



TERMS AND CONDITIONS OF SALE

ALL QUOTATIONS ARE OFFERED, AND ALL PURCHASE ORDERS ARE ACCEPTED, BY SELLER SUBJECT ONLY TO THESE TERMS AND CONDITIONS.

1. DEFINITIONS:

“Buyer” means the legal entity to which Seller is selling Products or Services under a Contract.

“Contract” means the agreement between Buyer and Seller governing the sale of Products and/or Services by Seller to Buyer. These Terms and Conditions, the Quotation (if one is issued by Seller), any purchase order acknowledgement (if one is issued by Seller), and Buyer’s purchase order (except to the extent that it conflicts with these Terms and Conditions, the Quotation, and/or the order acknowledgement) constitute the Contract.

“Products” means the equipment, parts, materials, supplies, and other goods that Seller has agreed to supply under the Contract. References in these Terms and Conditions to the purchase and sale of Products may mean, where applicable, the licensing of Software loaded on or provided with the Products.

“Quotation” means Seller’s statement identifying the Products and Services, together with any quantity, price, delivery schedule, and/or other terms and conditions (in addition to or different from these Terms and Conditions), offered by Seller for sale to Buyer. A Quotation that incorporates these Terms and Conditions by reference shall be deemed to include these Terms and Conditions, whether or not Seller provides a complete copy of these Terms and Conditions to Buyer with the Quotation, with a purchase order acknowledgement, or with an invoice. Where there is a conflict between these Terms and Conditions and other provisions of the Quotation, the latter shall prevail.

“Services” means the services that Seller has agreed to provide under the Contract.

“Software” means software loaded on or provided with the Products.

“Seller” means the Regal entity -- whether Regal Beloit Corporation (“RBC”) or an RBC subsidiary -- supplying Products and/or providing Services under the Contract.

“Terms and Conditions” means these “Terms and Conditions of Sale.”

2. CONTRACT FORMATION:

No agreement or understanding, oral or written, purporting to modify these Terms and Conditions shall be binding on Seller unless it is made in writing, specifically stating that it is a modification of these Terms and Conditions and it is signed by Seller’s authorized representative. No course of dealing, usage of trade, or course of performance shall be relevant to explain or supplement any of these Terms and Conditions. These Terms and Conditions are deemed incorporated in any offer by Seller and Buyer’s acceptance of Seller’s offer is expressly limited to acceptance of these Terms and Conditions. Fulfilment of Buyer’s purchase order does not constitute acceptance of any of Buyer’s terms and conditions and does not modify or amend these Terms and Conditions. Buyer’s purchase order for the purchase of Products and/or for the performance of Services shall constitute Buyer’s assent to these Terms and Conditions. Any terms and conditions contained in Buyer’s purchase order or other form of communication from Buyer that are additional to or different from these Terms and Conditions shall be deemed rejected by Seller, unless expressly accepted in writing by Seller’s authorized representative. Alternatively, if these Terms and Conditions are deemed to be a response to, an acceptance of, or a

written confirmation of, Buyer's offer, whether provided in the form of a purchase order or otherwise, the Buyer's offer shall be deemed made on the basis of these Terms and Conditions and the Seller's acceptance is expressly conditioned upon Buyer's assent to these Terms and Conditions. Buyer's acceptance of an offer for Products tendered to Buyer by Seller shall constitute Buyer's express assent to all of the terms and conditions contained in these Terms and Conditions. All proposals, negotiations and representations, if any, made prior to or with reference hereto are hereby superseded by these Terms and Conditions. By contracting on the basis of these Terms and Conditions, Buyer agrees to the applicability thereof in respect of future agreements between itself and Seller, even if this is not expressly stated. Seller shall be entitled to update and/or amend these Terms and Conditions regularly and by and as of the moment of notifying Buyer of such update or amendment or by sending Buyer the updated or amended Terms and Conditions, these revised Terms and Conditions shall apply to all dealings between Seller and Buyer. References in this section to "these Terms and Conditions" shall be deemed to mean these Terms and Conditions and Seller's Quotation if Seller has issued a Quotation. Seller and Buyer agree that valid, enforceable and binding obligations may result from electronic means of communication. Any electronic communication between Seller and Buyer shall be considered to be a "writing" and/or "in writing".

3. ACCEPTANCE OF PURCHASE ORDERS:

No Buyer purchase order shall be binding on Seller until accepted in writing by Seller, and Seller shall have no liability to Buyer with respect to purchase orders that are not accepted. Delivery against a purchase order shall be deemed to constitute Seller's acceptance thereof, subject to these Terms and Conditions. All purchase orders shall be subject to these Terms and Conditions, whether or not the purchase orders so state. Purchase orders accepted by Seller may not be cancelled or modified by Buyer without the prior written consent of Seller. In the event Seller has accepted Buyer's purchase order in writing, Buyer may not change its purchase order unless Seller accepts in writing any change(s) requested by Buyer (whereby Seller reserves the right to revise the price and delivery schedule).

4. QUOTATIONS:

Quotations shall expire and shall be void thirty (30) days from date of the Quotation, unless otherwise specified in the Quotation. The Quotation may be modified or withdrawn by Seller at any time before Seller's receipt of Buyer's conforming acceptance; provided, however, Seller reserves the right upon written notice to Buyer to correct any typographical or clerical errors made in any Quotation before or after receipt of Buyer's conforming acceptance (whereby, if exercised by Seller, Seller shall provide Buyer an opportunity to accept or reject Seller's corrected offer). Prices set forth in Quotations are subject to change in accordance with section 5 "PRICES; PRICE CHANGES."

5. PRICE; PRICE CHANGES:

- (a) Price.** The price of Products, Software or Services ("Offerings") sold pursuant to the Contract shall be as set forth in the Quotation. If price is not specified in the Quotation, price shall be based upon Seller's prices in effect at the time of delivery. Prices are exclusive of amounts in respect of value added or analogous taxes and the Buyer shall pay the Seller all additional amounts in respect of such taxes. Published prices are for Seller's current Offerings, and are based on, in the case of Products, current standard design and construction from standard materials. Variation from current Offerings requires special pricing. Seller reserves the right at any time, without notice and without incurring any obligation, to discontinue and withdraw any Offerings from sale, to make changes in the design of Offerings, and/or to add improvements to Offerings. Seller reserves the right to discontinue any price advances, discounts, extras and other terms and conditions related to price without notice. Unless otherwise provided in the Quotation, price is based on delivery in accordance with section 10 "DELIVERY; TITLE TRANSFER; RISK OF LOSS/DAMAGE; INSPECTION" below. Prices include Seller's standard packing.
- (b) Price Changes.**

- (1) Seller may change price set forth in a Quotation at any time upon notice to Buyer, except where the Seller has expressly stated in the Quotation that a price is firm and has expressly stated the period during which the price will be held firm, in which case the price shall remain firm during such period unless sub-subsection (2) below applies.
 - (2) In response to the following changes increasing Seller's costs, effective upon notice to Buyer, Seller may change unilaterally price applicable to (i) an issued Quotation, even if the Quotation specifies that price is firm and/or (ii) a Contract between the parties: (a) changes in Buyer's specifications, quantities ordered, shipment arrangements and other Buyer requests; (b) changes in freight rates and other transportation related expenses, where the Seller is responsible for these; (c) changes in applicable laws, including, but not limited to, conditions described in Section 8 "TAXES, DUTIES and FEES" below; and (d) changes in Seller's cost of production, such as in the cost of raw materials, components, and/or labor.
- (c) **Services.** Services charges are based on normal business hours (8 AM to 5 PM Monday through Friday). Overtime and Saturday hours will be billed at one and one half (1.5) times the normal business hour hourly rate. Sunday hours will be billed at two (2) times the normal business hours hourly rate; bank holiday hours will be billed at three (3) times the normal business hours hourly rate.

