) subject to improper treatment and/or the defects are as a result of faulty design or otherwise arising out of or in connection with, the Contract and/or the provision of (failure to provide or delay in providing) the Goods, or (iv) repair the Goods resulting from the provision of (failure to provide or delay in providing) the Goods.

You accept the responsibility to insure against these risks.

19.5 Without prejudice to any other remedies we may have, if you fail to make due payment of any sum due under the Contract, we shall be entitled to treat the Contract as repudiated by you.

19.6 We shall not be liable in respect of any claim made against you by any third party and you hereby indemnify us against any claim brought by any third party arising against us relating to the Goods.

19.7 No provision of these Conditions or the Warranty shall be taken as a representation by us that the Goods are free from defects or fit for any particular purpose.

19.8 If performance of our obligations under the Contract is subject to or conditional upon your satisfaction of the relevant conditions or performance of the relevant obligations under the Contract, we shall not be liable to perform such obligations until you have satisfied such relevant conditions or performed such relevant obligations.

19.9 This Condition 20 is in substitution for and (to the extent permitted by Swiss Law) excludes all conditions, warrants and terms as to satisfactory quality and fitness or to the purpose or suitability of any description of them, whether expressed or implied, and neither conferred by statute, common law or otherwise.

20. CONFIRMATION ORDERS. To avoid Orders being duplicated, all confirmations of Orders previously placed must be marked clearly as a confirmation Order. We reserve the right to treat any confirmation Order that is not so marked as a separate Order.

21. FREE ISSUE MATERIALS.
21.1 If you supply us with materials or parts for processing, excluding Metal, our liability for failure to make due payment of the price for such materials or parts given receipt of the materials from you is limited to such materials as we have received from you as received by us. You must notify us in writing of the value of such materials at the time they are despatched to us. Any liability in respect of a Lost Metal Claim shall be dealt with in accordance with Condition 22.

21.2 Unless otherwise agreed, in respect of free issue materials we shall pass title upon delivery to JM at JM’s premises. Risk shall transfer back to you in accordance with Condition 16.

21.3 Unless otherwise agreed, title to the free issue materials shall remain with you for the duration of the processing.

22. MANUFACTURING EQUIPMENT. Arrangements may be made for you to retain exclusive title and ownership of the Equipment until payment in full has been made for the Equipment.

23. GUARANTEE. The Guarantee is subject to all the relevant terms or conditions that apply to the Goods and/or the Contract.

24. TERMINATION AND CANCELLATION.
24.1 Without prejudice to any other rights and remedies, either party may at any time prior to the expiry of the Contract terminate the Contract by giving written notice to the other and suspend all future deliveries if you (a) commit a material breach of any provision of the Contract which breach is either not capable of remedy or, if capable of remedy, is not remedied by the party in default within thirty days after notice of its breach given by the non-defaulting party, (b) go into liquidation or is declared bankrupt, (c) has an administration order made against it; (d) suffers a distress or execution levied or enforced upon any of its property or assets and is not paid out or discharged within 14 days; (e) is appointed a receiver, administrator, receiver and manager or similar officer appointed over, its undertaking, property, or assets; (f) stops payment or ceases or threatens to cease to carry on its business or becomes unable to pay its debts as they fall due or (g) enters into any arrangement with its creditors or voluntary arrangement or (h) commits an act of bankruptcy, or (i) the party in default is a company and becomes insolvent or (j) it is adjudicated as being insolvent or (k) it goes into liquidation or is declared bankrupt, (l) has an administration order made against it; (m) defaults in the payment of money owed to us; (n) is insolvent or (o) becomes unable to pay its debts or (p) goes into liquidation or (q) is wound up or (r) the party in default is a company and is dissolved.

24.2 The expiry or termination of the Contract howeverwise arising shall be without prejudice to any rights or obligations which have already accrued to either party pursuant to the Contract prior to the date of expiry or termination, and shall not operate to affect such provisions of the Contract as in accordance with their terms are expressed to operate or to have effect after expiry or termination, including but not limited to, Conditions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 30 to 34 and 36 to 42, which shall remain in full force and effect after expiry or termination of the Contract.

