



TERMS AND CONDITIONS OF SALE

THE PRIVATE COMPANY WITH LIMITED LIABILITY MIDWICH B.V. IS A COMMERCIAL DISTRIBUTOR OF AUDIO VISUAL, AUDIO, DIGITAL IMAGING, CONSUMER ELECTRONICS AND PERIPHERAL EQUIPMENT. THESE TERMS AND CONDITIONS (THE "CONDITIONS") GOVERN THE SALE OF MIDWICH B.V. PRODUCTS TO COMMERCIAL RESELLERS, RETAILERS, SERVICE PROVIDERS AND SIMILAR COMMERCIAL ENTITIES.

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1. DEFINITIONS & INTERPRETATION

- “Affiliate”** includes any subsidiary or holding company of the Seller and each and any subsidiary of a holding company of the Seller, any business entity from time to time controlling, controlled by, or under common control with the Seller;
- “Buyer”** means the person or party whose order for the Goods is accepted by the Seller;
- “Conditions”** means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller;
- “Contract”** means these Standard Terms and Conditions of Supply for the purchase and sale of the Goods which is governed by these Conditions and, if applicable, any further supplemental terms (as advised by the company from time to time) and which may be varied only by a writing signed by the duly authorised representatives of the Buyer and Seller respectively;
- “Custom Build Products”** means non-cancellable non-refundable bespoke products which the Buyer has ordered through the Seller;
- “CWO”** means Cash With Order
- “DOA”** means Dead or Defective on Arrival;
- “End User”** means the Buyer’s end customer;
- “End User Delivery”** means deliveries made by the Seller directly to the Buyer’s customer as requested by the Buyer;
- “Goods”** means the Goods (including any instalment of the Goods or any parts for them and which, for the avoidance of doubt, may include any services offered and supplied by the Seller) which the Seller is to supply in accordance with these Conditions;
- “Incoterms”** means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force when the contract is made;

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“Items”	means a unit of carriage;
“MOV”	means Minimum Order Value;
“NFF”	means No Fault Found;
“RAN”	means Returns Authorisation Number;
“Seller”	the private company with limited liability Van Domburg Partners B.V. (registered in the commercial register under number 2387084), having its corporate seat in Ridderkerk, the Netherlands. The Seller’s VAT number is NL 815217377 B01
“Special Bids”	means special pricing which may be granted to the Buyer;
“Special Bid Terms”	means the Terms & Conditions governing Special Bids which the Buyer must adhere to;
“Special Order Products”	shall mean non-cancellable non-refundable Products which are not part of the Seller’s normal inventory and which have been ordered specifically by the Buyer or products which have been configured to the Buyer’s specifications;
“Third Party”	means a third party who provides Services on the Seller’s behalf but is not controlled by the Seller;
“Website”	means the Seller’s internet website, accessed through the addresses of www.vandomburg.nu ;
“Writing”	means email and any other comparable means of communication, and “written” shall be construed accordingly.

1.2 Words importing the singular shall include the plural and vice versa, words importing a gender shall include all genders and words importing persons shall include bodies’ corporate, unincorporated associations and partnerships.

1.3 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

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1.4 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. BASIS OF SALE

2.1 It is a condition precedent of the Contract that the Buyer is or is acting solely on behalf of a commercial entity (which may include sole traders and partnerships but in no event consumers or private individuals who intend to purchase Goods for personal use), and the Buyer represents and warrants that he is or is acting solely on behalf of a such a commercial entity.

2.2 To order Goods you must be at least 18 years of age.

2.3 Goods are presented as an invitation to treat only with businesses based in the Benelux. Goods are ordinarily delivered in the Benelux only.

2.4 The languages offered for the conclusion of this contract with a Buyer are Dutch, German, French or English.

2.5 The Seller will treat each order for Goods as an offer by the Buyer to purchase the Goods on the terms set forth in these Conditions subject to the Seller's acceptance or rejection of such offer.

2.6 The Buyer is advised to read these Conditions carefully and retain a copy for future reference. The Buyer's submission of an order indicates the Buyer's acceptance of these Conditions as the exclusive terms of the Contract. No variation to these Conditions can be made unless agreed in a writing signed by the duly authorised representatives of the Buyer and Seller respectively.

2.7 The Buyer is advised to review the Conditions prior to placing each order as the Seller may modify the Conditions from time to time. The version of the Conditions posted on the Seller's website at the time that the Buyer places an order will apply to that order unless otherwise agreed in a writing signed by duly authorised representatives of the Buyer and Seller respectively.

2.8 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

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- 2.9 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.10 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller either in hard copy or any electronic medium shall be subject to correction without any liability on the part of the Seller. The Seller shall take all reasonable steps to bring any such correction to the Buyer's attention.
- 2.11 The Seller will retain an electronic and paper copy of these Conditions and of each order accepted by the Seller in either electronic or paper form for one (1) year after receipt of such order.

3. ORDER ACCEPTANCE

- 3.1 All orders submitted to the Seller by the Buyer for Goods shall constitute an offer to the Seller, under the terms and conditions of this Contract, subject to availability of the Goods and acceptance of the order by the Seller's authorised representatives.
- 3.2 All orders are accepted, and the Goods supplied subject to the express terms and conditions of this Contract and these terms and conditions only. The Seller may at any time amend these Conditions by posting the amended Conditions on the Website. The amended Conditions shall apply to any orders placed on the Seller and acceptance of an order shall be deemed to incorporate these Terms and Conditions.
- 3.3 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any and all necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms. The Seller is advised to review in advance the instructions on the website concerning how to place an order.
- 3.4 If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in

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connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.