6. SERVICES:

The provisions set forth in this section shall apply if the Seller provides Services, such as giving advice, feasibility studies, consultancy, study programmes, courses, training sessions, support, secondment, hosting, the implementation or management of software, websites or information systems and Services regarding networks. These provisions shall not affect the provisions included in these Terms and Conditions concerning specific Services, such as maintenance.

- (a) Performance.
 - (1) Seller shall perform any Services in accordance with good industry practises.
 - (2) In performing the Services, the Seller shall only be obliged to follow timely and sensible instructions of the Buyer if this has been expressly agreed in writing. The Seller shall not be required to follow instructions which change or supplement the substance or scope of the agreed Services; if such instructions are followed, however, the work in question shall be compensated pursuant to subsection (b) "Modification and additional work" below.
- (b) Modifications and additional work.
 - (1) If, at the request of or with prior consent from the Buyer, the Seller has performed work or rendered other performance which goes beyond the substance or scope of the Services, the Buyer shall pay for that work or performance according to the Seller's usual rates. The Seller shall not be obliged to satisfy such a request for additional work.
 - (2) The Buyer acknowledges that additional work or performance, may affect the agreed or expected time of completion of the Services and the mutual responsibilities of the Buyer and Seller. The fact that additional work (or the demand for it) arises during execution of the Contract shall never be a ground for the Buyer to rescind or terminate the Contract.

7. SALE OF PRODUCTS:

The provisions set forth in this section shall apply if the Seller sells Products to the Buyer.

- (a) Environment requirements. The Buyer shall ensure an environment which meets the requirements specified by the Seller for the Products in a particular case (for example, concerning temperature, humidity, technical environment requirements and the like).
- (b) The equipment of the Seller's supplier. If and insofar as the Seller provides Products from third parties to the Buyer, those third parties' terms and conditions shall replace the deviating provisions in these Terms and Conditions and shall apply with regard to that Product, provided that the Seller notifies the Buyer in writing. The Buyer shall accept the aforementioned third-party terms and conditions. These terms and conditions shall be available for the Buyer's inspection and the Seller shall send these terms and conditions free of charge to the Buyer at its request. If and insofar as the aforementioned third-party terms and conditions are deemed or declared inapplicable to the relationship between the Buyer and the Seller for whatever reason, the provisions in these General Terms and Conditions shall fully apply.
- (c) Maintenance and Support.

 - (1) Seller may offer to Buyer the option to purchase from Seller annual maintenance and support services under the terms and conditions of Seller's then-standard maintenance and support agreement. Buyer may renew this maintenance term at Seller's then-current maintenance rates. In the event Buyer purchases additional Products, maintenance fees for such Products shall be prorated to be coterminous with Buyer's existing maintenance period. In no event shall Seller be responsible for providing maintenance services for a period during which maintenance coverage is lapsed.
 - (2) Parts shall be replaced if this is necessary in the Seller's judgement to fix or prevent malfunctions. The parts replaced shall be or remain the Seller's property.

8. TAXES, DUTIES AND FEES:

Seller shall be responsible for taxes measured on Seller's net income based upon performance of, or payment for, work under the Contract ("Seller Taxes"). Buyer shall be responsible for all other taxes, duties, fees or other charges of any kind (including, but not limited to any manufacturer's tax, retailers' occupation tax, use tax, sales tax, excise tax, any tariff, levy or duty, any custom, inspection or testing fee, value added tax, or any other tax, fee or charge of any nature whatsoever), and any increase in the same, imposed by any governmental authority against Buyer, Seller or Seller's suppliers and/or contractors, based upon the Contract between Seller and Buyer, and whether related to production, sales, distribution, the delivery of Products or Software, the furnishing of Services, or any other element of Seller's performance under the Contract, or the performance of a Seller supplier or contractor in support of the Contract. In the event that Seller, whether directly or indirectly through one or more of its suppliers and/or contractors, is required to pay any such tax, duty, fee or charge (including any increase in the amount thereof), regardless whether such tax, duty, fee or charge (or increase in the amount thereof) is imposed before or after Seller's delivery of the Products and/or Buyer's payment under the Contract, Buyer shall reimburse Seller for the payment of such tax, duty, fee or charge (or increase in the amount thereof). Seller may add the amount to be reimbursed to the price of the Product, Software or Service or invoice it separately, at Seller's election. In lieu of such reimbursement, Buyer may provide Seller, at the time the order is submitted, with an exemption certificate or other document acceptable to the authority imposing such tax, fee or charge. If Seller's prices include or are intended to cover any

taxes, duties, fees or charges (other than Seller Taxes), any increase in such taxes, duties, fees and/or charges shall be the basis for a price adjustment.

9. TERMS OF PAYMENT:

- (a) **Payment terms.** Terms of payment are cash in full, without set-off or discount, in pounds sterling (or such other currency agreed in writing by the Seller for the purposes of the Contract), and by wire transfer, no later than thirty (30) days from date of invoice. Any complaint with respect to the invoice must be notified to Seller within eight (8) days after the date of invoice. Thereafter Buyer shall be deemed to have approved the invoice.
- (b) **Payment Default.** If Buyer defaults in any payment when due, then the whole Contract price shall immediately become due and payable upon demand, or Seller, at its option and without prejudice to its other lawful remedies, may defer delivery or terminate the Contract. Where delivery is deferred, and Seller does not demand immediate payment of the full Contract price, pro-rata payments shall become due as deliveries are made.
- (c) **Buyer Financial Condition.** If, during the period of performance of the Contract:
- (1) the financial condition of Buyer is reasonably determined by Seller not to justify the terms of payment specified, Seller may demand full or partial payment in advance before proceeding with the work, or satisfactory security or guarantees that invoices will be promptly paid when due, or, at its option, without prejudice to other lawful remedies, may defer delivery or terminate the Contract with immediate effect by notice to Buyer without incurring any liability vis-à-vis the Buyer; or
 - (2) the Buyer is or becomes subject to an Insolvency Event, then (without prejudice to any other right or remedy available to the Seller), Seller may terminate the Contract or suspend any further deliveries to Buyer, and if Products have been delivered or Services performed but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement to the contrary. For the purposes of this sub-section (c)(2), "Insolvency Event" means any of the following: (a) the Buyer makes a composition or voluntary arrangement with its creditors, enters administration or goes into liquidation (other than for the purposes of a solvent amalgamation or reconstruction approved by the Seller in writing); (b) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; (c) any event analogous to the events in (a) or (b) arises under the laws of any country outside England & Wales with respect to the Buyer; (d) the Buyer ceases or threatens to cease to carry on business; or (e) the Seller reasonably apprehends that any of the above events in (a) to (d) of this sub-section (c)(2) is about to occur and notifies the Buyer accordingly.
- (d) **Delay.** If taking of delivery is delayed by Buyer, which delay must be consented to by Seller, Seller may store the Products in accordance with subsection 10(g) "Storage" below and Seller may submit a new estimate of cost for completion based on prevailing conditions. Payments shall become due from the date on which Seller is prepared to deliver the Products and storage shall be the Buyer's risk and expense as provided in subsection 10(g) "Storage" below. If manufacture is delayed by Buyer for any cause, which delay must be consented to by Seller, a partial payment based upon the proportion of the order completed shall become due from the date on which Seller is notified of the delay.

