1 GENERAL
a. In these Conditions, “Buyer” means Element Materials Technology Transportation US LLC, a member of the Element Materials Technology Group; “Supplier” means the supplier indicated on the Order; “Service” means the services to be performed by the Supplier for the Buyer, including to the extent specified herein, transfer of any or all of the Goods (including any or all of the Goods not affected by such failure to comply), and/or require the immediate refund of any monies already paid and/or cancel the Contract or the Supplier’s Warranties and/or oblige the Buyer to pay the Supplier’s risk from point of receipt by the Buyer; the Supplier shall only use such materials and/or equipment for the purpose of the manufacture of the Goods under the Contract or Order, shall not subject such materials and/or equipment to any charge, lien or encumbrance, and shall whereby reasonably practical keep such materials and/or equipment separate and clearly identifiable as the Buyer’s property. The Supplier shall promptly execute or authorize appropriate UCC Financing Statements to be filed to evidence Buyer’s title to such materials and/or equipment. The Supplier shall keep such materials and/or equipment in good order and in good repair and shall not use such materials and/or equipment in connection with the Services, risk and title shall pass to the Buyer on substantial incorporation into or onto the premises of the Buyer or on completion of the Services (whichever is earlier). Where the Buyer, without any charge to the Supplier, provides materials and/or equipment to the Supplier for use in the manufacture of the Goods to be delivered to the Buyer under the Contract or Order, such materials and/or equipment shall be deemed to be purchased by the Buyer from and risk shall pass to the Buyer at the time of delivery of the Goods to the Buyer or the Buyer’s representative. The Supplier is notified of the alleged defect by the Buyer, and shall, if reasonably practicable, be returned to the Supplier at the Buyer’s expense, so as to reach their destination in an undamaged condition. All containers and other packaging shall be included in the price and returnable unless otherwise stated at the Buyer’s expense.
b. The Seller shall, at its own cost and expense, obtain and comply with any necessary export/import licenses, permits or consents (including work permits or authorizations) for the supply and delivery of the Goods under the Contract.
c. The Buyer’s representatives shall have the right to inspect and test the Goods and inspect the provision of the Services at any time prior to delivery of the Goods or performance of the Services, in which event the Buyer’s sole liability shall be to pay the Supplier fair and reasonable compensation for work-in-progress at the time of cancellation, but such compensation shall not include loss of anticipated profits or any consequential loss and shall not exceed the price for the period of time prior to delivery of the Goods for the Supplier or Services to be performed under the cancelled Order.

3 PRICE AND PAYMENT
a. Unless otherwise stated on the Order the price for the Goods and/or the Services shall be denominated in US Dollars and is exclusive of all taxes, fees, sales or use taxes, or cost of delivery, carriage, packing or handling to the Buyer.
b. If no price is stated on the Order, a price must be agreed in writing with the Buyer before the Order is accepted by the Supplier.
c. The Supplier’s invoices shall not be paid by the Buyer unless the Buyer shall have received written order from the Buyer for the Goods and/or the Services.
d. Payment by the Buyer shall be without prejudice to any claims or rights which the Buyer may have against the Supplier and shall not constitute any admission by the Buyer including, without limitation, the Supplier’s satisfaction of its obligations under the Contract or Order. The Buyer may withhold payment of any sums due under the Contract or Order in the event of any dispute with or claim against the Supplier.

