

OUR STANDARD TERMS AND CONDITIONS OF SALE

1. DEFINITIONS

In these terms and conditions of sale the following words shall (unless the context requires otherwise) have the following meanings:

- "Company" shall mean means ROLEVET LTD, a company incorporated in England and Wales and company registration 02435435 having its registered office and trading address at Unit 7, Blakenhall Industrial Estate, Sunbeam Street, Wolverhampton, West Midlands, WV2 4PF, United Kingdom;
- "Contract" shall mean the contract (subject to and incorporating these Terms and Conditions of Sale) between the Company and the Purchaser in respect of the sale and supply of the Products, established by the Contract Documents;
- "Contract Documents" shall mean the Proposal, these Conditions of Sale and the Order Acknowledgment provided by the Company to the Purchaser;
- "Contract Price" shall mean the sum specified in the Contract as the contract price;
- "Credit Limit" shall mean any amount as the Company may notify to the Purchaser from time to time as being the maximum amount that the Company will permit to be due (or potentially due) from the Purchaser to the Company at any time;
- "Defect" shall mean a part of the Product which is defective as a result of failure by the Company to supply the Product in accordance with its obligations under the Contract or these terms and conditions;
- "Force Majeure" shall have the meaning as set out in Clause 18.1;
- "Liability" shall mean all liability of whatsoever nature including but without implying limitation whether by reason or in consequence of any breach of contract or of statutory duty or tortious or negligent act or omission and the words "liable" and "liability" shall be construed accordingly.
- "Order" shall mean the order placed by the Buyer for the Goods;
- "Order Acknowledgement" shall mean the form of acknowledgement of the purchase order by the Company in writing as produced and completed by the Company for the Purchaser;
- "Parties" shall mean the Company and the Purchaser collectively;

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"Price"	shall mean the price payable by the Purchaser in respect of the Products;
"Products"	shall mean the Products provided by the Company in accordance with its own specifications or provided by the Company in accordance with the Purchaser's specification;
"Proposal"	shall mean the Company's proposal to the Purchaser in the form of a quotation or tender to supply Products including all documents and drawings referred to or attached thereto;
"Purchaser"	shall mean any company, firm or individual from whom the Company receives an Order which the Company has accepted in Writing;
"Specification"	shall mean (a) in respect of standard products manufactured by the Company the Company's specification which has been made available to the Purchaser for inspection; or (b) in the case of products manufactured specifically to the Purchaser's order the specification provided by the Purchaser and agreed by the Company before the order is accepted.
"Terms and Conditions"	shall mean the clauses set out in these Terms and Conditions of Sale and any amendments thereto (as may be published by the Company on its website from time to time) or which have been expressly agreed in writing by the Company and signed by a duly authorised officer of the Company;
"Writing"	shall mean documented communication including written, electronic mail, facsimile transmission and comparable means of communication.

2. FORMATION OF CONTRACT

- 2.1 The Company shall provide and the Purchaser shall accept and pay for the Products specified in the Contract Documents under the terms and conditions of the Contract.
- 2.2 This Contract is a complete statement of the Parties' agreement and supersedes all prior written or oral communications between the Company and the Purchaser.
- 2.3 The Company's employees or agents are not authorised to make any representations concerning the Products unless confirmed by the Company in Writing. In entering into the Contract the Purchaser acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 2.4 All quotations and tenders are made and all orders are accepted by the Company subject to these Terms and Conditions of Sale and the issue by the Company of an Order Acknowledgement is conditional on the Purchaser's agreement to these Terms and Conditions of Sale. The Purchaser's instruction to proceed with the supply of Products by the Company shall constitute an agreement to these Terms and Conditions of Sale.
- 2.5 No modified or other conditions will be applicable to the Company unless they are expressly agreed



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in writing and signed by an authorised officer of the Company. Failure of the Company to

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object to any conditions or contractual terms contained in any order or other communication from the Purchaser shall neither be construed as a waiver of the applicability of these Conditions of Sale nor an acceptance of such other conditions or contractual terms.

- 2.6 Unless previously withdrawn, a Proposal is capable of acceptance only within the period stated therein or, when no period is so stated, within thirty (30) days after its date of issue. All quotations are subject to change by the Company at any time before acceptance by Purchaser upon notice to Purchaser.
- 2.7 The acceptance of any Proposal must be accompanied by sufficient information to enable the Company to issue an Order Acknowledgement and proceed with the order forthwith; otherwise the Company shall be at liberty to amend the Proposal prices to cover any increase in cost which has taken place after acceptance.
- 2.8 Any references in this Contract to an extension of time shall only be applicable if an express agreement on the part of the Company to be bound by a particular time or programme is set out in the Contract Documents.
- 2.9 The Company shall not be obliged or liable to the Purchaser in respect of any damages, expenses or losses suffered by the Purchaser under or in connection with the Contract or terms and conditions of sales, except as expressly provided for in this Contract.
- 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 Company shall be subject to correction without any liability on the part of the Company.