- (e) **Late Payment Charge.** If any payment owed by Buyer is not paid when due, then (without prejudice to the Seller's other rights and remedies) it shall bear interest (both before and after judgment), without any written demand or notice of default being necessary, from the date on which it is due until it is paid. Interest shall accrue at the rate of 4 percent per annum above the Barclay's Bank base rate from time to time. Such interest shall accrue on a daily basis and on the basis of a 365 day year. The Buyer shall pay the interest together with the overdue amount.
- (f) **Exceptions.** Seller may make exceptions to the payment terms set forth in this section or apply different terms and conditions if Seller specifies such exception or different terms and conditions in Seller's Quotation or other notice provided by Seller to Buyer prior to Seller's receipt of Buyer's purchase order.

10. DELIVERY; TITLE TRANSFER; RISK OF LOSS/DAMAGE; INSPECTION:

- (a) **Delivery – E.U. Buyer.** For sales in the E.U. that do not involve export from the E.U., Seller shall deliver Products to Buyer EXW Seller's E.U. point of delivery (Incoterms® 2010). The EXW Seller's EU point of delivery shall be the shipping dock or other point of Seller's (or of its affiliate's) factory, warehouse or other facility that Seller designates, at its discretion, as the point of delivery from time to time.
- (b) **Sales Involving Exports from E.U.**
 - (1) **Delivery -- E.U. Buyer; Subsequent Onward Shipment to Location Outside E.U.** For sales in the E.U. to an E.U. Buyer, which involve onward shipment at Buyer's request and/or on Buyer's behalf, to a location outside the E.U., Seller shall deliver the Products to Buyer at the EXW Seller's E.U. point of delivery (Incoterms® 2010). The EXW Seller's E.U. point of delivery shall be the shipping dock or other point of Seller's (or its affiliate's) factory, warehouse or other facility that Seller designates, at its discretion, as the point of delivery from time to time. Buyer is responsible for all transportation charges incurred after the Seller makes available the Products to the carrier or Buyer at that point of delivery and shall reimburse Seller for any transit insurance or freight pre-paid for the Products by Seller. Buyer shall be solely responsible for loading and transportation (including the costs thereof) and shall bear the risk of loss and/or damage in transportation. Buyer is responsible for filing any export documents required for export from the E.U.
 - (2) **Delivery – Non E.U.-Buyer.** For sales in the E.U to a non-E.U. Buyer, Seller shall deliver Products to Buyer's freight forwarder EXW Seller's E.U. point of delivery (Incoterms® 2010). The point of delivery shall be the shipping dock or other point of Seller's (or its affiliate's) factory, warehouse or other facility that Seller designates at its discretion as its point of delivery from time to time. Buyer is responsible for all transportation charges incurred after the Seller makes available the Products to the Buyer's freight forwarder/carrier at that point of delivery and the Buyer shall reimburse Seller for any transit insurance or freight pre-paid for the Products by Seller. Buyer shall be solely responsible for loading and transportation and shall bear the risk of loss and/or damage in transportation. Buyer is responsible for filing any export documents required for export from the E.U.
- (c) **Delivery Dates.** Delivery dates are approximate and estimates only, delivery dates are not guaranteed unless specifically specified in the Contract. Delivery dates are based upon prompt receipt by Seller from Buyer of all necessary shipping and other information. Unless a guaranteed delivery date has been agreed, Seller shall not be

in default in case a stated or agreed delivery or other period has been exceeded. In any cases, including if a guaranteed date has expressly been agreed in writing, the Seller shall not be in default solely because of a time period being exceeded until the Buyer has provided it with a written notice of default. Each delivery shall stand as a separate transaction and any failure to deliver shall have no consequences for other deliveries. Seller may deliver in advance of the delivery schedule. Seller reserves the right to make delivery in installments, with all installments to be separately invoiced and paid for by Buyer when due per invoice, without regard to subsequent deliveries. Delivery of the Products to a freight forwarder/other commercial carrier at the point of delivery shall constitute delivery to Buyer.

- (d) **Title Transfer.** Unless a notice retaining title is given under the next sentence, title to Products shall pass to Buyer upon the delivery of the Products to the freight forwarder/carrier or Buyer at the EXW Seller's E.U. point of delivery in accordance with subsections (a) "Delivery – E.U. Buyer" or (b) "Sales Involving Exports from E.U." above. Subject to applicable law, Seller, upon notice to Buyer prior to delivery, may retain title to the Products until such time as Seller receives payment in full from Buyer and, in such case, the Buyer shall possess the Products as fiduciary agent until title passes. If the Buyer creates a new object wholly or partly from objects delivered by the Seller, the Buyer shall hold the newly created objects for the Seller until the Buyer has paid all amounts owed under the Contract; in that event, the Seller shall possess all rights as the owner of the newly created object until the time the Buyer makes full payment. In the event of termination of the Contract, Seller shall, without prejudice to any other rights of Seller, be entitled to require immediate re-delivery of the Products for which it may invoke a retention of title. As long as title to the Products remains with Seller pursuant to this subsection, Buyer shall (i) keep the Products separate and in a clear identifiable manner, (ii) notify Seller immediately of any claims by third parties which may affect the Products and (iii) adequately insure the Products for an amount at least equal to their price and note the Seller's interest on the policy. Any proceeds of the insurance shall be held on trust (or, if not recognised by applicable law, as agent) on behalf of the Seller in a separate account (in the joint name of Seller and Buyer) holding only such funds and the Buyer shall account to the Seller for the proceeds and make good any shortfall in the amount due to the Seller. Notwithstanding the foregoing, Buyer is entitled to use the Products solely to the extent required in its ordinary course of business. Title to Software shall not pass to Buyer and is subject to the applicable license.
- (e) **Risk of Loss/Damage.** Risk of loss and/or damage shall pass to Buyer upon delivery EXW Seller's E.U. point of delivery in accordance with subsections (a) "Delivery – E.U. Buyer" or (b) "Sales Involving Exports from E.U." (as applicable) above.
- (f) **Delivery by Seller's Carrier.** Where the parties agree that delivery shall be made at a location other than Seller's point of delivery, where Seller will deliver using its carrier or Seller's privately owned or leased trucks, unloading at the agreed location shall constitute delivery to Buyer. Freight and handling charges by Seller may not reflect actual freight charges prepaid to the carrier by Seller due to incentive discounts earned by Seller based upon Seller's aggregate volume of freight tendered to a carrier or when a carrier must be used which charges a rate which is different than the rate upon which Seller's freight and handling charges were based. When shipments are delivered in Seller's privately owned or leased trucks, Buyer will be charged an amount approximating the prevailing undiscounted common carrier rate.
- (g) **Storage.** In the event that Buyer is unable to accept or wrongfully rejects delivery of the Products at time of delivery, Seller shall invoice Buyer for the full purchase price as if shipment had been made and: (i) if Seller is able to store such Products in its own facilities, Buyer will pay Seller the reasonable handling and storage charges for the period of such storage, or (ii) if Seller is unable to store such goods at its own

facility, Seller reserves the right to arrange handling and storage in a suitable bonded warehouse for Buyer at Buyer's expense. In cases where handling and storage become necessary, it shall be Buyer's responsibility to notify Seller when shipment is to be made. Seller will make necessary arrangements for shipment at Buyer's expense.