5 WARRANTY AND LIABILITIES
a. In the case of the Goods, the Supplier warrants to the Buyer that:
1. the Goods as delivered shall comply with all specifications and/or drawings supplied by the Buyer to the Supplier as or, if none, with the Supplier’s standard specifications and with any description or sample, and to be free from defects in workmanship, design, materials or functionality, shall be of first-class quality, sound design, merchantable, and fit for any purpose intended by the Supplier or specified by the Buyer or may be reasonably inferred from the Contract, Order or dealings between the parties, and the Supplier shall hold as bailee and treat with the highest degree of care and skill accorded to such materials. The Supplier shall also protect and keep all of the said materials and all materials purchased by the Buyer (if any) provided to the Supplier for or in connection with the supply of the Goods and/or Services, and shall keep in good order and repair all materials and equipment provided by the Buyer and/or the Supplier. The Supplier shall be responsible for all reasonable costs incurred by the Supplier in the manufacture of the Goods under the Contract or Order and for insurance protection against all liabilities incurred in the manufacture of the Goods under the Contract or Order and shall indemnify the Buyer against all claims, actions, suits, costs or expenses (including legal costs) arising out of or in connection with the manufacture of the Goods or any part thereof or the performance of the Services and redelivery to the Buyer (when risk shall revert to the Buyer).
2. The Supplier shall, where agreed in writing before the Supplier proceeds with such changes, give the Buyer thirty (30) days notice of such changes and any effect such changes would have on any of the Supplier’s Warranties (regardless of the type or scale of the breach) the Buyer may, by giving notice to the Supplier, require the Supplier (free of charge) to make good or replace the Goods or return the price paid for the Goods.
3. The Supplier shall deliver the quantity of Goods which are alleged not to comply with the Supplier’s Warranties (regardless of the type or scale of the breach) the Buyer may, by giving notice to the Supplier, require the Supplier (free of charge) to make good or replace the Goods or return the price paid for the Goods.
4. Where the Buyer is of the opinion that the Goods do not comply with the Supplier’s Warranties, it shall give written notice to the Supplier and the Supplier shall, as soon as the Buyer so informs the Supplier then the Supplier shall take the immediate refund of any monies already paid and/or cancel the Contract or the Supplier’s Warranties.
5. The Supplier shall also offer the Buyer the right to inspect and test the Goods and inspect the provision of the Services by the respective delivery or completion dates stated on the Order. If no dates are so specified, delivery of the Goods and/or completion of the Services shall be within 28 days of the date of the Order or by such later date as may be agreed by the Buyer and the Supplier in writing. Time for delivery of the Goods and/or completion of the Services shall be of the essence of the Contract and/or Order.
6. Delivery of the Goods and provision of the Services to the Buyer shall be made at the respective places specified in the Order (or, if none is specified, at the Buyer’s premises from which the Order is placed) and by the methods specified on the Order (or, if none is specified, using such methods as comply with best accepted industry practices).
7. The Supplier shall deliver the quality of Goods stated on the Order. The Buyer may at its discretion accept a quantity variation and pay proportionately.
8. The Buyer shall not be liable to the Supplier for any inconvenience, loss or damage directly or indirectly arising due to non-delivery or delay in delivery of the Goods and performance of the Services. If such changes result in an increased cost of, or time required for, the delivery of the Goods and/or the performance of the Services, an equitable adjustment shall be made to the price and/or the schedule for the delivery of the Goods or the performance of the Services. Any claim for adjustment by the Supplier must be approved by the Buyer in writing before the Supplier proceeds with such changes.
9. The Buyer shall be entitled to cancel the Order in whole or in part by giving notice to the Supplier at any time prior to delivery of the Goods or performance of the Services, in which event the Buyer’s sole liability shall be to pay to the Supplier fair and reasonable compensation for work-in-progress at the time of cancellation, but such compensation shall not include loss of anticipated profits or any consequential loss and shall not exceed the price for the period of time prior to delivery of the Goods for the Supplier or Services to be performed under the cancelled Order.