3. APPLICATION OF THESE TERMS AND CONDITIONS

- 3.1 In the event of any discrepancy or conflict between the terms and conditions of this Contract, they shall be interpreted in the following order of priority:
 - (a) Order Acknowledgment;
 - (b) Proposal
 - (c) Terms and Conditions of Sale; and
 - (d) All other documents that form part of the Contract.
- 3.2 In the event of any discrepancy or conflict identified within each of the Contract Documents, the Company will decide between the discrepant items and the Contract will be deemed to have been amended accordingly as if such amendment had been expressed, in writing and signed by the authorised representatives of each party.

4. PRODUCT PRICING

- 4.1 Unless otherwise agreed in writing and subject to Clause 4.3, the Price of the Products shall be :
 - (a) in the case of standard Product manufactured to the Company's Specification the Product price set out in the Company's current price list at the date of the Order (which is available for inspection by the Purchaser) and
 - (b) Where the Products are produced in accordance with the Purchaser's specification, the price of the Products agreed between the Company and the Purchaser at the date of acceptance of the Order.

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- 4.2 Unless otherwise stated by the Company in writing, all prices quoted are in Pounds Sterling, ex Works and exclude any and all delivery charges, insurance, VAT and any other tax or duties which will be added to the Price payable by the Purchaser. Any clerical or arithmetic errors on either the quotation or the order acknowledgement are subject to correction by the Company. Should the Purchaser be eligible for either or both VAT exemption or Import duty relief it is the Purchaser's sole responsibility to supply with the Order the necessary certification to allow the Company to process the Order accordingly. Should such certifications not be available at the time of Order the Company has the right to invoice the Purchaser for the full amount due, excluding such exemptions or relief, and it shall then be the sole responsibility of the Purchaser to reclaim such payments from the relevant Government bodies.
- 4.3 The Company reserves the right to adjust the Contract Price or the Price of any Product it provides by the amount that it deems necessary to cover any increase attributable to:
- 4.3.1 the making or amendment after the date of the Proposal of any law or order, regulation, or bye-law having the force of law that shall affect the performance of the Company's obligations under the Contract;
 - 4.3.2 any rise in the cost of labour, materials or transport above or below such rates and costs ruling at the date of Proposal;
 - 4.3.3 an increasing in manufacturing and labour costs arising from the material actually supplied by the Purchaser to Company being either different in quantity, quality and/or specification to that originally specified and promised by the Purchaser to the Company in order to manufacture the product or not being supplied in accordance to the schedule agreed by the parties.
 - 4.3.4 any direct or indirect increase in any foreign exchange rates relating to the Products or
 - 4.3.5 any other factor beyond the Company's reasonable control
- The amount of such increase shall either be added to the Contract Price or result in an increase in the Price of the Products.
- 4.4 Pursuant to Clause 4.3 and save for increases under clause Clause 4.3.3, the Company shall give the Purchaser two (2) working days prior written notice of any price increase being applied, and the revised Contract or Product Price shall apply in addition to or in lieu of (as the case may be) the previously Price provided to the Purchaser. The revised Price shall be deemed to have been accepted by the Purchaser unless the Purchaser formally notifies the Company in writing to the contrary within two (2) working days of being formally notified of the revised price.
- 4.5 Pursuant to Clause 4.3.3, the Company shall give the Purchaser one (2) working days prior written notice of any price increase being applied, and the revised Contract or Product Price shall apply in addition to or in lieu of (as the case may be) the previously Price provided to the Purchaser. The revised Price shall be deemed to have been accepted by the Purchaser unless the Purchaser formally notifies the Company in writing to the contrary within one (2) working days of being formally notified of the revised price.
- 4.6 Where the Purchaser requires the Products provided by the Company to be delivered to locations outside of the UK, then the Purchaser shall be responsible for securing and paying for any and all import permits, duties or licenses required for the Products prior to shipment. The Purchaser shall also if requested, provide to the Company copies of the relevant documents prior to the shipment of the Products and shall where appropriate reimburse to the Company all VAT, Customs and Import Duties or other Taxes or Duties arising from the importation of Products into the relevant country as an addition to the Contract or Product Price.