- (h) **Overruns.** Buyer agrees to accept overruns of up to ten percent (10%) of the quantity of Products ordered in Buyer's purchase order on "made-to-order" Products. Any such additional Products shall be priced at the price charged for the specific quantity ordered.
- (i) **Inspection.** Buyer shall inspect and accept or reject the Products delivered pursuant to the Contract promptly after delivery of such Products. In the event the Products do not comply with the applicable specifications, Buyer shall notify Seller of such noncompliance and Seller shall have a reasonable opportunity to correct any such noncompliance. Buyer shall be deemed to have accepted any Products delivered under the Contract and to have waived any such noncompliance in the event Seller does not receive such notification from Buyer within fifteen (15) days after delivery.

11. **EXCUSABLE DELAYS; FORCE MAJEURE:**

- (a) **Excuse of Performance.** Seller shall not be deemed in breach of the Contract or be liable to the Buyer in any way (whether for any ordinary, incidental, or consequential loss or damage or otherwise) as a result of Seller's delay in or failure of delivery, or installation of Products or performance of Services due to (i) any cause beyond Seller's reasonable control, (ii) an act of God, act of Buyer, embargo or other government act, authority, regulation or request, fire, theft, accident, strike, slowdown or other labor disturbance, war, armed conflict, act or threat of terrorism, riot, epidemic, delay in transportation, or (iii) inability to obtain necessary labor, materials, components, or facilities. Should any of the aforementioned events occur, Seller, at its option, may terminate Buyer's order with respect to any undelivered Products or incomplete Services or extend the delivery date for a period equal to the time lost because of delay. Notice of such election shall be given promptly to Buyer. In the event Seller elects to so terminate the Contract, Seller shall be released of and from all liability for failure to deliver the Products or to perform the Services, including, but not limited to, any and all claims on behalf of Buyer for lost profits, or any other claim of any nature which Buyer might have. If shipping or progress of the work is delayed or interrupted by Buyer, directly or indirectly, Buyer shall pay Seller for all additional charges resulting therefrom.
- (b) **Allocation.** If Seller determines that its ability to meet the demand for products, including the Products, or to obtain labor, materials, components or facilities is hindered, limited or made impracticable due to causes set forth in subsection (a) "Excuse of Performance" above, Seller may allocate its available supply of products (without obligation to acquire additional or other supplies of any such products), including the Products, among itself and its purchasers on such basis as Seller determines to be equitable without liability for any failure of performance which may result therefrom.

12. **LIMITED WARRANTIES:**

- (a) **Scope and Period.**
 - (1) **Products.**

(A) Seller warrants that the Products shall be delivered free from defects in material and workmanship. This warranty shall expire twelve (12)

months from delivery under section 10(a) or (b) (as applicable); provided, however, that this warranty shall expire twelve (12) months from the date of delivery for mechanical power transmission Products made and/or offered by business units in Seller's Power Transmission Systems business segment.

(B) Seller further warrants that the Products shall be delivered free from defects in title. To the extent such limitation is permitted by law, this warranty shall expire twelve (12) months from delivery under section 10(a) or (b) (as applicable).

(2) Repaired and/or Replaced Products and/or Parts of Products.

(A) Seller warrants that the repaired or replaced Products or parts of Products shall be delivered free from defects in material and workmanship. In the case of repaired or replaced Products or parts of Products comprising warranty remedies for Products, this warranty shall expire upon expiration of the warranty period applicable to the Products originally supplied by Seller. In the case of other repaired or replaced Products or parts of Products, this warranty shall expire twelve (12) months from the date of repair of the Products or parts of the Products.

(B) Seller further warrants that the repaired or replaced Products or parts of Products shall be delivered free from defects in title. In the case of repaired or replaced Products or parts of Products comprising warranty remedies for Products, this warranty shall (to the extent such limitation is permitted by law) expire upon expiration of the warranty period applicable to the Products originally supplied by Seller. In the case of other repaired or replaced Products or parts of Products, this warranty shall (to the extent such limitation is permitted by law) expire twelve (12) months from the date of repair of the Products or parts of the Products.

(3) Services. Seller warrants that the Services shall be performed in a competent and diligent manner in accordance with any mutually agreed specification. This warranty shall expire ninety (90) days from the date of completion of such Services.

(4) Software. Seller warrants that the Software shall execute, at time of delivery, in accordance with the specification agreed upon in a written and signed agreement by Buyer (as licensee) and Seller (as licensor) when properly installed in the Products. Firmware embedded in the Products will, at time of delivery, execute Seller's programming instructions. The warranty shall expire six (6) months from date of manufacture of the first Product in which the Software is loaded.

(5) Applicability. The warranties in this section 12 shall apply to any Products and/or Software bought, acquired, and/or used by an entity that, or person who, acquires the Products and/or Software from Buyer (a "Transferee"), except that such Transferee shall acquire no rights against the Seller (under the Contract or otherwise) and any claim made against Seller pursuant to this warranty shall be limited to a claim by Buyer only for breach of the Contract. Seller shall not be bound by this section to satisfy a claim under this section made against Seller by a Transferee, whether such Transferee is a direct or indirect Transferee of Buyer. Buyer shall provide any Transferee of a Product or Software written conspicuous notice of this section and section 13 "LIMITATIONS OF REMEDY AND LIABILITY" hereof.

- (6) **Exceptions.** The duration of the warranty of certain Products may differ from the warranty duration set forth in subsection (a)(1) "Products." Buyer must consult the applicable current Seller product catalog or internet site or Seller directly to confirm the applicable warranty period.