- 3.5 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Buyer's specification, which do not materially affect their quality or performance.
- 3.6 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and material used), damages, charges and expenses incurred by the Seller as a result of cancellation.
- 3.7 Under no circumstances may the Buyer cancel any orders accepted by the Seller, or return any Goods (except for the reasons set out in clause 9.2, 9.3 and 11.2) relating to:
- 3.7.1 SPECIAL ORDER PRODUCTS; or
- 3.7.2 CUSTOM BUILD PRODUCTS
- 3.8 Where Goods other than the Seller's standard Goods are made by the Seller to the Buyer's order, the Goods may vary in accordance with normal trade tolerances from specifications and dimensions specified by the Buyer in the order and the Buyer shall not be entitled to make any claim against the Seller in respect of any such variations.
- 3.9 No binding Contract shall be created until the Seller has expressly accepted the order submitted by the Buyer in writing or made delivery or part delivery of the Goods (whichever occurs earlier).
- 3.10 The Seller reserves the right to introduce a Minimum Order Value ("**MOV**") by giving the Buyer thirty (30) days' notice of any such planned implementation.
- 3.11 IT IS AGREED THAT THE TERMS AND CONDITIONS OF THIS CONTRACT (OR ANY AUTHORISED AMENDMENTS TO THEM) SHALL ALWAYS PREVAIL OVER THE BUYER'S TERMS AND CONDITIONS OF PURCHASE. ACCEPTANCE OF THE BUYER'S ORDER IS



NOT ACCEPTANCE OF THE BUYER'S TERMS AND CONDITIONS. THE APPLICABILITY OF THE GENERAL (PURCHASE) TERMS AND CONDITIONS OF THE BUYER ARE HEREBY EXPRESSLY EXCLUDED.

- 3.12 Without prejudice to the generality of the foregoing any particular purpose for which the Buyer intends to use the Goods shall be deemed not to be known by or have been made known to the Seller unless specifically recorded in a schedule signed by one of the Seller's directors. The Buyer hereby acknowledges that any purpose stated in such schedule shall be deemed to have been specified by the Buyer.

4. PRICE

4.1 The price of the Goods shall be the Seller's price as quoted to the Buyer by means of:

- 4.1.1 written communication either in paper or electronic mediums; or
- 4.1.2 through the Buyer's account via the Seller's website.

4.2 Quotes are valid for thirty (30) days unless otherwise agreed in writing between both parties.

4.3 The Seller reserves the right, by giving notice to the Buyer at any time before despatch, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, material or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

4.4 Quoted prices are exclusive of any applicable Value Added Tax (VAT), transport costs (including but not limited to export or import costs as may be applicable), packaging and insurance costs which the Buyer shall be liable to pay.

4.5 Where special pricing ("SPECIAL BIDS") is offered for certain orders and such pricing is made available to the Seller from its Vendors or Suppliers, the Buyer shall:

- 4.5.1 comply in full with any terms advised to it by the Seller; and
- 4.5.2 comply in full with the respective Vendors or Suppliers terms;
- 4.5.3 And, indemnify the Seller for any claims made against the Seller by the Vendors or Suppliers for the Buyers non-compliance with the terms and conditions; and

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- 4.5.4 pay any service fees charged for the Sellers pass-through of Special Bids and other supplier driven benefits the Buyer may receive, including any marketing funding, price protection and individual rebates, and further agrees that pass-through and payment of such benefits will be subject to the Seller having received the benefits from its Vendors or Suppliers.
- 4.6. The Special Bid Terms may oblige the Buyer to comply with certain requirements including but not limited to:
- 4.6.1 the sale of the Goods only to specifically named end-users; and
- 4.6.2 the disclosure of end-user information to the Seller and its Vendor or Suppliers for the purpose of end-user verification; and
- 4.6.3 the submission of copies of end-user invoices, end-user purchase orders or end-user shipping documents to the Seller and its Vendors or Suppliers (blackening of irrelevant data is permitted for data protection compliance purposes).
- 4.7 FAILURE TO COMPLY WITH THE SPECIAL BID TERMS MAY ENTITLE THE SELLER AND / OR ITS SUPPLIERS TO RECLAIM AND INVOICE THE BUYER IN FULL FOR ALL DISCOUNTS REBATES AND ANY OTHER SPECIAL PRICE CONDITIONS GRANTED TO THE BUYER AND ANY SUCH INVOICES SHALL BECOME PAYABLE IMMEDIATELY.

5. TERMS OF PAYMENT

- 5.1 Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after accepted orders are ready for despatch or, if the Goods are to be collected by the Buyer from the Sellers premises, at the time when the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.
- 5.2 Unless credit facilities have been provided all orders are on a “Cash with Order” (CWO) basis. Full payment is required prior to order despatch and subject to confirmation of clearance of funds by the Buyer’s Bank or Credit Card Provider.
- 5.3 Should credit facilities be provided, the Buyer undertakes to notify the Seller without delay of any material change in its finances, structure, share ownership and/or value of assets which may affect the Buyer’s credit status. In addition to any remedy available at law, failure to report any such changes may result in credit being withdrawn as set-out in clause 5.9.