4 RISK AND TITLE
1. Risk and title to the Goods shall pass to the Buyer on delivery to the Buyer or, if appropriate, on receipt of the Goods by the Buyer’s carrier(s) provided that where the Goods are transferred to the Buyer in connection with the Services, risk and title shall pass to the Buyer on substantial incorporation into or onto the premises or the properties of the Buyer or on completion of the Services (whichever is earlier). If the Buyer, without any charge to the Supplier, provides materials and/or equipment to the Supplier for use in the manufacture of the Goods to be delivered to the Buyer under the Contract or Order, and such materials and/or equipment shall be deemed to be purchased by the Buyer from the Supplier with title and risk in and to said materials and/or equipment passing to the Buyer on delivery of the Goods to the Buyer or the Buyer’s representative.
2. The Supplier shall comply with all applicable federal, state and local laws, rules and regulations (and with any collection, quantity or other requirements stated in the Contract or on the Order) concerning the manufacture, packaging, labelling, and delivery of the Goods, and with all applicable federal, state and local health, safety and environmental laws, rules and regulations, and with best accepted industry standards.
3. In the case of the Services, the Supplier shall to the Buyer that:
1. The Supplier shall, where agreed in writing before the Supplier proceeds with such changes, give the Buyer thirty (30) days notice of such changes and any effect such changes would have on any of the Supplier’s Warranties (regardless of the type or scale of the breach) the Buyer may, by giving notice to the Supplier, require the Supplier (free of charge) to make good or replace the Goods or return the price paid for the Goods.
2. The Supplier shall be responsible for all reasonable costs incurred by the Supplier in the manufacture of the Goods under the Contract or Order and shall otherwise be the best of their kind provided in the trade and industry, and be to the Buyer’s reasonable satisfaction;
3. The Supplier shall provide the highest standards of skill, care and workmanship and the Supplier shall hold as bailee and treat with the highest degree of care and skill accorded to such materials. The Supplier shall also protect and keep all of the said materials and all materials purchased by the Buyer (if any) provided to the Supplier for or in connection with the supply of the Goods, and shall keep in good order and repair all materials and equipment provided by the Buyer and/or the Supplier. The Supplier shall be responsible for all reasonable costs incurred by the Supplier in the manufacture of the Goods under the Contract or Order and shall indemnify the Buyer against all claims, actions, suits, costs or expenses (including legal costs) arising out of or in connection with the manufacture of the Goods or any part thereof or the performance of the Services and redelivery to the Buyer (when risk shall revert to the Buyer).
4. The Goods which are alleged not to comply with the Supplier’s Warranties shall as far as practicable be preserved by the Buyer for inspection by the Supplier (provided that the Supplier inspects the Goods within 14 days of being notified of the alleged defect by the Buyer), and shall, if reasonably practicable, be returned to the Supplier at the Buyer’s expense.
5. The Supplier shall obtain and comply with any necessary export/import licenses, permits or consents (including work permits or authorizations) for the supply and delivery of the Goods under the Contract or Order and for a period of 3 years following termination or completion thereof.
6. If the Buyer finds that the Goods or the Services (or any of them) fail to comply with any of the Supplier’s Warranties (regardless of the type or scale of the breach) the Buyer may, by giving notice to the Supplier:
1. reject all or any part of the Goods (including all or any of the Goods not affected by such failure to comply), and/or require the immediate refund of any monies already paid and/or cancel the Contract or the Supplier’s Warranties, and for the avoidance of doubt, such right shall be available to the Buyer even if the Buyer has re-sold or otherwise dealt with the Goods;