5. ORDERS AND SPECIFICATIONS

- 5.1 The Purchaser accepts responsibility for ensuring that any Products selected by the Purchaser are sufficient and suitable for the Purchaser's purposes except to the extent that the Purchaser's selection was based solely upon the Company's written advice and such advice is expressly set out in the Contract.
- 5.2 The quantity, quality and description of and any specification for the Products shall be those set out in the Company's quotation (if accepted by the Purchaser) or the Purchaser's order (if accepted by the Company).
- 5.3 The Purchaser shall be solely responsible for ensuring that all drawings, information, advice and recommendations given to the Company, either directly or indirectly, by the Purchaser or the Purchaser's Agents are accurate, correct and suitable. Examination or consideration by the Company of such drawings, information, advice or recommendations shall in no way waive or reduce the Purchaser's responsibility hereunder unless and to the extent that the Company expressly agrees in writing in the Contract to accept such responsibility.
- 5.4 The Purchaser shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Purchaser, and for giving the Company any necessary information relating to the Products within a sufficient time to enable the Company to perform its obligations in accordance with these terms and conditions.
- 5.5 Save as otherwise expressly specified in the Contract, all specifications, drawings and particulars of weights and dimensions submitted with any Proposal made by the Company to the Purchaser are approximate only and the descriptions and illustrations contained any Company catalogues, price lists and other advertising materials are intended merely to present a general idea of the Products therein and none of these shall form part of the Contract. Deviations to specifications, drawings and particulars of weights, dimensions and quantities, by reason of conformity with any applicable safety or statutory requirements or otherwise therefrom shall not vitiate the Contract nor be the basis of any claim against the Company. Any errors and omissions contain in such documents are subject to correction by the Company.
- 5.6 For the avoidance of doubt, where the Company has assumed that drawings have been approved by the Purchaser because the Purchaser has not notified the Company to the contrary, any subsequent variation by the Purchaser to those drawings will be treated as a variation to which Clause 6 applies.
- 5.7 No order which has been accepted by the Company can be cancelled by the Purchaser except with the agreement formally in writing by the Company. In the event that the Company does agree to the cancellation of an order, the Purchaser shall be liable for refunding to the Company any and all costs that it has incurred in fulfilling the order including but not limited to all loss (including loss of profit), costs (administration, labour and materials used), damages, charges and expenses.
- 5.8 The Company reserves the right to make any changes in the specification of the Products which are required to conform with any applicable statutory, safety or E.U. requirements or
- 5.8.1 Where the Products are to be supplied to the Company's specification, which do not materially affect their quality or performance.
- 5.8.2 Where the Products are to be supplied to the Purchaser's drawings or specification, which



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do not materially affect their quality or performance.

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- 5.9 Unless otherwise agreed in writing the Purchaser shall pay for any samples submitted to the Purchaser and not returned to the Company within one month from date of receipt by the Purchaser.

6. VARIATION INSTRUCTIONS

- 6.1 The Purchaser may instruct the Company to alter or modify the quality and/or quantity of the Products to be supplied (a "Variation Instruction") and the Company shall be entitled (at its sole discretion) to decide whether to accept such a Variation Instruction.
- 6.2 If the Company accepts a Variation Instruction, then it shall be entitled to increase in the Contract Price, and alter the delivery date and any other terms of the Contract as may be reasonable under the circumstances.
- 6.3 In the event of variation or suspension of work by the Purchaser's instructions or lack of instructions, the Company, at its sole discretion, reserves the right to also adjust (and the Purchaser agrees to accept) the Contract Price to compensate for any and all cost, loss or damage it incurs as a consequence of the instructions of the Purchaser.

7. INSPECTION AND TESTS

- 7.1 Should the Purchaser require tests (a) other than those specified in the Company's Proposal or (b) to be conducted in the presence of the Purchaser or their representative, then such tests shall be paid for by the Purchaser.
- 7.2 Pursuant to Clause 7.1 above, in the event of Purchaser delays attending such tests or inspections (where the attendance of the Purchaser is required) for a period in excess of fourteen (14) days after the date formally agreed by the Parties in writing, then the Company shall conduct the tests and inspections in the Purchaser's absence and such tests and inspections shall have deemed to have taken place as if the Purchaser had been present. The Company, at its sole discretion, shall determine the location and timing of the tests or inspections.

8. HEALTH AND SAFETY

- 8.1 The Purchaser shall comply with all instructions, information and warnings that the Company may provide from time to time in respect of Products and shall ensure that any documentation provided by the Company is made available to any relevant persons handling, dealing with or otherwise coming into contact with or being affected by Products. The Purchaser shall indemnify the Company against any liability (including in respect of any claim made against the Company by any third party) as a result of the Purchaser's failure to comply with this clause.

9. DELIVERY

- 9.1 Unless otherwise stated to the contrary in the Contract or provided to the Purchaser by the Company in writing, any prices (including the Contract Price) provided by the Company excludes any and all costs and expenses associated with delivery (including but not limited to insurance, packaging or freight) and off-loading for which the Purchaser is totally liable.

