

# General Terms and Conditions for Sales of Goods for RUTRONIK UK Limited

## - November 2012 -

### § 1 General Provisions - Scope of Application

- 1.1 These General Terms and Conditions ("**Conditions**") apply to all business transactions for the purchase of goods ("**Goods**") or services ("**Services**") between RUTRONIK-UK Limited (Seller) and the Purchaser, and shall form a contract for each purchase of such Goods or Services (the "**Contract**").
- 1.2. In these Conditions:
  - 1.2.1 references to a gender include every gender, references to persons include an individual, company, corporation, firm or partnership and reference to the singular include the plural and vice versa as the context admits or requires;
  - 1.2.2 headings are for ease of reference only and shall not affect the construction or interpretation of these Conditions; and
  - 1.2.3 any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words.

### § 2 Offer and Conclusion of Contract

- 2.1 All quotations and tenders are made and all Orders are accepted subject to these Conditions (including any terms or conditions which the Purchaser purports to apply under any Order, confirmation of Order, specification or other document whatsoever and whenever). Except as otherwise provided in these Conditions, all other terms and conditions are excluded from any Contract between the Seller and the Purchaser unless expressly accepted in writing by the Seller and is executed by a duly authorised representative of the Seller.
- 2.2 Any terms and conditions that the Purchaser purports to incorporate into the Contract shall not form a part of this Contract.
- 2.3 If there is a conflict between these Conditions and any other terms of the Seller's quotation, tender or acknowledgement of Order, these Conditions shall prevail.
- 2.4 Quotations are not binding and shall be valid for a maximum period of 30 days from date of issue and may be withdrawn by the Seller by written or oral notice to the Purchaser at any time prior to the Seller's acceptance. All prices stated in such quotations shall be indicative only.
- 2.5 Orders for Goods or Services placed by the Purchaser ("**Orders**") are not binding on the Seller. The Contract shall come into effect when the Seller's order acknowledgement form is either accepted by the Purchaser, or if the Purchaser has failed to reject such order acknowledgement in writing within 48 hours of the date of the order acknowledgement. If the Purchaser does not reject the Seller's offer in accordance with this Clause 2.5, the Contract comes about in accordance with, and with the contents set forth in, the Seller's order acknowledgement form.

### § 3 Product Specification

- 3.1 The Purchaser acknowledges that the Seller is not the manufacturer of the Goods and from time to time the manufacturer of the Goods may make changes to the specification of the Goods ("**Manufacturer Change**") and that in some circumstances, a Manufacturer Change may be carried out by the manufacturer unilaterally and without notice to the Seller. If the Contract concerns Goods that are subject to a Manufacturer Change, the Seller reserves the right to deliver Goods and carry out the delivery in accordance with the Manufacturer Change or the manufacturer's most recent data sheet.
- 3.2 Information about the Goods distributed by the Seller – especially information contained in brochures, type lists, catalogues, data sheets, advertising material, specifications and descriptions, manufacturer's data, definitions of the requirements to be met by the Goods and other technical supply conditions, certificates (e.g., certificate of compliance) and other documents – constitutes no guarantee by the Seller as to the quality and state or durability of the Goods and the Purchaser shall not be entitled to rely on such information.

- 3.3 Samples of the Goods distributed by the Seller are deemed test samples and do not constitute a guarantee as to the quality and state of the Goods.

### § 4 Release Orders

- 4.1 If agreed between the Seller and the Purchaser, the Purchaser may from time to time submit an Order for its anticipated requirements for the Goods ("**Release Order**") over a defined period ("**Forecast Period**"), such Forecast Period not to exceed 12 months. If the Purchaser wishes the Seller to deliver the Goods set out in the Release Order to it, it shall issue a release (setting out the requested delivery date) to the Seller in accordance with this Clause 4.1. Unless otherwise agreed between the Seller and the Purchaser, the Purchaser must issue the release at least 8 weeks before the requested delivery date set out in the release. The Seller shall endeavour to notify the Purchaser of any anticipated difficulties in meeting the requested delivery date.
- 4.2 Unless otherwise agreed, the Purchaser must issue a release in relation to all Goods ordered in the Release Order within a period of 12 months from the day the Release Order has been accepted in accordance with Clause 2.5. If the Purchaser fails to comply with its obligations under this Clause 4.2, (without prejudice to any other rights or remedies available to the Seller) following the end of the 12 month period, the Seller shall be entitled to deliver the Goods ordered and issue an invoice for such Goods or to rescind the contract. The Seller is further entitled to charge the price applicable to the quantities actually released by the Purchaser.