2. require the Buyer to return the Goods in question to the Supplier and, at the Buyer’s expense, take such action as may be required to return the Goods to the Supplier’s factory or another establishment of the Supplier for the purpose of being returned and repaired by the Supplier; and
3. require the Supplier (free of charge) to make good or replace the Goods or re-perform the Services to the Buyer’s satisfaction (in either case within 30 days). Any demand to make good, repair, replace, or re-performance shall not prevent the Buyer from rejecting the Goods or the Services if the Supplier fails to comply with or if the材料不完整。
b. The Supplier shall not use or allow to be used in any manner not approved by the Buyer, the Work Product, any trademarks or trade names required by the Buyer to be applied or used by the Supplier in relation to the Goods or the Services.
c. The Supplier shall not do or authorize any third party to do any act which would or might invalidate or be inconsistent with any intellectual property rights of the Buyer and shall not omit or authorize any third party to omit to do any act which, by its omission, would have that effect.
d. The Supplier shall not (and shall require that its officers, employees and agents) shall not during or after the Contract or Order is complete, disclose or allow to be disclosed to any person any confidential information relating to the business, affairs or property of the Buyer or any of the Goods or the Services or any such information referred to in Section 7a (collectively, "Confidential Information"), or any information or data that can be used to identify or locate a person or entity or the activity, assets or personal information of a person or entity, including any information or data that is protected by applicable privacy laws (collectively, "Personal Data") without the Buyer's prior written consent. The Supplier shall only use the Confidential Information and Personal Data (collectively, the "Protected Information") as necessary to provide Goods and/or Services to the Buyer under the Contract. Except as expressly permitted by the Buyer in writing, the Supplier shall not: (i) disclose any Protected Information to any third party, or (ii) duplicate, transfer, sell, publish, transmit, modify, reverse-engineer or take any benefit from any Protected Information, or (iii) directly or indirectly assist, facilitate or encourage any third party to carry on any activity that the Supplier is not permitted to carry on, relating to the Contract. If the Supplier is required to disclose Protected Information by law or court order, the Supplier shall provide Buyer with sufficient advance notice to enable Buyer to ensure the disclosure or obtain a protective order and the Supplier shall strictly limit such disclosure to the Protected Information which the Supplier is advised, in writing, by legal counsel as being legally required to be disclosed. The Supplier shall also use and take all reasonable security measures to protect the Protected Information from loss, theft and unauthorized use, access, disclosure, duplication, modification, and deletion. The Supplier shall promptly notify Buyer in writing of any breach or suspected breach of security or confidentiality involving any Protected Information, and Buyer shall use reasonable efforts to limit or reverse any damage caused by that breach. As between Buyer and Supplier, the Buyer exclusively owns (a) all Protected Information, (b) all copies, notes and recordings of any Protected Information made by or for the Supplier, and (c) all proprietary rights or interests in or associated with the Protected Information. Promptly upon the Buyer's request the Supplier shall deliver to the Buyer all documents and other material in the Supplier's possession or control which belong to the Buyer or which contain, reveal or embody any Protected Information, and the Supplier shall destroy all remaining copies in its possession or control except for one copy retained by Supplier for archival and compliance purposes such as licensing, legal, and governmental regulatory requirements provided that such retained copy is protected pursuant to the provisions of these Conditions for so long as it is retained even if these Conditions, the Contract or Order have terminated.