(b) **Remedies.**

- (1) **Products.** If, prior to expiration of the warranty period set forth in subsection (a)(1) "Scope and Period - Products," above, any Products shall be proved to Seller's satisfaction to be defective or nonconforming with the warranty set forth therein, Seller will, at its sole discretion, repair or replace such defective Products or components thereof, FCA Seller's factory, warehouse or other facility that Seller designates at its discretion as point of delivery from time to time (Incoterms® 2010), or will refund or provide Buyer with a credit in the amount of the purchase price paid therefor by Buyer, at Seller's sole option. Buyer's exclusive remedy and Seller's sole obligation under this warranty shall be limited to such repair or replacement, FCA factory, warehouse or other facility that Seller designates at its discretion as point of delivery from time to time (Incoterms® 2010), or refund or credit by Seller, and shall be conditioned upon Seller's receiving written notice of any defect and/or nonconformance within a reasonable period of time, but in no event more than thirty (30) days, after it was discovered or by reasonable care should have been discovered. All claims not made in writing and received by Seller within such thirty (30) day period shall be deemed waived. In no event shall Seller's liability for such defective or nonconforming Products exceed the purchase price paid by Buyer for such Products. With prior approval from Seller, Buyer shall return the alleged defective Product or part, freight prepaid, for Seller's inspection, and no other Products shall be returned to any Seller office, factory, warehouse, authorized service center or other facility, without Seller's written consent.
- (2) **Repaired and/or Replacement Products and/or Parts of Products.** If prior to the expiration of the applicable warranty period set forth in subsection (a)(2) "Repaired and/or Replaced Products and/or Parts of Products" above, any replacement Products and/or parts of Products shall be proved to Seller's satisfaction to be defective or nonconforming with the warranty set forth therein, the remedy set forth in subsection (b)(1) "Products" above shall apply to such replacement Products and/or parts of Products.
- (3) **Services.** If, prior to expiration of the warranty period set forth in subsection (a)(3) "Services," above, any Services shall be proved to Seller's satisfaction to be nonconforming with the warranty set forth therein, Seller will re-perform such nonconforming Services. If the Services cannot be re-performed, Seller, at its option, shall refund or credit monies paid by Buyer for such nonconforming Services.
- (4) **Software.** If, prior to expiration of the warranty period set forth in subsection (a)(4) "Software" above, (i) Buyer provides, in writing, a complete description of the claimed non-conformance in the Software, and (ii) the Software is proven to Seller's satisfaction to be so nonconforming with the warranty set forth therein, Seller will correct the non-conformance by, at its option: (i) modifying or making available to Buyer instructions for modifying the program causing such non-conformance, or (ii) making available a corrected or replacement program FCA Seller's (or its

affiliate's) factory, warehouse or other facility that Seller designates at its discretion as point of delivery from time to time (Incoterms® 2010).

(c) Exclusions - The warranties set forth in this section do not cover:

- (1)** shipping expenses to and from Seller's office, factory, warehouse, authorized service center or other destination designated by Seller for repair or replacement of defective Products or any tax, duty, custom, inspection or testing fee, or any other charge of any nature related thereto;
- (2)** costs of removing defective Products from, and/or disassembling, equipment in which Products are assembled or reinstalling Products and/or reassembling such equipment, or testing repaired or replaced Products and/or the equipment;
- (3)** field service travel and living costs and expenses;
- (4)** Products subjected to abuse, neglect, negligence, misuse, misapplication, accident, damages by circumstances beyond Seller's control, improper installation (if by anyone other than Seller), improper operation (including, but not limited to, operation in excess of rated capacity or otherwise not in accordance with installation, maintenance, or operating instructions or requirements) improper maintenance, improper storage, and/or any other than normal use or service;
- (5)** Products maintained, serviced, repaired or altered by anyone other than Seller or Seller's authorized service agencies;
- (6)** Products and/or parts not manufactured by Seller; for Products furnished by Seller, but manufactured by others, Seller will assign to Buyer the written warranty, if any, of the manufacturer, if assignment is reasonably practicable; however, Seller does not adopt or guarantee or represent that the manufacturer will comply with any of the terms of the warranty of such manufacturer. In no event shall Seller have any liability for Products and/or parts not manufactured by Seller;
- (7)** any technical advice furnished by Seller without charge to Buyer with respect to use of the Products; all such technical advice, or results obtained, is given and accepted at Buyer's sole risk; and/or
- (8)** failures of the Software to be interruption-free or error-free or to meet Buyer's or any other party's requirements; and, problems caused by use of the Software in conjunction with third-party software, hardware, or products.

(d) Disclaimer: the foregoing warranties are, to the fullest extent permitted by law, in lieu of all other express and implied warranties, arising by operation of law or otherwise (including, without limitation, the implied warranties of merchantability and fitness for a particular purpose, whether or not the purpose or use has been disclosed to Seller in specifications, drawings, or otherwise and whether or not Seller's Products are specifically designed and/or manufactured by Seller for Buyer's use or purpose) and accordingly, no such other express or implied warranties shall apply to or form part of the Contract. No employee, representative, or agent of Seller other than an officer of Seller is authorized to alter or modify any provision of this section or to make any guarantee, warranty, or representation, express or implied, orally or in writing, which is contrary to the foregoing. Except where Buyer and Seller agree in a written and signed agreement upon the specifications applicable to the

Products, Software, and/or Services, any description of the Products, Software, and/or Services, whether in writing or made orally by Seller or Seller's agents, specifications, samples, models, bulletins, drawings, diagrams, engineering sheets or similar materials used in connection with Buyer's order are for the sole purpose of identifying the Products and shall not be construed as an express or implied warranty. Any suggestions by Seller or Seller's agents regarding use, application or suitability of the Products shall not be construed as an express or implied warranty unless confirmed to be such in writing by Seller's authorized officer. In the event an authorized officer of Seller sets forth any express or implied warranties in writing and (1) the actual operating conditions or other conditions or use differ from those represented by Buyer to Seller or (2) Seller has relied upon any data or information supplied by Buyer to Seller in the selection or design of Products and/or provision of Services and such data or information is inaccurate, any such warranties contained therein which are affected by such conditions shall be null and void.

13. LIMITATIONS OF REMEDY AND LIABILITY:

- (a) **Breach of Warranty Claims.** Buyer's only remedy for breach of any warranty under the Contract, other than the warranty provided under section 16 "INTELLECTUAL PROPERTY INDEMNITY," shall be the applicable remedy set forth in section 12 "LIMITED WARRANTY" above. Seller's total liability for any and all breach of warranty claims under the Contract shall not exceed the purchase price allocable to the Product, Software or Service or part thereof which gives rise to the claim.
- (b) **Other Claims.** All warranties, conditions and other terms implied by statute or common law are excluded from the Contract to the fullest extent permitted by law.

Seller's liability for any claim (other than a breach of warranty claim under section 12 "LIMITED WARRANTY,") whether in contract, negligence, tort, strict liability, indemnity or otherwise for any loss or damage arising out of, connected with, or resulting from the Contract or the performance or breach thereof, or from the design, manufacture, sale, delivery, resale, repair, replacement, installation, technical direction of installation, inspection, operation or use of any Products covered by or furnished under the Contract or from Services rendered under the Contract, shall in no case (except as provided in section 16 "INTELLECTUAL PROPERTY INDEMNITY," and except to the extent of exclusions and limitations of liability that are prohibited by applicable law) exceed the purchase price allocable to the Products or part thereof or to the Services giving rise to the claim.

- (c) **Consequential Damage Disclaimer.** Seller shall not be liable for and disclaims all consequential, incidental, contingent, special or punitive damages whatsoever. Seller shall not be liable for lost profits or revenues, loss of use of the Products, Software or any related equipment or systems, cost of capital, cost of substitute products, cost of facilities or services, business interruption, downtime, shutdown, or slowdown costs, reputational damages, any other types of economic loss, penalties, special or punitive damages, and claims of Buyer's customers for any such damages.
- (d) **Expiration of Claims.** Save to the extent such restriction is prohibited by law, all claims against Seller arising out of or related to the Contract or the performance or breach thereof shall expire unless made and presented to Seller in writing by Buyer before expiration of the applicable warranty period.
- (e) **Notice of default.** Seller's liability because of a failure to perform the Contract shall in all cases only arise if the Buyer immediately and properly provides a written notice of default to the Seller, with a reasonable time period for remedying the failure being given and the Seller still failing to perform its obligations after that period as well. The

notice of default must contain a description of the breach which is as complete and specific as possible, so that the Seller can respond adequately.