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- 9.2 Save where the Company has agreed at the request of the Purchaser that the Products be delivered to an address outside the United Kingdom (in which case the Purchaser will satisfy the Company that it has made all necessary arrangements for export of the Products and obtaining all necessary consents) delivery of the Products within the UK shall be made by the Company in accordance with the delivery details (if any) set out in the Order Acknowledgment however any delivery dates provided are approximate only and the Company shall not be liable for any delays howsoever caused. Products may be delivered by the Purchaser in advance of the quoted delivery date upon giving reasonable notice to the Purchaser. Should the Purchaser not receive the Products within seven (7) working days of receipt of the Company's invoice then it is the responsibility of the Purchaser to notify the Company.
- 9.3 Time for delivery shall not be of the essence unless previously agreed by the Company to the Purchaser in writing.
- 9.4 Delivery shall be deemed to be effected at the time when the Products are unloaded at the delivery address agreed by the Parties, save where the Purchaser or his agent collects the Products from the Company's premises where delivery shall be deemed to occur at the time of collection. The Company reserves the right to deliver the Products by instalments and where payment of the Price or any part thereof is not made on the due date then the Company, at its sole discretion and without prejudice to any other rights or remedies available to it, shall be entitled to withhold deliveries of further instalments until the Products delivered in earlier instalments have been paid for in full.
- 9.5 Where the Products are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Purchaser to deliver any one or more of the installments in accordance with these Terms and Conditions of Sale or any claim by the Purchaser in respect of any one or more installments shall not entitle the Purchaser to treat the Contract as a whole as repudiated.
- 9.6 Should the Purchaser fail to take delivery of the Products, or fails to give the Company adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Purchaser's reasonable control or by reason of the Company's fault) then, without prejudice to any other right or remedy available to the Company, the Company may store the Products until actual delivery on behalf of the Purchaser, whereupon:
- (a) Delivery shall be deemed to have taken place;
 - (b) All risk in the goods shall pass to the Buyer;
 - (c) The Purchaser shall be liable for all related costs and expenses (including insurance) incurred by the Company in storing the Products
 - (d) In addition to the charges stated on the original Contract or Order, the Company may charge the Purchaser interest on the Price at the rate of 8% per year above the base rate of Lloyds Bank Plc. from the end of the Delivery Period or Postponement Period (whichever is applicable) to the actual date of delivery, compounded at monthly intervals.
- 9.7 Pursuant to Clause 9.6 should the Purchaser fail to take delivery of the Products within five working days of first attempt to deliver the goods then the Purchaser will be invoiced for the Products as soon as reasonably possible by the Company and the Purchaser shall pay the invoice in accordance with Clause 12.

10. LOSS OR DAMAGE IN TRANSIT

- 10.1 Where it is expressly stated in the Contract or the Order that the Company is responsible for delivery of the Product(s) and Clause 11.1 does not otherwise apply, the Company will, at the Company's option, repair or replace free of charge Product(s) lost or damaged in transit prior to delivery provided that the Purchaser notifies the company within three (3) working days and then with written notification of such loss or damage within seven (7) days of the delivery.
- 10.2 The Purchaser shall inspect all goods promptly upon receipt and shall not be entitled to reject the Products by reason only of short or incomplete delivery
Where such instances occur then the Company, without penalty or liability, will make reasonable endeavours to make good, short or incomplete deliveries as soon as practically possible.

11. RISK AND TITLE

- 11.1 Notwithstanding Clause 32 (relating to international delivery) and unless formally agreed by the Company in writing, any risk associated with the Products shall pass to the Purchaser when the products are dispatched to the carrier by the Company. The Purchaser shall insure the Products from the date of carriage delivery and if required shall provide the company with documentation detailing that the necessary insurances are in place. Should the Products be lost or destroyed then such insurance monies as are payable shall be immediately paid by the Purchaser to the Company to the extent of the indebtedness of the Purchaser to the Company, and that without prejudice to the Company's right to recover from the Purchaser any balance of the purchase price remaining due under the Contract.
- 11.2 Notwithstanding delivery and passing of risk, the absolute and legal beneficial ownership in all Products shall remain vested in the Company and shall not pass to the Purchaser until the Price of the Order of which they form part and any other Products that the Supplier has supplied to the Customer is paid in full by means of electronically cleared funds.
- 11.3 The Purchaser acknowledges that the Purchaser is in possession of the Products solely as bailee for the Company until title of the Products passes to the Purchaser and until such time, if required by the Company, shall securely store, protect and insure the Products separately from all other products and mark or otherwise identify them as the Company's property.
- 11.4 Until title in the Products passes to the Purchaser, the Company shall be entitled at any time by notice either to require the Purchaser to return the Products forthwith at the Purchaser's expense, or to enter upon the premises where they are stored (or where they are reasonably thought to be stored) for the purpose of recovering them.
- 11.5 In the event that the Purchaser breaches any of its obligations under the Contract or under any other agreement between the Parties, the Company reserves the right to immediately repossess any or all of the Products to which title remains with the Company and has not passed to the Purchaser without prejudice to the other legal remedies available to the Company. The Company shall be entitled to seek interdict or equivalent judicial order to prevent the Purchaser from selling, transferring or otherwise disposing of the Products.
- 11.6 Upon delivery of the Products and where the Products have been specified by the Company, the Purchaser shall assume responsibility for ensuring that the Products are installed and used as described in the Health and Safety regulations and, if applicable, under the current safety

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classification(s) relevant to the use of the Products or any instructions (oral or written) provided to the Purchaser by the Company.