### § 5 Prices / Adjustment of Prices

- 5.1 The relevant prices are the prices stated in the Seller's order acknowledgement form. All prices are stipulated ex works and are exclusive of VAT and do not include the cost of packaging, freight, insurance, customs, duties or other similar taxes or levies, all of which shall be the responsibility of the Purchaser and which the Purchaser shall, where appropriate, pay for when it is due to pay for the Goods. VAT payable will be stated separately in the invoice, at the statutory rate applicable on the day the invoice is issued.
- 5.2 The Seller is entitled to charge the following surcharges for small invoices: for an invoice value of less than £100, a surcharge of £10; for an invoice value of less than €100, a surcharge of €12; and for an invoice value of less than \$100, a surcharge of \$16. [The surcharge will be calculated on the basis of the currency in which the invoice is raised.]
- 5.3 To the extent that between the placing of a quote by the Seller and the delivery of the Goods there is a decrease or increase in the costs relating to the Goods for which the Seller is not responsible and which was not reasonably foreseeable by the Seller (including, but not limited to, a decrease or increase that is based on changes in the prices of materials in the Goods and/or fluctuations in the currency exchange rate which could not reasonably be foreseen by the Seller), the Seller has the right to adjust the prices to reflect the change in costs. If the increase exceeds 10% of the price under the Contract, the Purchaser shall be entitled to cancel its Order by giving notice in writing to the Seller without liability for the Goods or Services.
- 5.4 If, between the placing of a quote by the Seller and the delivery of any Goods, the Goods cease to be available to the Seller from the manufacturer of such Goods for any reason whatsoever, the Contract may be terminated by the Seller in writing with immediate effect (either in whole or in part) and the Seller shall repay to the Purchaser any sums paid to the Seller by the Purchaser in respect of any Goods or Services that have not been supplied.

### § 6 Terms of Payment

- 6.1 Unless otherwise agreed in writing, all invoices of the Seller received by the Purchaser must be paid without delay, without any deduction whatsoever.
- 6.2 Time of payment shall be of the essence of the Contract.

- 6.3 Bills of exchange and cheques shall only be accepted by the Seller if expressly agreed by an authorised representative of the Seller in writing. Any discount charges and other costs in respect of a bill of exchange or a cheque shall be borne by the Purchaser. The Seller's rights under Clause 10 below remain unaffected until all claims under bills of exchange have been settled in full.
- 6.4 The Seller is entitled to count payments from the Purchaser towards the Purchaser's oldest debt first regardless of which debt the payment is stated by the Purchaser to relate to. If costs and interest have already accrued, the Seller is entitled to count the payment towards the costs first, then towards interest, and finally towards the principal claim.
- 6.5 Where Goods are delivered by installments the Seller may invoice each installment separately and the Purchaser shall pay such invoices in accordance with these Conditions.
- 6.6 Notwithstanding Clause 6.4, if payments received from the Purchaser are not stated to refer to a particular invoice, the Seller may appropriate such payment to any outstanding invoice addressed to the Purchaser from the Seller.
- 6.7 If the Purchaser defaults in payment in this Contract or any other contract between the Seller and the Purchaser, then all sums then owing to the Seller by the Purchaser shall become due and payable immediately and the Seller shall be entitled, without prejudice to any other right or remedy, to do all or any of the following:-
- 6.7.1 to cancel or suspend any or all further deliveries under the Contract and under any other contract or contracts between the Seller and the Purchaser then current, without notice;
- 6.7.2 to charge interest on a daily basis any amount outstanding at the rate of 8% per annum above the base rate of the Bank of England, such interest being charged as a separate, continuing obligation not merging with any judgment together with any statutory debt recovery costs;
- 6.7.3 to serve notice on the Purchaser requiring immediate payment for all Goods supplied by the Seller under this and all other contracts with the Purchaser whether or not payment is otherwise due; and/or
- 6.7.4 to sue for the price of the Goods even though (in the case of the Goods) title may not have passed to the Purchaser.