- (f) **Precedence.** The limitations of this section shall apply regardless of whether a claim is based in contract, tort (including negligence), warranty, strict liability, intellectual property, or otherwise, and shall take precedence over any conflicting terms and conditions, except where the limitations of liability of such conflicting terms limit Seller's liability further.
- (g) **Exception.** Nothing in the Contract limits any liability which cannot be limited by law. The limitations and exclusions set forth in this section 13 shall not (i) save to the extent permitted by law, apply to limit liability arising in connection with death or personal injury resulting from a party's negligence or (ii) apply to limit liability caused by that party's fraud or fraudulent misrepresentation.

14. BUYER RESPONSIBILITIES:

Buyer shall provide Seller ready access to the site where any Services are to be performed and adequate workspace and facilities to perform the Services. Buyer shall not require Seller or its employees, as a condition to site access or otherwise, to further agree or enter into any agreement that waives, releases, indemnifies or otherwise limits any rights or expands any obligations of Seller whatsoever. Any such agreement shall be null and void. Buyer shall inform Seller, in writing, at the time of order placement, of any known hazardous substance or condition at the site, including, but not limited to, the presence of asbestos or asbestos containing materials, and shall provide Seller with any data reasonably requested by Seller regarding same. Buyer shall appoint a representative familiar with the site and the nature of the Services to be performed by Seller to be present at all times that Seller personnel are at the site. Seller shall not be liable for any expenses incurred by Buyer in removing, replacing or refurbishing any Buyer equipment or any part of Buyer's building structure that restricts Seller access or ability to perform the Services. Buyer personnel shall cooperate with and provide all assistance reasonably requested by Seller. Seller shall not be liable or responsible for any work performed by Buyer. Seller may suspend or terminate Services, at its sole discretion, without liability to Buyer if Buyer fails to meet its obligations hereunder or Seller, in its sole discretion, determines that continuing to provide Services to Buyer represents a hazardous condition for Seller's employees.

15. INDEMNITY BY BUYER FOR THIRD PARTY WARRANTY CLAIMS:

If Buyer supplies Products or Services to a third party, uses Products or Services at a facility owned by a third party, and/or transfers Products and/or Software to a third party, Buyer shall (except to the extent such requirement is prohibited by law) indemnify and defend Seller from and against any and all claims by, and liability to, any such third party in excess of the limitations set forth in sections 12 "LIMITED WARRANTY" and 13 "LIMITATIONS OF REMEDY AND LIABILITIES." For purposes of this subsection, "Seller" means Seller, its affiliates, suppliers, contractors, licensors and their employees.

16. INTELLECTUAL PROPERTY INDEMNITY:

Seller warrants that, to the best of its knowledge, Products, Services and/or Software furnished hereunder, and any part thereof, (each a "Delivered Item") shall be delivered free of any rightful claim of any third party not affiliated with Buyer for infringement of any patent granted in the U.S., UK or E.U., any trademark registered in the U.S. Patent and Trademark Office or any equivalent office in the UK or E.U. and/or any copyright registered in the U.S. Copyright Office. Seller will, at its own expense, defend or settle any suits that may be instituted against Buyer for alleged infringement by the Delivered Item of any U.S., UK or E.U. patent, any trademark registered in the U.S. Patent and Trademark Office or any equivalent office in the UK or E.U. and/or any copyright registered in the U.S. Copyright Office provided that: (a) such alleged infringement consists of the use of the Delivered Item for (i) any of the purposes for which Buyer informed Seller such Delivered Items would be used, or (ii) if Buyer did not so inform Seller, any of the purposes for which Seller reasonably believed such Delivered Items would be used; (b) Buyer shall have made all payments for such Delivered Items then due hereunder; (c) Buyer shall

give Seller immediate notice in writing of any such suit and transmit to Seller immediately upon receipt of all processes and papers served upon Buyer; (d) Buyer does not take any position adverse to Seller in connection with such claim; and (e) Buyer shall permit Seller through Seller's counsel, either in the name of Buyer or in the name of Seller, to defend such suit(s) and give all needed information, assistance and authority to enable Seller to do so. As a separate and independent obligation, the Buyer shall provide all such information (including documentation) and reasonable assistance as the Seller may request at any time(s) in connection with any such actual or threatened suit.

In case of a final award of damages in any such suit, Seller will pay such award but will not be responsible for any compromise or settlement made without its written consent. In case the Delivered Item itself is in such suit held to infringe any valid patent issued in the United States, United Kingdom or European Union and/or a trademark registered in the United States, United Kingdom or European Union and/or a copyright registered in the United States, and its use is enjoined, or in the event of a settlement or compromise approved by Seller which shall preclude future use of the Delivered Item, Seller shall, at its own expense and at its sole option, either: (a) procure rights to continue using such Delivered Item; (b) modify the Delivered Item to render it non-infringing; (c) replace the Delivered Item with a non-infringing Product and/or Software; or (d) refund the purchase price paid by Buyer for the Delivered Item after return of the Delivered Item to Seller (less reasonable depreciation for any period of use). Notwithstanding the foregoing, Seller shall not be held responsible for claims of infringement of any patents covering the use of the Delivered Item in combination with other goods or materials not furnished by Seller.

The foregoing states the entire liability of Seller for intellectual property infringement, and in no event shall Seller be liable for consequential (including loss of profits or revenues) or incidental damages attributable to an intellectual property infringement beyond that. Buyer, at its own expense, shall defend Seller against, and/or settle, (a) any patent, trademark, copyright or other intellectual property infringement claim pertaining to a Delivered Item furnished by Seller to Buyer manufactured in accordance with designs, drawings or other descriptions proposed or furnished by Buyer; and (b) any claim against Seller of contributory infringement resulting from the use or resale by Buyer of a Delivered Item sold hereunder. Buyer shall indemnify Seller for any award against Seller or settlement by Seller regarding any such claims and attorneys' fees and defense costs incurred in defense of such claims.

17. OWNERSHIP OF PROPERTY:

Unless otherwise agreed in a written agreement signed by Seller, all material, equipment, facilities, product samples and special tooling (the meaning of which term includes, but is not limited to, tools, jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment, and manufacturing aids and replacements thereof), used, made, conceived, developed or acquired by Seller for and/or in connection with the Contract ("Seller Property"), shall remain the property of Seller and will vest in and inure to Seller's sole benefit. The foregoing shall apply notwithstanding any charges therefor which may have been or may be imposed by Seller on Buyer. Buyer shall have no claim to, nor ownership interest in, any Seller Property in whatever form and Buyer shall return any Seller Property to Seller upon written request from Seller. Buyer shall not give, loan, exhibit, sell or transfer any such property or reproduction thereof to any person, organization or entity who is not authorized by Seller in writing to receive it and shall not enable such person, organization or entity to furnish products or parts therefore or services similar to the Products or Services.