8. INDEMNITY

The Supplier hereby indemnifies and agrees to hold the Buyer harmless from and against any direct, indirect or consequential losses, damages, proceedings, liabilities, claims, costs and expenses (including legal expenses on a full indemnity basis) which may be suffered or incurred by the Buyer, or its affiliates, as a result of or arising out of or in connection with:

a. any Goods and/or Services failing to comply with any of the Supplier’s Warranties;

b. any Goods and/or Services being defective or failing to comply with any applicable federal, state or local laws, rules or regulations;

c. any late or incomplete delivery of the Goods or performance of the Services by the Supplier;

d. any other breach of the Contract or Order by the Supplier or any negligent act of the Supplier, its employees, agents or contractors (whether or not causing or contributing to death and/or personal injury);

e. any claim made against the Buyer in respect of any liability, loss, damage, cost, or expense caused by, relates to or arises from the Goods and/or Services;

f. any actual or alleged infringement, misappropriation or violation by the Supplier, including arising from or in connection with the Goods, the Services and/or the Work Product, of the rights of a third party or the Buyer under any patent, registered design, copyright, design right, trademark, service mark, or trade-name or other intellectual property rights.

9. TERMINATION AND SUSPENSION

a. The Buyer may, in addition to its other rights and remedies, terminate the Contract or Order immediately, or suspend the whole or any outstanding part of the Contract or Order, by written notice to the Supplier if:

i. the Supplier fails to deliver or provide the Goods or commence or complete the Services on the due date or within the period (as the case may be) required under Section 2a or breaches any other term of the Contract or Order;

ii. the Supplier is unable to pay its debts as they come due, ceases (or threatens to cease) to carry on its business, enters into any arrangement or composition with its creditors, or commits any act of bankruptcy, or an order is made or an effective resolution is passed for its winding up, or if a petition regarding any of the foregoing is presented to a court, or if a receiver and manager, receiver, administrative receiver, or administrator is appointed for the Supplier, or the Supplier suffers any foreign equivalent of the foregoing;

iii. the Supplier has reasonable grounds for suspecting that an event in Section 9a ii has occurred or will occur, or that the Supplier will not deliver the Goods or provide the Services in accordance with the Contract or Order and Supplier fails to provide timely adequate assurances of performance as otherwise provided by law.

b. The Parties shall ensure in the circumstances stated in Section 9b to remove from the premises where they are being made any the Goods in process for the Contract or Order and to have the same completed elsewhere or to remove from the premises where they are being processed or otherwise dealt with in connection with the Services any materials provided to or on behalf of the Supplier in connection with the Services. The Buyer shall be entitled to charge the Supplier the costs incurred by the Buyer in having the Goods and/or the Services completed by others, but shall credit to the Supplier a fair proportion of the price for any Services provided, the Goods or materials so removed or work in progress taken over by the Buyer.

10. PROHIBITION OF MODERN SLAVERY

a. In performing its obligations under the Contract or Order, the Supplier shall, and shall ensure that each of its subcontractors shall, comply with all applicable laws, statutes, regulations and codes relating to the prevention of modern slavery.

b. The Supplier shall implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.

c. The Supplier shall notify the Buyer as soon as becomes aware of any actual or suspected slavery or human trafficking in its supply chains.

11. MISCELLANEOUS

a. The Contract or Order may not be assigned by the Supplier and the Supplier may not subcontract manufacture of the Goods or provision of the Services without the Buyer's prior written consent.

b. Any provision of these Conditions which is held by a competent authority to be invalid, void, voidable, unenforceable or unreasonable (in whole or in part) shall to the extent of such invalidity, voidness, voidability, unenforceability, or unreasonableness be deemed severable and the other provisions of these Conditions and the remainder of such provision shall not be affected.

c. Notices must be in writing, in English, to the Buyer's or the Supplier's address and may be delivered by hand, first class postage, facsimile, or electronic mail. If delivered by hand, the notice shall be deemed delivered on the first working day after the date of delivery. If delivered by posting, the notice will be deemed delivered on the third working day after being placed prepaid with the U.S. Postal Service. If delivered by facsimile, the notice will be deemed delivered at the time the facsimile transmission is sent, except as otherwise agreed at the time of transmission if within regular business hours or if outside a regular business hours the next following regular business day, provided there is confirmed transmission of the facsimile or electronic mail.

d. No failure by the Buyer to enforce any provision of the Contract or Order shall be construed as a release of its rights under or to enforce such provision or to sanction any further breach by the Supplier. No remedy for the Buyer conferred by any of the provisions of the Contract or Order is intended to be exclusive of any other remedy, and every remedy will be cumulative and in addition to every other remedy.

e. The provisions of these Conditions which expressly or impliedly have effect after termination or completion of the Contract or Order shall continue to be enforceable notwithstanding termination (including, without limitation, Sections 5, 7, 8, 9b, and 11).

f. The parties to the Contract or Order do not intend that any of its terms will be enforceable by any person not a party to such Contract or Order.

g. The Contract or Order shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to the State of Delaware’s conflicts of laws principles.

h. The prevailing party shall be entitled to recover its reasonable legal expenses and attorney’s fees from the non-prevailing party in any proceeding instituted to enforce or interpret any provision of the Contract, Order or these Conditions.