#### **§ 7 Set-off and Retention**

- 7.1 Payment shall be made without any set-off, withholding, counterclaim, abatement, deduction or otherwise whatsoever unless the Purchaser has a valid court order requiring an amount equal to such deduction to be paid by the Seller to the Purchaser.

#### **§ 8 Time and Scope of Delivery, Reservation of Timely Supply to the Seller, Delay in Delivery**

- 8.1 Any agreements between the parties in relation to delivery periods and delivery dates must be made in writing. The Seller shall use its reasonable endeavours to supply the Goods or Services in accordance with the delivery periods or times agreed.
- 8.2 Time of delivery shall not be of the essence of the Contract.
- 8.3 Delivery of the Goods shall take place ex-works at the Seller's place of business or such other address as agreed between the parties, when an authorised representative of the Purchaser signs for the Goods and shall be during the Seller's normal business hours unless the Seller has specifically agreed in writing to arrange transport for the Goods in which case delivery shall occur when the Goods arrive at the designated place of delivery. The Purchaser shall have no right to damages or to cancel the Contract for failure by the Seller to meet any delivery time stated. If no date or time for delivery is stated, delivery will be in a reasonable time. The date for delivery of the Goods shall in every case be dependent upon prompt receipt of all necessary information, final instructions or approvals from the Purchaser and in the event of the Purchaser delaying in providing such information, final instructions and approvals the time of delivery shall be extended accordingly.
- 8.4 The Seller reserves the right to deliver the Goods in instalments where, in its complete discretion, it deems that such delivery by instalments is appropriate. Failure by the Purchaser to take delivery of any one or more instalments of Goods delivered in accordance with the Contract shall entitle the Seller to either:

8.4.1 store the Goods until they are ready for collection and charge the Purchaser for the cost of the storage; or

8.4.2 sell the Goods on to an alternative Purchaser at a price to be determined by the Seller;

and for the avoidance of doubt, neither of the above options shall preclude the Seller's right to exercise any of its other rights or remedies under this Contract.

- 8.5 The Seller shall not be liable for the costs of unloading the Goods at the place of delivery or for placing them in position on site except by prior agreement in Writing, and if the Seller does participate in the unloading (whether with or without such prior agreement) the Purchaser will indemnify the Seller in respect of claims brought against the Seller relating to its participation in such unloading.
- 8.6 The Seller reserves the right to make excess or short deliveries of up to 5% of the quantity of Goods ordered. There will be no refund for any shortage between Goods ordered and Goods delivered up to this 5% allowance. The Seller shall be entitled to invoice the Purchaser for the price of any Goods delivered in excess of the ordered quantity up to the 5% allowance.
- 8.7 The quantity of any consignment of Goods as recorded by the Seller upon despatch from the Seller's premises shall be conclusive evidence of the quantity received by the Purchaser on delivery unless the Purchaser can provide conclusive evidence proving the contrary.

#### **§ 9 Passing of Risk / Dispatch**

- 9.1 Risk in the Goods shall pass to the Purchaser (so that the Purchaser is then responsible for all loss or deterioration of the Goods or for any damage occurring) with the delivery of the Goods or, if the Goods are shipped, with their delivery to the carrier or to any other person commissioned with carrying out the shipment. This rule also applies when part deliveries are made or when shipment "freight paid" or at no cost to the Purchaser has been agreed upon. In the absence of written instructions from the Purchaser, the Seller will choose the carrier and the itinerary. At the request and expense of the Purchaser, the Seller will take out a transport insurance policy to insure the goods against the risks specified by the Purchaser.
- 9.2 If there is a delay in delivery for reasons for which the Purchaser is responsible, the risk passes to the Purchaser from the day the Goods were due to be delivered but for the Purchaser's failure to fulfil its responsibilities.
- 9.3. If the Seller chooses the manner of delivery (where delivery is not ex-works), the itinerary, or the person to carry out the shipment, the Seller is liable solely for willful misconduct and gross negligence in this choice.