18. OWNERSHIP OF INTELLECTUAL PROPERTY:

All drawings, know-how, designs, specifications, inventions, devices, developments, processes, software, copyrights, trademarks, patents and applications therefore, and other information or intellectual property used, made, conceived, developed or acquired by Seller in connection with the Contract (whether or not disclosed or otherwise provided to Buyer by Seller) and all rights therein (collectively, "Seller Intellectual Property") will remain the property of Seller and will vest in and inure to Seller's sole benefit and will be kept confidential by Buyer in accordance with these terms and conditions. Buyer shall have no claim to, nor ownership interest in, any Seller Intellectual Property and any such Seller Intellectual Property, in whatever form and any copies thereof (including but not limited

to product samples), shall be promptly returned to Seller upon written request from Seller. Buyer acknowledges that no license or rights of any sort are granted to Buyer hereunder in respect of any Seller Intellectual Property other than (a) as set forth in section 19 "SOFTWARE LICENSE" below and (b) the limited right to use the Seller's proprietary Products purchased from Seller. Unless specifically provided for and itemized for payment as agreed to by Seller, the sale of Products or Services by Seller to Buyer does not include delivery of any design, development or related services associated with Seller Intellectual Property. Seller retains all rights, title and interest in drawings, engineering instructions, specifications, and all other written data, if any, furnished with the Products and/or Services.

19. SOFTWARE LICENSE:

The provisions set forth in this section shall apply to all Software provided by the Seller.

- (a) **License Grant.** Notwithstanding any other provision herein to the contrary, Seller shall retain all rights of ownership and title in its respective Software and firmware, including all worldwide intellectual property and proprietary rights. Seller grants Buyer a limited, non-exclusive, non-sublicensable, non-transferable (except as defined in subsection (b) "Scope of License"), royalty-free, limited license to use the Software and firmware in the U.S., UK or E.U. solely for its own internal business purposes and solely in conjunction with (a) the operation of the Products purchased and sold under the Contract and/or other product meeting Seller's specifications; and (b) any other purpose agreed upon in a written and signed agreement between Buyer and Seller. Buyer shall only have those rights to Software and firmware explicitly granted herein, and any and all other rights are retained by Seller or its licensors (as described in subsection (c) "Third Party Software").
- (b) **Scope of License.** Except as set forth in subsection (c) "Third Party Software," below, all Software and firmware shall be governed by these Terms and Conditions. Upon Seller's prior written approval, Buyer may make a reasonable number of copies of Software as necessary for backup, configuration, installation, and restoration of the Products. Also upon Seller's prior written approval, Buyer may authorize a third-party contractor or service provider to exercise the rights set forth in the preceding sentence solely on Buyer's behalf and for Buyer's benefit. Buyer may transfer possession of Software and its media and firmware to another party only in conjunction with the transfer of the Products on which the Software and firmware is loaded and only upon agreement of the other party to the terms and conditions of the Contract. Upon such transfer, Buyer shall destroy all Buyer's copies of Software and firmware and related documentation and ensure that any third-party contractor or service provider does the same. All licenses and grants pursuant to the Contract shall immediately terminate once Buyer no longer rightfully owns or possesses the Products. Upon Seller's request, Buyer shall provide Seller with written notice of any such transfer providing the name, address, and contact information of the subsequent buyer within fifteen (15) days of such transfer.
- (c) **Third-Party Software.** Seller's Software and firmware may include certain third-party software that is integrated or embedded therein or provided with the Software and firmware ("Third-Party Software"). Third-Party Software is included in the term "Software" for purposes of this Contract. Notwithstanding any other provision herein to the contrary, each respective third-party licensor shall retain all rights of ownership and title in its Third-Party Software, including all worldwide intellectual property and proprietary rights. Buyer's use of Third-Party Software and firmware shall be governed by these Terms and Conditions and the respective third-party licensor's license terms.
- (d) **Use Restrictions.** Buyer shall not (a) copy, display, transfer, adapt, modify, or distribute in any form the Software and firmware except as set forth in the Contract or in Seller documentation provided by Seller to Buyer with the Software and

firmware; (b) reverse engineer, disassemble, decompile, or otherwise translate the Software or firmware's object code, unless expressly permitted by applicable law without the possibility of contractual waiver; or (c) sublicense or lease the Software and firmware or any copy thereof except with the transfer of the Products on which the Software and firmware is loaded. Except as provided under the terms of Seller's standard escrow agreement between Seller and Buyer, if applicable, Buyer shall not make available to any party, without prior written consent from Seller or its authorized agent, source code for the Software and firmware. Buyer shall not, directly or indirectly, export or re-export, or knowingly permit the export or re-export of, the Products, or any technical information about the Products, to any country for which applicable law, requires an export license or other government approval, unless Buyer obtains the appropriate export license and obtains written approval from Seller.

- (e) **Maintenance and support.** Seller may offer to Buyer the option to purchase from Seller annual Software maintenance and support services under the terms and conditions of Seller's then-standard maintenance and support agreement. Buyer may renew this maintenance term at Seller's then-current maintenance rates. In the event Buyer purchases additional Software licenses, maintenance fees for such licenses shall be prorated to be coterminous with Buyer's existing maintenance period. In no event shall Seller be responsible for providing maintenance services for a period during which maintenance coverage is lapsed.

20. CONFIDENTIAL INFORMATION:

All information furnished or made available by Seller to Buyer in connection with the subject matter of the Contract shall be held in confidence by Buyer. Buyer may not use such information or disclose such information to others without Seller's prior written consent. The obligations in this paragraph will not apply to any information which (a) at the time of disclosure was, or thereafter becomes, generally available to the public by publication or otherwise through no breach by Buyer of any obligation herein, (b) Buyer can show by written records was in Buyer's possession prior to disclosure by Seller, (c) is legally made available to Buyer by or through a third party having no direct or indirect confidentiality obligation to Seller with respect to such information, or (d) is required to be disclosed by Buyer in the course of any legal proceedings or by any governmental or other authority or regulatory body.

21. SECURITY AGREEMENT AND FINANCING STATEMENTS:

As security for payment of the purchase price under the Contract, Buyer hereby agrees (upon demand of the Seller) to irrevocably grant Seller a charge (or other security interest notified by the Seller) in the Products purchased by Buyer, together with all accessories, attachments and replacement parts and all substitutions, replacements and proceeds thereof to secure payment of the purchase price and of all monies which may be due under the Contract. Buyer hereby undertakes to execute all such documents and take all such other steps as Seller requires to create and perfect a valid and enforceable security interest. For such purposes, Buyer hereby authorizes Seller to file all financing statements, any amendments and continuations thereof, or any other documents necessary or reasonably required, for the perfection and protection of a security interest under applicable law, and to deliver notice to prior holders of security interests, of Seller's security interest in the Products to protect its interest.

22. INSURANCE:

Until payment in full of the purchase price, Buyer shall maintain insurance covering all Products sold by Seller to Buyer in such amounts and against such risks as is customary by companies engaged in the same or similar business and similarly located, and shall, upon Seller's request, furnish evidence of such insurance satisfactory to Seller.

23. RETURN OF PRODUCTS:

No Product or part shall be returned to Seller without written authorization and shipping instructions first having been obtained from Seller.

24. INDEPENDENT CONTRACTORS:

Seller and Buyer are independent contractors, and the relationship created hereby shall not be deemed to be that of principal or agent. No sale to or obligation of either party towards a third party shall in any way bind the other party.