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- 5.4 In the case of Special Order Products and Custom Build Products as set out in clause 3.7, 3.7.1 and 3.7.2, the Buyer will be required to pay (at the Seller's sole discretion) either the full price of the goods or a deposit of not less than twenty-five percent (25%) when the order has been accepted by the Seller.
- 5.5 The Buyer (where credit facilities have been provided by the Seller) shall pay the price of the Goods within fourteen (14) days of the date of the Seller's invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract.
- 5.6 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- 5.6.1 cancel the Contract or suspend any further deliveries to the Buyer;
- 5.6.2 demand payment of all outstanding balances whether or not due and/or cancel any outstanding orders from the Buyer;
- 5.6.3 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
- 5.6.4 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of one percent (1%) per month, until payment in full is made.
- 5.7 The Seller reserves the right to charge an administration fee on credit card transactions. The Buyer shall be informed of this charge at point of payment.
- 5.8 The Buyer must notify the Seller in writing within fourteen (14) days of the date of invoice of any errors within the invoice. Failure will result in the Seller assuming the Buyer's acceptance of the invoice in full.
- 5.9 The Buyer's credit-limit may be amended or withdrawn at any time without the Seller giving notice to the Buyer. If credit facilities are withdrawn all invoices shall become immediately payable by the Buyer.
- 5.10 The Buyer shall pay all amounts due under the contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law).

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- 5.11 The Seller may at any time, without notice to the Buyer, set-off any liability of the Buyer to the Seller against any Liability of the Seller to the Buyer, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this agreement. If the liabilities to be set off are expressed in different currencies, the Seller may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Seller of its rights under this clause shall not limit or affect any other rights or remedies available to it under this agreement or otherwise.
- 5.12 If Goods are delivered in instalments the Seller shall be entitled to invoice each instalment upon despatch thereof.
- 5.13 Payment shall be in Euro unless otherwise agreed in writing signed by the Seller's authorised representative.
- 5.14 The Buyer warrants that it will notify the Seller if its VAT registration is amended in any way.
- 5.15 The Seller reserves the right to issue and send to the Buyer all invoices, credit notes or any other company documentation in electronic format and the Buyer accepts to receive such documentation electronically.

6. INSOLVENCY OF THE BUYER

- 6.1 This clause applies if:
- 6.1.1 the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation; or
- 6.1.2 an encumbrancer or pledgee takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
- 6.1.3 the Buyer ceases, or threatens to cease, to carry on business; or
- 6.1.4 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 6.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement

or arrangement to the contrary and if any of the Goods have not been delivered the Seller may sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the contract.

7. TITLE RETENTION

- 7.1 Title of the Goods shall not pass to the buyer until the buyer has discharged all outstanding indebtedness to the Seller whatsoever.
- 7.1.2 The Buyer shall store the Goods in such a way that they can be readily identified as being the Seller's property.
- 7.1.3 The Buyer may sell the Goods in the normal course of its business and may pass good title to its End Users, being a bona fide purchase without notice of the Seller's rights on the following conditions:
- 7.1.3.1 The Seller shall be entitled, immediately as a result of its ownership of the Goods, to the beneficial ownership of the proceeds of such sale which the Buyer shall accordingly hold with due and proper care for the Seller;
- 7.1.3.2 At any time the Seller may revoke the Buyer's said power of sale in the circumstances set out in Clause 7.1 and further of these Conditions;
- 7.1.3.3 The Buyer shall notify the Seller without delay of any attachment of the Goods or actions by third parties which might infringe Seller's property rights to the Goods.
- 7.1.4 Upon determination of the Buyer's power of sale, the Seller shall be entitled by itself, its servants or agents to enter upon any of the Buyer's premises for the purpose of removing and repossessing such Goods or their proceeds of sale in the event of the Buyer's insolvency.
- 7.2 Nothing in these Conditions shall:
- 7.2.1 entitle the Buyer to return the Goods or to delay payment thereof; or
- 7.2.2 constitute or be deemed to have constituted the Buyer as the seller's agent; or
- 7.2.3 render the Seller liable to any third party for any unauthorised representation or warranty made or given by the Buyer to such third party in relation to the Goods.

8. LIEN

- 8.1 The Buyer hereby establishes, and/or shall establish at the Seller's first request, a lien on all Goods in the possession of the Buyer for all outstanding amounts owed by the Buyer to the

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Seller, and hereby grants a power of attorney to the Seller in this respect, and/or shall, at the Seller's first request, grant a power of attorney to the Seller to register these Conditions and/or the Contract (or to have them registered) by way of a lien instrument. The Seller shall be entitled to exercise the lien and/or claim the Goods in this context in the event that payment is not made in full within 14 days of the Seller notifying the Buyer of its intention to exercise the lien.

9. WARRANTIES & LIABILITY

- 9.1 The Seller warrants that it has good title to or licence to supply all Goods to the Buyer.
- 9.2 If any Goods should prove defective in materials or workmanship under normal operation or service, such Goods will be repaired or replaced only in accordance with the warranty cover or terms stipulated by the manufacturer of the Goods PROVIDED THAT no unauthorised modifications to the Product or to the system of which the Goods forms part have taken place. The Seller is not responsible for the cost of labour or other expenses incurred in the repairing or replacing of defective or non-conforming parts and in no circumstances shall the Seller be liable, in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever, and whatever the cause thereof, (i) for any loss of profit, business, contracts, revenue, or anticipated savings, or (ii) for any special indirect or consequential damage of any nature whatsoever.
- 9.3 The Seller's sole obligation in the event of "Dead on Arrival" or "Defective on Arrival" ("DOA") Goods (which for the avoidance of doubt shall not include DAMAGED IN TRANSIT Goods as set out in clause 11.2) and which can be attributed to the original manufacturers of the Goods and which have been purchased from the Seller shall be to pass on to the Buyer (in so far as possible) the benefit of any rights or remedies afforded it by the Manufacturer (or those of their Third Party Representatives or (Service) Agents) to exchange the faulty Goods for new within the DOA periods (if any) by the relevant manufacturers.
- 9.3.1 Where the Seller has been authorised by the manufacturer to replace faulty Goods within the DOA period the Buyer must obtain a Returns Authorisation Number ("RAN") from the Seller.
- 9.3.2 Where the Buyer or End User is required to contact the manufacturer (or their Third Party Representatives or (Service) Agents) directly, the Buyer agrees to follow such instructions in order to progress or resolve the issue. Where the Buyer or End User is issued an authorisation or reference number for the purposes of passing such onto the Seller in order to progress the