- 11.7 Upon delivery of the Products, and where the Products have been specified by the Purchaser, the Purchaser shall indemnify and hold harmless the Company from and against all actions, claims, costs and proceedings including inter alia, all loss, damages, costs and expenses awarded againstor incurred by the Company in connection with, paid or agreed to be paid by the Company in settlement of any claim which arises due to the manufacture, supply, and Purchaser's installation of the Products in accordance with the Purchaser's drawings or specifications.
- 11.8 The Purchaser shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Products which remain the property of the Company, however in the event that the Purchaser does execute such action, all monies owing by the Purchaser to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

12. PAYMENT TERMS

- 12.1 Unless the Company agrees otherwise in writing, the Company may submit an invoice for payment to the Purchaser for the Products together with VAT at the appropriate rate after the Purchaser is advised that they are ready for dispatch and the Company may submit such further invoices for payment of storage charges and additional costs incurred as a consequence of non-delivery of the Product to the Purchaser as set out in Clause 9.7 as well as any additional sums to which the Company is entitled to be paid under the Contract.
- 12.2 Unless the Company agrees otherwise in writing, the Purchaser shall pay the price for the Products to the Company within 30 days of the date of the Company's invoice or the date of dispatch by the Company (if later) , notwithstanding that delivery may not have taken place and the property in the Products has not passed to the Purchaser. The time of payment of the invoice shall be of the essence of the Contract and receipts for payment will be issued only upon request.
- 12.3 Should the Purchaser dispute any charge on an invoice, then the Purchaser must notify the Company in writing within 7 days of the date of the invoice, clearly stating amount disputed, the reason and rationale for their dispute as well as providing any information or documentation that supports their position. In the event that the disputed amount is:-
- (a) Less than 5% of the total invoice, then the Purchaser shall pay the full amount of the invoice or
 - (b) More than 5% of the total invoice, then the Purchaser shall pay the full amount of the invoice not in dispute.
- 12.4 Any disputes will be resolved promptly by the Company, and upon the resolution of the amount disputed between the Parties the resolved amount if any shall be immediately payable by the Purchaser to the Company.
- 12.5 Should either the registered office of the Purchaser or the delivery address for the Product(s) be outside the mainland UK, then prepayment shall be required for the Products prior to the order being processed unless an alternative payment plan is agreed by the Company formally in writing.

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- 12.6 If at any time and at its sole discretion, the Company becomes concerned that the Purchaser's financial circumstances are such that it is unlikely that the Purchaser shall be able to satisfy the agreed terms of payment, the Company will advise the Purchaser in writing that the Company will require prepayment to continue to deliver any remaining Products to be supplied under the Contract.
- 12.7 If the Purchaser fails to make any payment on the due date then, without prejudice to any other rights or remedies available to the Company, the Company shall be entitled to:
- 12.7.1 Make a claim for the price of the Products notwithstanding that title may not have passed;
 - 12.7.2 Decline to continue the performance of any work whether ordered under the Contract or not and without incurring liability whatever to the Purchaser for non-completion or any delay in completion; or
 - 12.7.3 Cancel the Contract (or any other contracts) or suspend any further deliveries to the Purchaser;
 - 12.7.4 Require payment in advance of delivery of undelivered Products;
 - 12.7.5 Decline to make delivery of any undelivered Products whether ordered under the Contract or not and without incurring any liability whatever to the Purchaser for non-delivery or any delay in delivery;
 - 12.7.6 Appropriate any payment made by the Purchaser to such Products (or the goods supplied under any other contract between the Purchaser and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Purchaser); and
 - 12.7.7 Charge the Purchaser interest on a daily basis on the amount unpaid, at the rate of 8% per cent per annum above the base rate of Lloyds Bank Plc. until full payment (including the accrued interest) is made. Any legal expenses incurred in the collection of any outstanding amount shall also be charged to and payable by the Purchaser.

13. WARRANTY

- 13.1 For Products manufactured to the Company's Specification, the Company warrants to the Purchaser that the Products manufacture by the Company are believed to be free from defects of workmanship and materials and undertakes to replace or, at its option, to repair the Products purchased hereunder (other consumable items) found to be defective, where such defects are a result of faulty materials or workmanship, within one year from the date of original delivery.
- 13.2 The Warranty set out in clause 13.1 does not apply to Products manufactured to the specification of the Purchaser. For the avoidance of doubt, the Company's warranty shall only apply to Products that:
- (a) Have been fully paid for by the Purchaser and
 - (b) Have been used, installed and maintained (where appropriate) in accordance with the Company's verbal, written or stated instructions and
 - (c) For which defects have been reported in writing to the Company (during the Company's stated warranty period or the warranty period agreed between the Parties) resulting formal written acknowledgement that the Products are covered by the Warranty in clause 13.1; and
 - (d) Are returned to the Company at the Purchaser's expense (freight, effective packaging and transit insurance).
- 13.3 Except as otherwise provided in this Clause 13, the Company makes no other representations or warranties and expressly to the fullest extent permitted by law hereby excludes the same whether implied, statutory or otherwise especially as to the quality or fitness of the Products for any particular purpose.