#### **§ 10 Retention of Title**

- 10.1 Until title in the Goods has passed to the Purchaser under these Conditions, the Purchaser shall possess the Goods as fiduciary agent and bailee of the Seller. The Purchaser shall store the Goods separately at its premises in a proper manner in conditions which adequately protect and preserve the Goods and shall insure them, without any charge to the Seller and not tamper with any identification upon the Goods or their packaging and shall ensure that they are stored separately from other goods that they are clearly identifiable as belonging to the Seller.
- 10.2 Title to the Goods shall only pass to the Purchaser if the Purchaser has paid to the Seller all sums (including any default interest) due from it to the Seller (a) under this Contract and under all other contracts between the Seller and the Purchaser (including any sums due under contracts made after this Contract) whether or not the same are immediately due and payable and (b) under all contracts between the Seller and any company under the ultimate control of the same parent company as has ultimate control of the Purchaser. Sums due shall include those under any bills of exchange.

- 10.3 The Seller may recover Goods in respect of which title has not passed to the Purchaser at any time and the Purchaser irrevocably licences the Seller, its officers, employees, sub-contractors and agents to freely enter upon any premises of the Purchaser, with or without vehicles, for the purpose either of satisfying itself that Clause 10.1 above is being complied with by the Purchaser or of recovering any Goods in respect of which title has not passed to the Purchaser.
- 10.4 The Seller may at any time, on demand and without prior notice, require the Purchaser to deliver the Goods up to the Seller and the Seller may repossess and resell the Goods if any of the events specified in Clause 13.1 occurs or if any sum due to the Seller from the Purchaser under the Contract or on any other account or under any other contract is not paid when due.
- 10.5 The Seller shall be entitled to maintain an action against the Purchaser for the price of the Goods notwithstanding that legal, equitable and beneficial title to and property in the Goods has not passed to the Purchaser.
- 10.6 The Seller hereby authorises the Purchaser to use and/or sell the Goods in the normal course of the Purchaser's business and to pass good title in the Goods to its customers, if they are purchasers in good faith without notice of the Seller's rights. This right shall automatically cease on the occurrence of any event set out in Clause 13.1 and/or if any sum owed to the Seller by the Purchaser is not paid when due. If the Purchaser sells the Goods prior to paying the full price thereof the Purchaser shall hold the proceeds of sale on trust for the Seller and shall immediately pay the proceeds of the sale into a separate bank account. At the Seller's request, the Purchaser shall assign to the Seller all claims that the Purchaser may have against purchasers of the Goods from the Purchaser.
- 10.7 The Seller's rights and remedies set out in this Clause 10 are in addition to and shall not in any way prejudice, limit or restrict any of the Seller's other rights or remedies under the Contract or in law or equity.
- 10.8 At the request of the Purchaser, the Seller shall release the security interests to which the Seller is entitled to the extent that the realizable value of such security exceeds the Seller's claims arising from the business relationship with the Purchaser by more than 20%, also taking into account the valuation discounts customary in banking. For valuation purposes, goods that are subject to this retention-of-title clause are to be assessed on the basis of their invoice value, and claims are to be assessed on the basis of their nominal value.
- 10.9 If goods are delivered to destinations with other legal systems in which the retention-of-title rules set forth under nos. 10.1 to 10.6 above provide less security than in England, the Purchaser hereby grants the Seller a corresponding security interest. If further declarations or acts are necessary for this purpose, the Purchaser will make these declarations and perform these acts. The Purchaser will assist in all measures that are necessary for and conducive to the validity and enforceability of such security interests.
- 11.2 If the Seller processes the Goods to be supplied pursuant to a Contract (e.g., if the Seller bends or cuts, de-reels or rewinds connections), the Seller shall be deemed to be the manufacturer for the purposes of Clause 11.1 in respect of the modifications made by the Seller only and the Seller shall process the Goods with due care in accordance with the Purchaser's specification, as agreed upon in writing.
- 11.3 The Warranty Period for the Purchaser's claims based on defects is one year. This Warranty Period also applies to claims in tort that are based on a defect of the Goods. The Warranty Period begins to run with the delivery of the Goods. If the Seller comments on a claim based on defects that has been asserted by the Purchaser, this comment is not to be deemed a commencement of negotiations concerning the claim or the circumstances giving rise to the claim if the claim based on defects is fully rejected.