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return, the Buyer understands and agrees that this is no guarantee to a credit note as set out clause 9.6, 9.6.1 and 9.6.2.

9.3.3 Where necessary, the Buyer or End User agree to deal directly with the Manufacturer (or their Third Party Representatives or (Service) Agents), to conclude the matter as stipulated in the manufacturers terms and conditions.

9.4 Prior authorisation having been obtained as set out in clause 9.3, 9.3.1 and 9.3.2 the Seller shall:

9.4.1 raise an invoice on the Buyer's account for the same Goods (if requested by the Buyer to do so) at the same price the Buyer was originally invoiced at; and

9.4.2 despatch the replacement Goods at the Seller's expense to the original delivery address; and

9.4.3 collect the faulty Goods at the Seller's expense from the original delivery address.

9.5 It is the responsibility of the Buyer or End User to ensure that the Goods are:

9.5.1 properly packed in the original, undefaced manufacturers packaging, protected and suitable for transportation; and

9.5.2 returned with all standard manufacturer accessories (including literature, whether paper or electronic.)

9.5.3 The Seller accepts no liability whatsoever for any goods not authorised for return and which may be returned in error by the Buyer or End User.

9.6 The Seller reserves the right to test all Goods returned to it under warranty as set out in clause 9.3, 9.3.1 and 9.3.2 and it is agreed between both parties that:

9.6.1 On receipt of the expected Goods and where a genuine fault exists, the Seller shall, in the event that such price shall already have been paid by the Buyer to the Seller, or, if such price has not been paid, relieve the Buyer of all obligation to pay the sum by issuance of a credit note in favour of the Buyer in the amount of such price within twenty-eight (28) days of receipt of the expected Goods, or earlier at its absolute discretion. The Buyer shall not offset or withhold payment (full or in part) of any monies owed to the Seller as set out in clause 5.10.

9.6.2 Goods tested and deemed to be "No Fault Found" (NFF) will be rejected. No credit note shall be issued and the Buyer shall (at their sole expense and risk) have fourteen (14) days to arrange collection from the Seller's premises.

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- 9.6.3 Goods not collected after fourteen days shall be disposed of in accordance with the Waste Electrical and Electronic Equipment (WEEE) Regulations 2006 and any costs involved in doing so shall be passed to the Buyer.
- 9.7 Where available, the details of the Manufacturers DOA & Warranty guidelines shall be made available to the Buyer (on request) along with copies of any relevant product information sheets, technical data sheets or product leaflets issued by the Manufacturer, which may be in paper or electronic mediums.
- 9.8 All software Goods are supplied "AS IS". The Sellers sole obligation in connection with the supply of software Goods is to use all reasonable endeavours to obtain and supply a corrected version from the manufacturer concerned in the event that such original software should fail to conform to product description PROVIDED ALWAYS THAT the Buyer notifies the Seller of any such non-conformity within 30 days of the date of delivery of the applicable software Product.
- 9.9 The Seller's liability under this entire clause 9 shall be to the exclusion of all other liability to the Buyer whether contractual, tortious or otherwise for defects in the Goods or for any loss or damage to or caused by the Goods, and subject to Clauses 9.2, 9.3, 9.4, 11.2 and 11.3 all other conditions, warranties, stipulations or other statements whatsoever concerning the Goods, whether express or implied, by statute, at common law or otherwise howsoever, are hereby excluded; in particular (but without limitation of the foregoing) the Seller grants no warranties regarding the fitness for purpose, performance, use, nature or merchantable quality of the Goods, whether express or implied, by statute, at common law or otherwise howsoever.
- 9.10 Except as specifically set out in this clause 9, the Seller disclaims and excludes all other warranties, whether express or implied, by statute or otherwise, including but not limited to the warranties of description, design, satisfactory quality and fitness for a particular purpose, or arising from any previous course of dealing, usage or trade practice.
- 9.11 Without prejudice to the other provisions of these Conditions, the Seller's liability shall always be limited to the amount to which the liability insurance taken out by the Seller gives entitlement, plus the applicable excess