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- 13.4 For the avoidance of doubt, unless otherwise specified by the Company in writing no warranty whatsoever shall apply for Products that have been produced and manufactured by the Company in accordance with the specification or using materials provided by the Purchaser.
- 13.5 Each claim of the Purchaser under this warranty shall be sent in writing to the Company specifying the type of Products and nature of the defect. Upon receipt of such written notice, the Company or its agent or representative shall have the option of testing or inspecting the Products at its location or of having the Products returned to the Company or to such other address as may be notified to the Purchaser, freight pre-paid. Replacement parts, items or Products shall be sent by the Company to the Purchaser ordinary freight pre-paid.
- 13.6 In the event of any claim presented under warranty by the Purchaser is found on investigation by the Company to be either outside the scope or duration of this warranty or the fault being unconfirmed, then the total costs of such investigation and repair (including but not limited to costs for time spent and resources used by the Company to recreate and remedy the fault or defect) shall be borne by the Purchaser. The Company will submit to the Purchaser for immediate payment an invoice detailing the cost incurred and the amount due and such amounts as detailed in the invoice will be subject to Clause 12.7.
- 13.7 The Company shall not be liable at any time for damage or defects in the Products or parts caused by improper use, abuse, mismanagement or by using the Products outside the specifications detailed in the manuals and documentation or instructions (written, oral or otherwise) provided by the Company relating to the Products or outside the specific application of the Products.
- 13.8 This warranty shall not be assigned without the prior written consent of the Company.

14. DEFECTS IN PURCHASER'S MATERIALS AND/OR SPECIFICATION

- 14.1 This Clause 14.1 shall apply where the Purchaser is responsible for procuring and providing the raw material needed by the Company to produce the Products or the Products are provided by the Company in accordance with the specification provided the Purchaser. Otherwise, Clause 14 shall apply in respect of Defects of the Products.
- 14.2 For the avoidance of doubt, the Company shall have no liability whatsoever, including liability for any injury (other than death or personal injury caused by the Company's negligence as defined in Section 1 of the Unfair Contract Terms Act, 1977) or for any damage or loss (including but not limited to the loss of profits, loss of use, loss of expectation, loss of business, loss of goodwill or consequential or indirect loss or damage) under this Contract in respect of Defects in Products that arise from the matters set out in Clause 14.1 and the Purchaser agrees to and shall indemnify the Company against any and all claims arising from the use of the Product.
- 14.3 The Company will, solely at its discretion, make good by repair or the supply of a replacement Product or component thereof, Defects which, under proper use, arise in the Products within a period of agreed formally in writing by the Parties commencing from date of Product delivery or use (whichever comes first) provided that such defects arise solely from failure by the Company to manufacture the Products in accordance with the specification provided by the Purchaser.

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- 14.4 For the avoidance of doubt, Clause 14.3 shall not apply and the Company shall not be responsible for repair of the Products where Defects arise from design, specification, materials or components provided to the Company by the Purchaser.
- 14.5 Any claims relating to damage to the Product(s) due to transit shall be made by the Purchaser to the Company in writing within seven (7) working days of delivery of the Products.
- 14.6 The purchaser shall inspect goods promptly upon receipt and provided that the Purchaser has given the Company written notification within seven (7) working days of delivery of any Products supplied that do not comply with the acceptable quality standards on the contract/purchase order and the failure of the product was as a result of the Company's negligence and not as a result of the specification or materials provided by the Purchaser the Company will repair or replace the defective or faulty products free of charge.

15. LIABILITY

- 15.1 Save to the extent of the Warranty contained in clause 13.1 and subject to clauses 16.3 and 16.4 the Company shall not be liable to the Purchaser or any third parties for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the Contract, the Products, its use including but not limited to loss or damage to data or to other products or property, (whether or not the same may be in the Company's care, custody or control) or for consequential loss, loss of profit, business, revenue, goodwill or anticipated savings.
- 15.2 The Company shall not be responsible for either the consequences of or liable for any loss including but not limited to loss of profits, loss of use, loss of expectation, loss of business, loss of goodwill or consequential or indirect loss or damage caused to the Purchaser or any third party due to Products arising from any misleading, incomplete or erroneous instructions or information given or where information or instructions are not given or provided in a timely manner by the Purchaser prior to the manufacture of the Products. In respect of a claim by a third party in such circumstances, the Purchaser undertakes to indemnify the Company on demand in respect of any and all losses, costs, expenses, damages and claims the Company may suffer or incur in relation to that claim.
- 15.3 In the event that any limitation or provision contained in these Terms and Conditions be held to be invalid for any reason and the Company becomes liable for loss or damage that would otherwise have been excluded under this Contract or capable of being excluded in law, such liability shall be subject to other provisions limiting the Company's liability detailed in Clause 16.2.
- 15.4 The Company shall not be liable to the Purchaser or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Products, if the delay or failure was due to any cause beyond the Company's reasonable control.