25. ASSIGNMENT AND SUBCONTRACTING:

Buyer shall not assign its rights or delegate its duties hereunder, or any interest therein, to any other person, whether by operation of law or otherwise, without Seller's prior written approval. Seller may, without the necessity of obtaining Buyer's prior written consent, assign the Contract or subcontract the production of all or any portion of the Products and/or performance of all or any portion of the Services.

26. CANCELLATION:

No purchase order submitted to Seller may be cancelled by Buyer without the prior written consent of Seller, which consent will at all times be conditioned on Buyer's agreement to pay Seller's cancellation charge. For a finished Product yet to be delivered to Buyer that, in Seller's judgment, is readily resaleable to others, the cancellation charge shall be fifteen percent (15%) of the invoice price of the Product. For all other cancellations, the cancellation charge shall amount to all cost and expenses incurred by Seller and arising out of or in connection with Buyer's purchase order plus reasonable profit, as determined and notified by Seller. In no event shall the cancellation charge be less than ten percent (10%) of the invoice price of the Product or more than the invoice price.

27. HIGH-RISK APPLICATION USE DISCLAIMER:

Products and Services sold by Seller are not intended for use in connection with any nuclear facility or activity, critical safety system, medical device, military device, satellite, aviation equipment, air traffic control equipment, or other high-risk applications (collectively, "High Risk Applications"). Buyer shall not use or permit others to use Products or Services for such High Risk Applications without Seller's prior written consent. If so used without Seller's prior written consent, Seller disclaims all liability for any damage, injury or contamination, and Buyer shall indemnify and hold Seller (for itself and as trustee for its officers, agents, employees, successors, assigns and customers) harmless from and against any and all such liability. Seller's consent, if any, will be conditioned upon additional terms and conditions acceptable to Seller.

28. GOVERNING LAW; VENUE:

- (a) **Governing Law.** These Terms and Conditions, the Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be exclusively governed by and construed in accordance with the laws of England and Wales. The rights and obligations of Seller and Buyer shall not be governed by the provisions of the United Nations Convention on Contracts for the International Sale of Goods.
- (b) **Venue.** Seller and Buyer irrevocably agree, for the sole benefit of the Seller and subject to (c) below, that the courts of England and Wales shall have exclusive jurisdiction to settle any disputes or claims arising out of or in connection with the Contract, whether on the basis of breach of contract, tort or otherwise.
- (c) Nothing in section 28 (b) above shall limit the right of the Seller to take proceedings against the Buyer in any other court of competent jurisdiction, nor shall the taking by the Seller of proceedings in any one or more jurisdiction preclude the Seller from

taking proceedings in any other jurisdiction (s) (whether concurrently or not), to the extent permitted by the law of such other jurisdiction.

29. LAWS:

- (a) **New or Changed Laws.** If Seller's obligations under the Contract will be increased by reason of the making or amendment after the date of Seller's Quotation of any law or any order, regulation or by-law having the force of law that will affect the performance of Seller's obligations under the Contract, the Contract price and delivery period will be adjusted accordingly and/or performance of the Contract suspended or terminated, as appropriate, as notified by the Seller.
- (b) **Export and Import Control Laws.** Buyer shall comply, in the receipt and use of the Products and the Software, with all applicable import and export control laws, regulations, orders and requirements of the jurisdictions in which the Seller and Buyer are established and from which Products and Software are provided. Buyer shall not transfer, release, import, or export Products and/or Software in violation of such applicable laws, regulations or other legal requirements. Buyer shall provide a completed end-user certification in a form satisfactory to Seller upon Seller's request. Buyer agrees that all applicable import, export control and sanctions laws, regulations, orders and requirements, as they may be amended from time to time, including without limitation those of the United States, the European Union and the jurisdictions in which Seller and Buyer are established or from which Products, Software, Services and/or related items may be supplied, and the requirements of any licenses, authorizations, general licenses or license exceptions relating thereto will apply to its receipt and use of Products, Software, Services and related items. If Seller or Seller affiliate should fail to receive any necessary or advisable licenses, authorizations or approvals, even arising from inaction by any relevant government authority, or if any such licenses, authorizations or approvals are denied or revoked, or if there is a change in any applicable laws, regulations, orders or requirements that would prohibit Seller or Seller affiliate from fulfilling the Contract, or would in Seller's reasonable judgment otherwise expose Seller or Seller affiliate to a risk of liability under such laws, regulations, orders or requirements if it fulfilled the Contract, Seller and Seller affiliate will be relieved without penalty of all obligations under the Contract. In no event may Buyer use, transfer, release, export or re-export any such Products, Software, Services or related items in violation of such applicable laws, regulations, orders or requirements or the requirements of any licenses, authorizations or license exceptions relating thereto. In addition, Seller has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations, including but not limited to UN, U.S., UK, and E.U. regulations. This Contract has been entered into on the basis that the Products are not sold, will not be re-sold, made available or in any way used in any such country in breach of Seller policies. Seller reserves the right to refuse support of any Products, Software, Services and/or related items that are in breach of this section. Any failure by Buyer to comply with this provision and all applicable laws pertaining to the importation, exportation, distribution, sales, promotion and marketing of Products, Software, Services and related items will constitute a default giving Seller the right to immediate termination of this Contract and/or the right to elect not to recognize the warranties associated with the Products, Software, Services or related items. Buyer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify and hold Seller harmless from and against any and all fines, damages, levies, costs and judgments which Seller may be required to pay. Buyer represents and warrants that it is not a party listed as a specially designated terrorist, specially designated national, and/or blocked person or party which otherwise appears on any list maintained by the U.S. Treasury Department Office of Foreign Assets Control, U.S. Commerce Department

Bureau of Industry and Security, U.S. State Department, E.U. or UK designated parties lists.

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

30. WAIVER:

No waiver by Seller of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, by Seller any right, remedy, power or privilege arising from these Terms and Conditions shall operate or be construed as a waiver thereof; nor shall any single or partial exercise by Seller of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

31. ENTIRE AGREEMENT

The Contract constitutes the entire agreement between Seller and Buyer relating to the subject matter thereof, and supersedes and extinguishes all prior agreements, correspondence, discussions and understandings of Seller and Buyer (whether oral or written) relating to its subject matter. The Seller agrees that the Buyer shall have no remedies in respect of any statement, representation, assurance or warranty (whether innocent or negligent) that is not set out in writing in the Contract and that the Seller shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

32. ATTORNEYS' FEES:

Buyer agrees to pay all of Seller's costs and expenses of collection of unpaid amounts which have fallen due and related litigation, including but not limited to attorneys' fees and costs.

33. SEVERANCE CLAUSE:

The invalidity, illegality, voidness, voidability, unenforceability or unreasonableness (whether, in any such case, in whole or in part) of any of the provisions of these Terms and Conditions shall not affect the validity, legality or enforceability of any of the other provisions thereof. Any provision of the Contract which is held by any competent court or 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 the Contract and the remainder of such provision shall not be affected.

34. APPLICABILITY:

These Terms and Conditions as stated herein are applicable as of the date of publication and until such time as changed by Seller.

35. THIRD PARTY RIGHTS

A person who is not a party to the Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

36. HEADINGS:

The headings contained in these Terms and Conditions are included for mere convenience of reference and shall not affect their construction or interpretation.