10. RISK & DELIVERY

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- 10.1 Risk in the Goods shall pass to the Buyer at the time the Goods are available for collection by the Buyer at the Sellers premises or when the Goods are delivered to the agreed address according to the terms of this Contract.
- 10.2 Any dates and times quoted for delivery of the Goods are expected dates and times only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. It is agreed that time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 10.3 Deliveries are normally made between 08:00 – 18:00 hours Monday-Friday (excluding bank holidays) to the DOORSTEP of the delivery address unless alternative arrangements have been agreed and accepted in advance between both parties. Any departure from this condition may lead to additional charges which the Buyer agrees to pay in full.
- 10.3.1 The Buyer must make all arrangements necessary for the Buyer or the End User to take delivery of the Goods when the Seller delivers them, including providing labour and suitable unloading equipment for the unloading of delivered Goods. In the event that the Buyer or the End User asks for, and the delivery driver(s) agree to assist in offloading or to provide any other assistance not previously agreed between the Seller and the Buyer, the Buyer or the End User accept that any subsequent claims for (but not limited to) damages, loss (including loss of profit) or injury shall not involve the Seller.
- 10.3.2 The Seller shall be entitled to assume that any person who both reasonably appears and claims to have authority to accept delivery and who signs a note in respect of the Goods on behalf of the Buyer or End User (if Seller has agreed to deliver direct) does in fact have the authority to do so.
- 10.4 If the Buyer or End User does not accept delivery of Goods, or the Seller is unable to deliver, or is delayed in delivering Goods because of the Buyer or End Users actions or omissions, then the Seller may charge the Buyer who will be liable to pay the Seller for all costs incurred as a result.
- 10.5 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions, or any claim brought by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

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- 10.6 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to;
- 10.6.1 replacing those Goods not delivered; or
- 10.6.2 issuing a credit note equal to the value (net of VAT) over the price of the Goods not delivered.
- 10.6.3 The Seller shall not be liable for any consequential loss including (but not limited to) loss of profit.
- 10.7 If the Buyer or End User fails to take delivery of the Goods, or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:
- 10.7.1 Store the Goods until actual delivery and charge the Buyer for the reasonable costs (including but not limited to storage, re-delivery and Insurance of the Goods); or
- 10.7.2 Sell the Goods at the best price readily obtainable and (after deducting all reasonable costs including the aforementioned storage, re-delivery and insurance costs and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.
- 10.8 At the time of delivery the Buyer or End User must check that the quantity of Goods matches the quantity detailed on the consignment note or Proof of Delivery ("POD") and that the external packaging of the Goods is in good condition and has not been tampered with or damaged (this applies to any palletised or larger deliveries which may have been shrink or black wrapped.)
- 10.9 Where visible external damage is apparent at the time of delivery the Buyer must either refuse the Goods or annotate the consignment note or POD clearly with the word "DAMAGED" or "BESCHADIGD". The Buyer or End User may not sign the consignment note or POD with "unchecked" (not checked), "unexamined" (not examined) or similar words. The Buyer acknowledges that failure to comply with this clause shall void the Seller's liability to either replace or issue a credit note at the price paid by the Buyer for any such damaged Goods.
- 10.10 The Buyer must notify the Seller of any overshipments no later than five (5) days from the date of delivery and the Buyer agrees that failure to do so shall be deemed to be acceptance of the

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Goods and an invoice shall be raised accordingly by the Seller to the Buyer for the overshipped Goods.

- 10.11 The Buyer must notify the Seller of undershipments or missing Goods no later than two (2) working days from the date of delivery and agrees that failure to do so shall be deemed to be receipt of all Goods as indicated on the Delivery Note.
- 10.12 It is the Buyer's responsibility to notify the Seller of any incorrect Goods supplied within two (2) working days of delivery. If the Goods are not what the Buyer has ordered, the Buyer must not deface or open the manufacturer's packaging or use the Goods. The Buyer agrees that failure to adhere to these conditions shall be deemed to be acceptance of the Goods and any and all monies owed relating to the Goods shall be due from the Buyer to the Seller.
- 10.13 In the event of any End User delivery, the Buyer shall ensure that the End User complies with the Buyer's obligations set out in this clause 10.
- 10.14 A signed consignment note or POD by or on behalf of the Buyer shall be conclusive evidence of delivery and (except where any damage or discrepancy is noted on the consignment note or POD) that it was received in good order and condition and accordingly no claims shall be brought to the Seller in respect of the delivery claiming the contrary.

11. TRANSIT LOSS & DAMAGE

- 11.1 No Goods shall be deemed to be "Lost in Transit" until seven (7) days from despatch have elapsed, and the Seller's subsequent investigations of such claim have concluded that the Goods are (or are deemed to be) lost irrevocably. For the avoidance of doubt, where delivery has been made, and where the Buyer or End User have signed the Consignment note or POD as receiving all Goods, the Buyer must notify the Seller of any shortage no later than two (2) days after delivery in accordance with clause 10.11.
- 11.2 Any claims brought against the Seller by the Buyer relating to "Damages in Transit" shall only be accepted where the Buyer or End User has annotated the consignment note or POD with the word "DAMAGED" in accordance with clause 10.9 and having done so, has subsequently refused acceptance of the damaged Goods or, having accepted them, is storing the Goods safely at the delivery address as detailed on the invoice to avoid further damage arising..

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- 11.3 The Seller's sole liability in the event of proven loss or damage will be limited to either:
- 11.3.1 replacing the Goods with Goods of the same or similar specification and at the value equal to the invoice price paid by the Buyer (if requested by the Buyer to do so); or
 - 11.3.2 issuance of a credit note to the Buyer at the invoice price paid for the lost or damaged Goods including any applicable carriage charges which the Buyer may have paid.
- 11.4 Credit notes issued by the Seller to the Buyer for Lost in Transit Goods may be reversed if after fourteen (14) days from issuance it is established that the Goods have been delivered. The Seller will notify the Buyer in this event, and the Buyer or their End User shall either:
- 11.4.1 make the Goods available for collection by the Seller who will collect and return the Goods to their inventory so long as the goods are in the condition as set out in clause 12.2.2; or
 - 11.4.2 keep the Goods in which case clause 11.4 shall apply.