16. LIMITS OF LIABILITY

- 16.1 The Company does not make any recommendations to the Purchaser as to the suitability of the Products for any particular use and it is the sole responsibility of the Purchaser to satisfy itself that the Products are of a specification which will make them fit for the purpose for which the Purchaser may intend that they be used. Accordingly subject to clause 13.1 and to clause 16.4 any warranties or conditions implied by law as to the quality or fitness for any particular Product are hereby expressly excluded. The Purchaser hereby warrants and represents to the Company that it

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is a business customer, acting in the course of a business and is not a consumer within the meaning of the Sale of Goods and Supply of Services Act 1980 and without prejudice to the generality of the foregoing, the provisions of Sections 13, 14 and 15 of the Sale of Goods Act 1893, as amended by the Sale of Goods and Supply of Services Act 1980 shall not apply to this Contract.

- 16.2 Notwithstanding any other clause of these terms the maximum aggregate liability of the Company under or in connection with the Contract arising from any incident or series of related incidents shall not exceed the lesser of the total price of the relevant product, batch of products or services purchased by the purchaser. For the avoidance of doubt any money withheld by the Purchaser from the Company (by way of set off, abatement or howsoever) shall be included in any calculation of whether or not the said maximum aggregate liability has been reached and/or exceeded as the case may be.
- 16.3 Nothing set out in these terms and conditions shall relieve the Company from any liability that the Company may have under Section 12 of the Sale of Goods Act 1979 or for fraudulent misrepresentation under the Misrepresentation Act 1967.
- 16.4 Nothing in this Contract shall or is intended to reduce or limit the Company's liability in respect of (a) fraud or (b) death or personal injury caused by the Company's negligence as defined in the Unfair Contract Terms Act, 1977.

17. INDEMNITY

- 17.1 Notwithstanding Clauses 15 and 16 of the Contract, the Company shall not be liable and the Purchaser shall indemnify and hold the Company harmless against any claim by or loss (including but not limited to loss of profits and goodwill) or damage to any person or property directly or indirectly occasioned by or arising from any of the following events:
- 17.1.1 The improper, inappropriate or negligent use or operation, or the neglect, by the Purchaser or any other person or persons of the Products;
 - 17.1.2 The failure by the Purchaser or any other person or persons to comply with the Company's instructions (whether oral or in writing) for the storage, location, installation, energisation or de-energisation (where appropriate), maintenance, use or operation of the Products or in the absence of said instructions according to the most common practice in the relevant field;
 - 17.1.3 The use of Products on unsuitable equipment or for a use not expressly authorised by the Company;
 - 17.1.4 The failure by the Purchaser or any other person or persons to implement the Company's recommendations in respect of Products and/or defects and/or faults previously advised by the Company;
 - 17.1.5 Any repair, adjustment, alteration or modification of Products by any person other than the Company without the Company's prior approval in writing;
 - 17.1.6 The storage, use, operation or maintenance of any Products otherwise than in accordance with the Company's instructions, catalogues and manuals;
 - 17.1.7 Any breach or default by or on the part of the Purchaser or any person(s) other than the Company including:
 - (a) Any non-compliance by the Purchaser or any person(s) with any of its obligations in relation with the installation, energization or de-energization (where appropriate), use, operation and/or maintenance of the Products as set out in or as may be reasonably inferable from this Contract, or

- (b) Any failure or delay by the Purchaser or any person(s) to provide required information or documentation concerning the environment and/or industrial application of the Products or the provision of inaccurate or untimely information or documentation by the Purchaser or such person(s) in relation to the environment and/or industrial application of Products.

- 17.2 The Purchaser shall indemnify and hold harmless the Company from and against all actions, claims, costs and proceedings including inter alia, all loss (including loss of profits), damages, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim which arises due to the manufacture and/or supply of the Products based on the Purchaser's drawings or specifications, where such drawings or specifications are inaccurate, incorrect, unsuitable or otherwise at fault or where it is alleged that they involve an infringement of a patent, copyright, registered design, topography right or design copyright or any other intellectual property right.
- 17.3 The indemnity in Clause 17.1 and Clause 17.2 shall extend to any costs, losses and expenses incurred by the Company in relation to any such claim, loss (including loss of profit, goodwill etc.) or damage and shall continue in force notwithstanding the termination of this Contract.