- 11.4 The Seller shall only be entitled to claim in respect of defects in the Goods apparent on visual inspection if the Purchaser examines the Goods delivered upon receipt and gives written notice of the defect in the Goods or failure in the Services to the Seller without undue delay and no later than seven (7) days after the receipt of the Goods. The Seller shall only be entitled to claim in respect of defects in the Goods that are not apparent on visual inspection if such defects are reported to the Seller in writing without undue delay within the Warranty Period after their discovery. When reporting defects to the Seller, the Purchaser must describe the defects in full in writing. If the Purchaser discovers a defect in the Goods, the Purchaser shall send the Goods at its own expense to the Seller for an examination of defects. The Purchaser shall have no rights in respect of loss, shortages or defects in the Goods unless the Seller is given a reasonable opportunity to inspect the Goods and investigate any complaint. The Purchaser shall ensure that the carrier takes all necessary measures and measures indicated by the Seller to ensure that the relevant documentation in relation to the defective Goods is complete. If a complaint is not made in accordance with this Clause 11.4 and/or the Purchaser fails to comply with its obligations under this Clause 11.4, the Goods and/or the Services shall be deemed to be in all respects in accordance with the Contract and the Purchaser shall be bound to pay for the same accordingly.
- 11.5 If the Seller delivers the Goods in lots or installments that allow a statistical receiving quality inspection according to the rules customary in this respect, the Purchaser shall carry out such inspection in accordance with the inspection conditions and criteria set forth in the relevant standard documents issued by the manufacturer of the Goods. Any lot accepted during this inspection will be deemed to be free of defects, and any lot rejected will be replaced by the Seller within such time as, in the Seller's opinion, is reasonable in the circumstances with a lot that is free of defects subject to the return of the defective lot in its entirety. The Seller shall be entitled to replace the defective parts of the rejected lot with parts that are free of defects upon consultation with the Purchaser.
- 11.6 If the Purchaser makes a valid claim against the Seller on the basis of a defect in the quality of the Goods or a failure in the Services, the Seller shall (at its option) repair or replace such Goods (or the defective part) or in the case of Services make good the Services or refund the Price of the Goods or Services in question.
- 11.7 If the Seller complies with Clause 11.6 it shall have no further liability for a breach of the warranty in Clause 11.3 in respect of the quality of the Goods or Services.
- 11.8 The Seller shall not be liable for a breach of the warranties set out in Clauses 11.1 to 11.3 if the defect occurs as a consequence of natural wear and tear, of improper handling or of alterations or repairs of the goods carried out without the prior written consent of the Seller by the Purchaser or a third party, or if carried out with the prior written consent of the Seller, carried out improperly. The same rule applies to defects that are attributable to the Purchaser or to a cause other than the original defect.
- 11.9 The Purchaser may return defective goods to the Seller for subsequent performance only upon prior approval in writing according to the Seller's rules applicable for this purpose, as provided to the Purchaser on request (RMA procedure). If defective Goods are returned to the Seller, the risk of an accidental loss or deterioration of or damage to the Goods shall not pass until they have been accepted by the Seller at the Seller's place of business. The Seller is entitled to refuse return shipments without a previously issued RMA number.

## **§ 11 Claims based on Defects, Restriction on Use, Liability**

### **Warranties and Defective Goods/ Services**

- 11.1 The Seller warrants that, for the Warranty Period (as stipulated in clause 11.3 of these Conditions), the Goods will have the characteristics that have been specified in writing (in verifiable technical parameters) by the manufacturer of the Goods or by mutual agreement. The Goods supplied are intended solely for the purposes specified by the respective manufacturer. These purposes do not normally include the use of the Goods in life-saving or life-supporting or military systems or other purposes where a failure of the Goods can, upon reasonable assessment, lead to death, bodily injury or damage to health or to an extraordinarily high financial loss. Only the specifications in the relevant manufacturers' data sheets shall be deemed an agreed quality or state. The Purchaser is responsible for the fitness and safety of the Goods for the applications used by the Purchaser. The Seller gives no guarantee whatsoever in relation to the fitness for use, suitability and safety of the Goods, especially no guarantee in respect of the quality and state or durability of the Goods.