12. RETURNS

- 12.1 With the exception of Faulty or Damaged in Transit Goods as specified in the clauses 9.3 & 10.9, the Seller will not accept any returns requests where the value of the Goods is one hundred Euro (€100) or less, net of any applicable VAT. This applies to single and multi-Goods. The only exception shall be in the event of a proven error by the Seller, in which event the Seller's sole liability shall be to issue a credit note to the Buyer for the price paid for the Goods in question. The Seller may (at their sole discretion) allow the Buyer to keep the Goods and issue the credit note without the need for the return of such Goods. Goods must be in the condition as set out in clause 12.2.2.
- 12.2 If the Buyer wishes to return Goods over the value set out in the above clause, then the Seller may, at its absolute discretion, agree to accept such Goods back, provided that:
- 12.2.1 The request is submitted to the Seller by the Buyer no later than fourteen (14) days from the date of the Sellers invoice to the Buyer for the Goods in question; and
 - 12.2.2 They Goods are sealed, undefaced and unopened in the original manufacturers packaging, unused and undamaged; and
 - 12.2.3 The Buyer agrees to reimburse Seller for all associated costs (including but not limited to Transportation and Insurance costs); and
 - 12.2.4 The Buyer agrees to pay a re-stocking fee equal to twenty percent (20%) of the original invoice value net of VAT for all Goods agreed for return.

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12.3 Upon receipt of the Goods at the Seller's premises and that said Goods are in the condition as set out in clause 12.2.2 the Seller shall issue a credit note to the Buyer equal to the original invoice value paid by the Buyer for the Goods (net of VAT) minus the agreed re-stocking fee and any other costs borne by the Seller. Goods which do not meet the criteria shall result in the return being rejected, no credit note shall be issued, and the Buyer shall (at their sole expense and risk) have fourteen (14) days to arrange collection from the Seller's premises. Goods not collected after fourteen days shall be disposed of in accordance with the Waste Electrical and Electronic Equipment (WEEE) Regulations 2006 and any costs involved in doing so shall be passed to the Buyer.

12.4 Under no circumstances shall the Buyer be entitled to return (except for the reason set out in clause 11.2):

12.4.1 Custom Build Goods; or

12.4.2 Order Products.

13. EXPORTS, INCOTERMS, CONTROLS AND NO RE-EXPORT TO RUSSIA CLAUSE

13.1 In these Conditions "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce (ICC) as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

13.2 Where Goods are supplied for export from the Netherlands, the provisions of this clause 13 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.

13.3 The Buyer shall be solely responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and to clear the Goods for import, pay any import duty and carry out any import customs formalities.

13.4 Unless otherwise agreed in writing between the Buyer and the Seller, the Goods shall be Delivered at Place (DAP) as defined in the Incoterms.

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- 13.5 Unless otherwise agreed in Writing between the Buyer and the Seller, the Seller or the End User shall be solely responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and to clear the Goods for import, pay any import duties, local taxes and carry out any import customs formalities if required for delivery in accordance with clause 13.4.
- 13.6 The Seller shall be under no obligation to deliver Goods to or perform Services in any country falling under the control laws and regulations that are imposed and administered/enforced by the UK Government, U.S. Government (for example through the Department of Treasury, Department of Commerce or Department of State), the European Union and/or the United Nations Security Council under their respective financial and economic sanctions, trade and arms embargoes and any other trade prohibition/restriction lists (collectively: "Sanctions").
- 13.7 The Buyer agrees not to export any Goods or allow any Goods to be exported to any such country, entity or individual that is subject to Sanctions.
- 13.8 The Buyer must inform the Seller, at time of order, if the Buyer has plans to export/re-export the Goods and the Seller may require an end-user statement from the end user customer regarding the end use of the Goods and where they will be located. The Seller may cancel the order of the Buyer without liability to the Buyer and/or to the End User if in the reasonable opinion of the Seller any End User is the subject of Sanctions.
- 13.9 The Buyer nor any of its affiliates (including owners, directors, subsidiaries (or directors of subsidiaries), related parties and employees are subject to Sanctions. The Buyer will inform the Seller immediately if this position should change.
- 13.10 The Buyer has adequate controls and processes in place to ensure that their sale is in compliance with the applicable laws relating to Sanctions and will be responsible for the screening of parties involved in the rest of the supply chain.
- 13.11 The Seller shall be under no obligation to deliver Goods to any country to which the manufacturer or supplier of the relevant Goods prohibits the Seller from supplying such Goods.
- 13.12 Unless the Buyer has complied with clause 13.8, and without prejudice to clause 13.6, the Buyer agrees not to sell or deliver any Goods to End Users or other purchasers based outside

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of the Netherlands without the prior written consent of the Seller. If the Buyer does sell or deliver any Goods to End Users or other purchasers based outside of the Netherlands, the Buyer shall comply with any resale restrictions imposed by the manufacturer of the relevant Goods as notified to the Buyer by such manufacturer or by the Seller in Writing.

13.13 The Buyer shall specifically not sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with this Contract that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014.

13.14 The Buyer shall undertake its best efforts to ensure that the purpose of clause 13.13 is not frustrated by any third parties further down the commercial chain, including by possible resellers.

13.15 The Buyer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of clause 13.13.

13.16 Any violation of clauses 13.7, 13.8, 13.9, 13.10, 13.13, 13.14 or 13.15 shall constitute a material breach of an essential element of the Contract, and the Seller shall be entitled to seek appropriate remedies, including but not limited to:

- (i) termination of the business relationship,
- (ii) the suspension of current and future deliveries; and
- (iii) a penalty of the total value of the goods exported.