24.3 Upon the expiry or termination of the Contract, all outstanding unpaid invoices in respect of the Goods shall become immediately due and payable by you and all invoices in respect of any orders not delivered to you prior to the expiry or termination of the Contract, but for which an invoice has not been submitted, shall be due and payable by you immediately upon submission of the invoice.

24.4 You may not cancel an Order without our consent. If you purport to cancel an Order without our consent, we will be entitled to charge you for all cost and expenses incurred by us (or to which we have committed) up to that date. If work on an Order is suspended due to your instructions or lack of instructions, we may treat this as cancellation by you.

25. EXAMINATION. We reserve the right to defer the Date of Despatch or reduce the quantity of the Goods ordered by you and we shall not be held liable for any delay or failure to despatch or deliver the Goods if we are prevented from or delayed in the carrying on or performance of our obligations due to any cause beyond our control, including, without limitation, act of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock out, strikes or other labour disputes (whether or not relating to either party’s workforce), or restrictions or delays affecting carriers or liability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of six months, either party shall be entitled to give notice in writing to the other to terminate the Contract.

26. INTELLIGENT PROPERTY.
26.1 We accept no liability for any claims made against you for any infringement of the Intellectual Property Rights for any third party in connection with the use, possession, resale or offering for resale of the Goods either as originally sold by us or otherwise.

26.2 If we execute the Order in accordance with your designs, plans or Specifications, you shall indemnify us without limitation in point of time notwithstanding the expiration or cancellation of the Contract and shall save us harmless from all liability, losses, damages, expenses, costs, fees or other liabilities arising from any claims made against us for infringement of any third party’s Intellectual Property Rights.

26.3 We shall have no liability to you in respect of any of our existing or future Intellectual Property Rights other than to the extent required to use the Goods.

27. SEPARATE DELIVERIES. Where the Contract is for the sale of Goods by a number of separate deliveries, each separate delivery shall not affect any other, provided that for so long as payment for any delivery is overdue, we shall not (without prejudice to our rights under Condition 15) be liable to make any further delivery.

28. TITLE.
28.1 We may at any time or times without notice to you, set off any liability of your Group to our Group against any liability of our Group to your Group, whether any such liability is existing or future (whenever arising), liquidated or unliquidated, under the Contract or not and irrespective of time.

28.2 The currency of the reference currency.

28.3 This Condition 28 shall not affect liability for exchange or other currency.

28.4 Any exercise by us of our rights under this Condition 28 shall be without prejudice to any other rights or remedies available to us under the Contract or otherwise.

STANDARD CONDITIONS OF SALE

ALL ORDERS ARE SUBJECT TO OUR STANDARD CONDITIONS ("CONDITIONS") AND A COPY OF WHICH IS REPRODUCED BELOW

Johnson Matthey & Brandenburg AG, Postfach, Glattalstrasse 18, CH-8052 Zurich, Switzerland, Registered in Switzerland with Company Number CHE-106.021.550
29. SETTLEMENT OF OUTSTANDING AMOUNTS. We shall not be obliged to deliver, transfer or make payment for any Metal held in a Metal account by us or our Group on behalf of you or your Group unless and until all outstanding amounts owing by you or your Group to our Group have been settled in full by payment in cleared funds.

30. PROPER LAW. The Contract shall be exclusively governed by and construed in accordance with the substantive laws of Switzerland, excluding its conflict of laws principles and excluding the UN Convention on Contracts for the International Sale of Goods. The exclusive place of jurisdiction for any dispute, claim or controversy arising under, out of or in connection with or related to the Contract (or subsequent amendments thereof), including, without limitation, disputes, claims or controversies regarding its existence, validity, interpretation, performance, breach or termination, shall be the city of Zurich, Switzerland.

31. HEADINGS. Headings to paragraphs are for convenience of reference only and shall not affect the interpretation of these Conditions.

32. SEPARATE PROVISIONS. Each of these Conditions and part (including a sub-Condition or part thereof) shall be constructed as a separate provision applying and surviving even if one or more Conditions or parts is held to be invalid, unlawful or otherwise unenforceable by a competent authority, the remaining Conditions and parts shall remain in full force and effect.