11.10 The obligations stated above represent the Seller's quality commitment. Any terms which may otherwise be implied by statute or common law as to description, quality or fitness for purpose of the Goods or Services are excluded to the fullest extent permitted by law.

#### Liability

11.11 Nothing in these Conditions shall exclude the Seller's liability arising under Section 12 Sale of Goods Act 1979 or for death or personal injury caused by its negligence or for its fraudulent misrepresentation or any matter for which it would be unlawful for it to exclude or attempt to exclude liability.

11.12 Notwithstanding any other provision of these Conditions but without prejudice to Condition 11.11, the Seller shall not have any liability whatsoever and whether arising in contract, tort (including negligence), breach of statutory duty or otherwise for any:- (i) loss of profit; (ii) loss of anticipated savings; (iii) loss of business; (iv) loss or damage to goodwill (v) increased production costs; (vi) any costs or work related to the removal of defective Goods and the installation of repaired or replacement Goods; and (vii) any indirect, special or consequential losses or damages.

11.13 Subject to Clauses 11.11 and 11.2, the Seller's maximum total liability to the Purchaser whether in respect of one claim or a series of related claims and whether arising in contract, tort (including, but not limited to, negligence), breach of statutory duty or otherwise shall not exceed the greater of: (i) all sums invoiced by the Seller to the Purchaser under the relevant Contract; or (ii) €100,000.

#### § 12 Product Liability

12.1 The Purchaser may not modify the Goods. In particular, the Purchaser may not modify or remove existing warnings about risks resulting from improper use of the goods. If this duty is violated, the Purchaser shall indemnify the Seller in full and hold the Seller harmless from and against product liability claims by third parties to the extent that the Purchaser is responsible for the defect giving rise to liability.

12.2 If a product defect of the Goods causes the Seller to initiate a product recall or to issue a product warning, the Purchaser shall assist the Seller and shall take all measures which have been ordered by the Seller and which the Purchaser can reasonably be expected to perform. The Purchaser is under obligation to bear the cost of the product recall or product warning to the extent that the Purchaser is responsible for the product defect and the damage sustained. Further-reaching claims of the Seller remain unaffected.

12.3 The Purchaser shall inform the Seller without undue delay of any risks in the use of the Goods and possible product defects of which the Purchaser becomes aware.

#### § 13 Termination

13.1 The Seller shall (without prejudice to any rights or remedies available to the Seller) be entitled to terminate a Contract without liability if:-

13.1.1 if the Purchaser or any member of the Purchaser's Group Companies (where "**Group Company**" means any subsidiary or holding company of and any subsidiary of such holding company (in each case from time to time) (and the terms "**subsidiary**" and "**holding company**" shall have the meanings given to them by Sections 736 and 736A Companies Act 1985)) becomes bankrupt or shall be deemed to be unable to pay its debts for the purposes of Section 123 of the Insolvency Act 1986 or shall enter into an arrangement with its creditors or if a resolution shall be passed or proceedings shall be commenced for the administration or liquidation of the Purchaser or any member of the Purchaser's Group Companies (other than for a voluntary solvent winding up for the purposes of reconstruction or amalgamation), or if a receiver or manager shall be appointed of all or any part of the Purchaser's assets or undertaking or the assets or undertaking of any member of the Purchaser's Group Companies, or if anything analogous to the foregoing occurs under the laws of any jurisdiction or if the Seller reasonably anticipates that any of the foregoing events are likely to occur; or

13.1.2 if the Purchaser commits or allows to be committed any breach of the Contract.

13.2 In the event of termination (howsoever arising) all amounts owing to the Seller shall become immediately due and payable including, for the avoidance of doubt, the price for all Goods or Services supplied and all unrecovered investments and commitments notified to the Purchaser pursuant to the provisions under Clause 2.