13.17 The Buyer shall immediately inform the Seller via E-Mail about any problems in applying clauses 13.7, 13.8, 13.9, 13.10, 13.13, 13.14 or 13.15, including any relevant activities by third parties that could frustrate the purpose of clauses 13.7 en 13.13. The Buyer shall make available to the Seller information concerning compliance with the obligations under clauses 13.7, 13.8, 13.9, 13.10, 13.13, 13.14 or 13.15 immediately after request.

14. SPECIFICATION OF GOODS

14.1 All samples, drawings, descriptive matter, specifications and advertising we (Seller) issue and any descriptions or illustrations contained in the Seller's literature or on our web site are issued or published for the sole purpose of giving the Buyer a general idea of our goods and services.

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Although we make every effort to ensure that information about our goods and services is correct, sometimes it may be incomplete, out of date or inaccurate. In particular, some details, such as colour and dimensions, may not be a true representation and subject to change without notice.

- 14.2 The Seller will not be liable in respect of any loss or damage caused by or resulting from any variation for whatsoever reason in the manufacturer's specifications or technical data of the Goods.
- 14.3 The Seller will not be responsible for any loss or damage resulting from curtailment or cessation of supply of Goods following any variation as described in clause 14.1 and 14.5 of this Contract.
- 14.4 The Seller will use its reasonable endeavours to advise the Buyer of any such impending variation as soon as it receives any such notice thereof from the manufacturer.
- 14.5 Unless otherwise agreed, the Goods are supplied in accordance with the manufacturer's standard specifications as these may be improved, substituted or modified.
- 14.6 The Seller reserves the right to increase its quoted or listed prices, or to charge accordingly in respect of any orders accepted for Goods of non-standard specifications and in no circumstances will the Buyer consider cancellation of such orders or the return of such orders

15. THIRD PARTY PROVIDER

- 15.1 The Seller's Third Party providers (which include but are not limited to Couriers and Warehousing) provide services on behalf of the Seller however the Buyer acknowledges that the Third Party provider is a third party, which the Seller does not control.
- 15.2 The Seller makes no representation, guarantee or warranty about any Third Party provider.

16. INSOLVENCY OF A THIRD PARTY PROVIDER

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- 16.1 If a Third Party provider enters into any type of insolvency, administration, receivership, liquidation, creditor arrangement or becomes the subject of winding up proceedings (“Insolvency Event”) the Seller may terminate or temporarily suspend the provision of the Services.
- 16.2 If the Seller suspends the provision of the Services it shall use reasonable endeavours to engage a new service provider on materially similar terms in a reasonable period.

17. HEALTH AND SAFETY

- 17.1 The Seller will make available on written request such information on the Goods as is in the Seller’s possession to ensure that as far as is reasonably practicable they are reasonably safe and without risk to health when properly used.

18. CONFIDENTIALITY

- 18.1 The Seller shall comply with General Data Protection Regulation EU 2016/679 and use all reasonable endeavours to keep confidential all information relating to the Buyer's business to the extent that the Seller safeguards information relating to its own business for so long as and to the extent that such information is unpublished and is not known to the Seller at the time of disclosure by the Buyer or is not thereafter lawfully obtained by the Seller from a third party.

19. PROTECTION OF THE SELLER’S “KNOW HOW”

- 19.1 The Buyer, subject as hereinafter provided, shall be responsible for keeping and procuring to be kept secret and confidential all information (hereinafter referred to as "the Know-How") supplied by the Seller of a secret or confidential nature provided that the Seller shall first have given notice in writing to the Buyer of the secret or confidential nature of such information before so supplying it or the Purchaser should have reasonably understood the secret or confidential nature of such information in any other way.
- 19.2 The obligations under clause 19.1 shall cease within six months of the publication by the Seller or any third party of information comprising or being part of the Know-How to the extent of such publication, or of agreement by the Seller that such information or part thereof is in the public domain.

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20. INTELLECTUAL PROPERTY

- 20.1 The copyright subsisting or which subsequently subsists in all documents, drawings, specifications, designs, programmes or any other material prepared by the Seller shall belong to the Seller absolutely and they shall not be reproduced or disclosed or used in their original or translated form by the Buyer without the seller's written consent for any purpose other than that for which they were furnished.
- 20.2 The Seller accepts no responsibility for the accuracy of drawings, patterns or specifications supplied by the Buyer. The Buyer shall indemnify the Seller against all claims whatsoever for damages and costs and against all liability in respect of any infringement of patent or other intellectual property rights resulting from compliance with the Buyer's instructions express or implied and the Buyer will indemnify the Seller against any liability in respect thereof and shall pay all costs and expenses which may be incurred by the Seller in reference to any such claim. The indemnity shall extend to any amount paid on a lawyer's advice in respect of any such claim.

21. GENERAL

- 21.1 The Seller reserves the right to sub-contract the fulfilment of the Contract (including any installation) or any part thereof.
- 21.2 The Buyer shall not assign any rights under this agreement without the prior consent in writing of one of the Seller's directors.
- 21.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 21.4 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

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- 21.5 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby.
- 21.6 Each party irrevocably agrees that the Contract and these Conditions are governed by Dutch law and in the first instance the court with subject matter jurisdiction in Rotterdam, the Netherlands, shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with (the subject matter or formation of) this Contract (including non-contractual disputes or claims), whereby the Seller, if the Seller is the claimant, shall, however, have the opportunity to submit the dispute to a court that has jurisdiction without the stipulation referred to above.
- 21.7 In the event of a difference between the Dutch text of these Conditions and the English translation of these Conditions, the Dutch text will prevail.