33. WAIVER. The waiver by us of any breach of any of these Conditions shall not prevent the subsequent enforcement of that Condition and shall not be deemed to be a waiver of any subsequent breach of that or any other Condition.

34. NOTICES. Each notice or other communication under the Contract shall be made in writing and sent by personal delivery, facsimile or registered post to the party's registered office or at such other address as the party may nominate in writing from time to time. Any notice shall be deemed to be served at the time of delivery if served personally or, if served by facsimile transmission, at the time the originating machine confirms that the transmission was sent or, if served by registered post, 48 hours after posting and, in the case of personal delivery, 5 days after posting.

35. ASSIGNMENT. 35.1 We shall be entitled to assign (whether absolutely or by way of security and whether in whole or in part), transfer, mortgage, charge or otherwise dispose in any manner whatsoever of the benefit of the Contract or any part of it to any person whomsoever.

35.2 You shall not be entitled to assign (whether absolutely or by way of security and whether in whole or in part), transfer, mortgage, charge or otherwise dispose in any manner whatsoever of the benefit of the Contract or sub-contract or delegate its performance under the Contract or any part of it without our prior written consent.

36. CONFIDENTIALITY. Each party shall keep in strict confidence and not, by disclosure or otherwise, disclose to any person whatsoever, or use or exploit commercially for any purpose other than the performance of its obligations under the Contract all technical or commercial know-how, Specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to such party by the other party or its agent and any other confidential information concerning the disclosing party’s business or its products which the receiving party may obtain, and the receiving party shall restrict disclosure or use of such confidential material to such of its employees, officers, advisers, agents or sub-contractors as need to know the same for the purpose of discharging its obligations to the disclosing party and shall ensure that such employees, officers, advisers, agents or sub-contractors are subject to like obligations of confidentiality as bind itself.

37. GENERAL. 37.1 The Contract represents the whole agreement between the parties and supersedes all previous agreements between the parties relating to the subject matter.

37.2 Each party acknowledges that:

37.2.1 in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, covenant, indemnity, undertaking, commitment, assurance or warranty (whether made negligently or innocently) other than as expressly set out in the Contract; and

37.2.2 all other terms and conditions (including but not limited to those in any Order) are expressly excluded to the fullest extent permitted by law.

37.3 Each of our rights or remedies under the Contract is without prejudice to any of our other rights or remedies whether under the Contract or not.

37.4 The Contract may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

37.5 Either party shall at its own cost, execute and do all acts, documents and things (reasonably within its powers) as may reasonably be required by the other party so as to implement the terms of the Contract.

38. THIRD PARTY RIGHTS. No person other than a party to this Contract shall have any right to enforce any of its terms.

39. COMPLIANCE. 39.1 You hereby acknowledge and agree that the Goods and/or Confidential Information may be subject to applicable export control and trade sanctions laws, regulations, rules and licences ("Export Control and Trade Sanctions Rules"). You shall use the Goods only for lawful purposes and you agree to comply with the Export Control and Trade Sanctions Rules and shall not do anything which would cause us to be in breach of such Rules.

39.2 You will not in connection with the Contract or the Goods, offer, promise or give, request, agree to receive or accept, directly or indirectly any financial or other benefit to any person for the purpose of obtaining an improper advantage, or otherwise conduct yourself in a manner contrary to all applicable anti-bribery laws, including, the UK Bribery Act 2010 and US Foreign Corrupt Practices Act 1977 ("Anti-Bribery Laws").

39.3 You warrant that, along with your employees, agents, contractors and representatives: a) you are fully aware of and understand the provisions of the Goods and/or the Contract or not in connection with the Goods, including the UK Bribery Act 2010 and US Foreign Corrupt Practices Act 1977 ("Anti-Bribery Laws").

40. DATA PROTECTION. 40.1 With regard to any Personal Data processed by either party in connection with this Contract, the parties will respectively each be a Controller in respect of such processing.

40.2 Each party shall comply with the requirements of the Data Protection Laws applicable to Controllers in connection with this Contract and shall not knowingly do anything or permit anything to be done which might lead to a breach by the other party of the Data Protection Laws.