#### 14 Force Majeure

14.1 The Seller shall not be liable for any failure to perform any of its obligations under the Contract if the Seller is effected by an act of God, governmental restriction, condition or control, war, threat of war, terrorism, fire, riot, invasion, lock-out, strike, explosion, flood, subsidence or by reason of any act done or not done pursuant to a trade dispute, shortages of labour or materials, energy shortages, or breakdown of machinery, or any other matter (whether or not similar to the foregoing) outside the control of the Seller (a "**Force Majeure Event**") and such Force Majeure Event prevents the Seller from performing its contractual obligations under a Contract (in particular, from delivering the Goods).

14.2 The Seller is entitled to terminate the Contract at its will if a Force Majeure Event occurs which adversely affects the Seller's ability to comply with its obligations under the Contract for a continuous period of more than four months by giving notice in writing to the Purchaser provided that the Force Majeure Event has continued up until and is still continuing at the point of notice.

#### § 15 Intellectual Property Rights

15.1 If a delivery comprises software or other intellectual property, such software or other intellectual property will be provided to the Purchaser subject to a copyright and user license, the terms and conditions of which can be gathered from the license agreement accompanying the software or other intellectual property. These Conditions grant no rights or license to use such software or other intellectual property in any manner, or for any purpose, not expressly permitted in the license agreement.

15.2 Unless otherwise agreed, the Seller shall carry out the delivery free of industrial property rights and copyrights of third parties (property rights) only in the country where the place of delivery is located.

#### § 16 Manufacturer Reporting, Data Protection

16.1 The Purchaser agrees to the processing and transmission to manufacturers/suppliers – as the case may be, also abroad – of purchaser-related data such as sales prices and quantities, as well as names and addresses, by the Seller within the framework of the periodical manufacturer reporting.

16.2 The Purchaser agrees to the storing and processing of the collected purchaser-related data by the Seller for the verification of the Purchaser's creditworthiness subject to observance of, and compliance with, the statutory provisions, or to such data being disclosed by the Seller to the credit insurance company commissioned by the Seller.

#### § 17 Export and Export Control

17.1 The Goods supplied are particularly subject to German, European and American export controls and embargo provisions. It is the Purchaser's responsibility to inform itself of the relevant export and/or import provisions or restrictions and to obtain according permits, if necessary.

17.2 The Purchaser will impose the same obligations on its customers.

#### § 18 Assignment and Sub-Contracting

18.1 The Contract is entered into between the Seller and the Purchaser as principals and the Purchaser shall not be entitled to assign the benefit or burden of it or of any interest in it without the prior written consent of the Seller. The Seller shall be entitled to sub-contract the whole or part of its obligations under the Contract and to assign its interest in the Contract.

#### § 19 Severability

19.1 If these Conditions shall be or become void in whole or in part, the other provisions shall remain valid and enforceable.

**§ 20 Waiver**

20.1 A failure by the Seller to exercise, or a delay in exercising, any right or remedy under this Contract, or any waiver by the Seller of a breach by or default of the Purchaser under any terms of this Contract shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies which the Seller may otherwise have or a waiver of any subsequent breach or default and no single or partial exercise of any right or remedy under this Contract shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy and shall not affect the other terms of this Contract.

**§ 21 General**

21.1 The Contract sets out the entire agreement and understanding between the Purchaser and the Seller in connection with the sale of the Goods and supply of Services and shall supersede and replace all documentation previously issued by the Seller purporting to set out its terms and conditions of sale of the Goods and supply of Services.

**§ 22 Third Party Rights**

22.1 A person who is not a party to the Agreement (a "third party") shall have no rights pursuant to the Contracts (Rights of Third Parties) Act 1999 (the "**Act**") to enforce any of these Conditions. Any right or remedy of a third party which exists or is available apart from the Act is not affected.

**§ 23 Law and Jurisdiction**

23.1 The parties agree that this Contract and any disputes arising or in any way connected with the subject matter of this Contract (whether of a contractual or tortious nature or otherwise) shall be subject to the laws of England and in the case of proceedings issued against the Seller shall be subject to the jurisdiction of the English courts only.