22. DATA PROTECTION

- 22.1 The Buyer and Seller agree that they are committed to respecting the privacy rights of individuals and both shall comply with the provisions of the General Data Protection Regulation EU 2016/679.
- 22.2 The Buyer accepts by ticking box A on the form at Appendix 1 attached that Seller may pass relevant personal data to subsidiary companies of the Seller. Buyer's records will continue to be handled in accordance with the Seller's code of good practice although you might no longer have rights under data protection law in the event that Seller's subsidiary companies are based in other countries.
- 22.3 The Buyer and Seller shall treat the Contract and any information it may have obtained or received in relation thereto or arising out of or in connection with the performance of the Contract or its negotiation or relating to the business or affairs of the other as private and confidential. Neither the Buyer nor the Seller shall publish or disclose the same, nor any particulars thereof without the prior written consent of the other, or to the extent permitted by the provisions of clauses 22.4 to 22.4.4.
- 22.4 The obligations expressed in the above clause shall not apply to any information which:
- 22.4.1 is or subsequently comes into the public domain otherwise than by breach of this Clause;

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- 22.4.2 is already in the possession of the receiving party without an accompanying obligation of confidentiality;
- 22.4.3 is obtained from a third party who is free to divulge the same;
- 22.4.4 is independently and lawfully developed by the recipient or its sub-Contractor outside the scope of the Contract.
- 22.5 So far as it may be necessary for the performance of the Contract or for the operation and maintenance of the Contract, the Buyer or Seller may divulge any information to be kept confidential under Clause 22.1 of this Clause to their employees, agents and sub-Contractors on a “need to know” basis but both the Buyer and Seller undertake that they will take all steps necessary to ensure compliance by such employees, agents, and sub-Contractors with the obligations as to confidentiality expressed in this Clause, including without limitation incorporating such clauses into their own contracts with such persons, and will be responsible to the other party for any failure by any employee, agent or sub-Contractor to comply with such obligations whether such employee, agent or sub-Contractor was aware of them or not.
- 22.6 For the purpose of verifying the Buyers financial standing the Seller reserves the right to obtain information on the Buyers creditworthiness from credit agencies or credit insurers and to report such data to them. By ticking box B on the form at Appendix 1 attached the Buyer expressly consents and agrees that the Seller may make such enquiries and searches and obtain such references as it considers necessary from credit reference agencies or credit insurers (which will keep a record of any search made) and may disclose the results of those enquiries, searches and references and any information given by the Buyer to any credit reference agency or to any other Affiliate of which it is a member.
- 22.7 Both Buyer and Seller shall ensure that they, their employees, agents and sub-Contractors shall observe the requirements of the General Data Protection Regulation EU 2016/679 and any amendments or revisions thereto in the provision and use of the subject matter of the Contract and personal data processed under it and shall comply with any request made or direction given to the other which is directly due to the requirements of such Regulation.
- 22.8 On the conclusion or termination of the Contract both parties shall cease to use all copies of personal data and confidential information obtained from the other except in so far as the law requires the information be retained in which event it shall be kept until such period is over and in any event kept strictly confidential under the provisions of this clause.



22.9 The obligations relating to confidentiality shall continue notwithstanding termination of this Contract and until such time as the information is no longer confidential in nature.

23. CALL RECORDING

23.1 Calls may be recorded for training, quality improvement and security purposes in accordance with applicable laws and regulations.

24. ANTI-CORRUPTION

24.1 The Buyer has an active Anti-Bribery and Corruption Policy in place which reflects its zero-tolerance approach to acts of bribery.

24.2 The Buyer understands that acceptance of the Seller's Terms and Conditions is acceptance of the Seller's own Anti-Bribery Policy (a copy of which can be provided on request.)

25. FORCE MAJEURE

25.1 The Seller shall not be under any liability for any failure to perform any of its obligations under the order due to Force Majeure. Following notification by the Seller to the Buyer of such cause, the Seller shall be allowed a reasonable extension of time for the performance of its obligations and include (but are not limited to) the following from a non-exhaustive list of events such as:

- a) Act of God, explosion, flood, tempest, fire or accident;
- b) war or threat of war, terrorist atrocities, sabotage, insurrection, civil disturbance or requisition;
- c) acts, restrictions, regulations, byelaws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- d) import or export regulations or embargoes;
- e) strikes, lockouts or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
- f) difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- g) power failure or breakdown in machinery;
- h) non-performance by suppliers or Service Providers undergoing an Insolvency Event;
- i) unforeseeable shortages in the availability of personnel caused by epidemic or pandemic;

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j) Economic Recession.

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Appendix 1

Buyer agrees that Seller may pass relevant personal data to Seller's subsidiary companies. Buyer's records will continue to be handled in accordance with Seller's code of good practice although Buyer might no longer have rights under General Data Protection Regulation EU 2016/679 in the event that our subsidiary companies are based in other countries

Box A

Buyer expressly consents and agrees that the Seller may make such enquiries and searches and obtain such references as it considers necessary from credit reference agencies or credit insurers (which will keep a record of any search made) and may disclose the results of those enquiries, searches and references and any information given by the Buyer to any credit reference agency or to any other Affiliate of which Seller is a member

Box B

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