18. FORCE MAJEURE

- 18.1 The Company shall be under no liability to the Purchaser in respect of anything which, apart from this provision or beyond its reasonable control, may constitute breach of these Terms and Conditions arising by reason of force majeure, namely circumstances beyond the reasonable control of the Company, which shall include (but shall not be limited to) acts of God, perils of the sea or air, fire, flood, drought, accident, explosion, storm, sabotage, accident, terrorism, war or threat of war, insurrection, riot, civil commotion or requisition, including acts of local government and parliamentary authority, import or export regulations or embargoes, shortage or difficulties of securing supplies, raw materials, equipment, fuel, materials, breakdown, nuclear risk, power failure or shortage of equipment, statute, outbreak of hostilities and labour disputes of whatever nature and for whatever cause arising, including but without prejudice to the generality of the foregoing, work to rule, overtime bans, strikes and lockouts whether involving employees of the Company or those of related third parties.
- 18.2 Should a Force Majeure event prevail for a continuous period in excess of thirty (30) days, then the Parties shall enter into bona fide discussions with a view to alleviating its effects, or to agree such alternative commercial arrangements that may be fair and reasonable to remedy the situation with the aim of Purchaser supporting the Company in the fulfilment of the order affected.
- 18.3 Notwithstanding 18.2 above, should the Force Majeure event prevail for a continuous period in excess of ninety (90) days then either Party may elect one of the following remedies: (a) to terminate this Contract in whole or in part; or (b) to suspend this Contract, in whole or part, for the duration of the Force Majeure circumstances by formally notifying the other Party in writing.

19. COPYRIGHT, PATENTS, TRADEMARKS AND INTELLECTUAL PROPERTY RIGHTS

- 19.1 The Purchaser acknowledges that any and all of the trademarks, trade names, copyrights, patents



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and other intellectual property rights used or embodied in or in connection with the Products

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including software, hardware and other parts thereof in which the Company or the respective manufacturer, developer or third party has an interest in and shall remain the sole property of the Company or such manufacturer, developer or third party. The Purchaser shall not, during or at any time after the completion, expiry or termination of this Contract, in any way question or dispute the ownership of any such rights.

- 19.2 The Purchaser warrants that no design or instruction furnished or given by the Purchaser shall cause the Company to infringe any letters patent, registered design, trade mark or copyright in the execution of the Purchaser's order and the Purchaser will indemnify the Company against any loss (including but not limited to loss of profit), expense suffered and/or claim for infringement of any such intellectual property rights.
- 19.3 The Company will indemnify the Purchaser in respect of any infringement of letters, patent, registered design, trade mark or copyright (published at the date of the Contract) by the use or sale of any article or material supplied by the Company to the Purchaser but only in respect of such foreseeable and reasonable costs and damages as the Purchaser may (having mitigated its losses and liabilities to the fullest possible extent) reasonably incur or be held legally liable to pay in any action for such infringement. Provided always that:
- 19.3.1 this indemnity shall not apply to any infringement which is due to the Company having followed a design or instruction furnished or given by the Purchaser or to the use of such article or material in a manner or for a purpose outside of use in connection with Contract or for a purpose or in a foreign country not otherwise specified by or disclosed to the Company, or to any infringement which is due to the use of such article or material in association or combination with any other article or material not supplied by the Company; and
- 19.3.2 this indemnity is conditional upon the Purchaser's giving to the Company at the earliest possible time, notice in writing of any claim being made or action threatened or brought against the Purchaser and on the Purchaser's permitting the Company at the Company's own expense, to conduct any litigation that may ensue and all negotiations for a settlement of the claim otherwise this indemnity shall be deemed void.
- 19.4 The Purchaser agrees that unless otherwise agreed in writing by the Company, any and all new inventions, designs or processes that evolve as a result of the Company performing its role or as a result of this Contract shall belong to the Company.
- 19.5 Upon request the Company will provide the Purchaser with a non-exclusive license to use and reproduce any of the documents or drawings supplied by the Company in connection with this Contract.

20. SOFTWARE

- 20.1 All software products supplied by the Company shall be supplied in accordance with the specific provisions of any software licence agreement which is included with the software product. The Purchaser specifically agrees to abide by all of the terms and conditions as set forth in any such software licence agreement. The Parties agree that if there is any conflict between the provisions of a software licence agreement and the Contract, then the software licence agreement shall govern and be the definitive terms and conditions relating to the supply of software products by the Company to the Purchaser.

21. INSOLVENCY

- 21.1 If the Purchaser or any group company of the Purchaser shall become bankrupt or insolvent or compound with its creditors or if a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or if a proposal is made for any other composition, scheme or arrangement with (or assignment for the benefit of) its creditors, or if a receiver, liquidator, administrator, supervisor or administrative receiver or similar officer (in any jurisdiction) is appointed for all or any part of its business or assets or if a petition is presented or a meeting is convened for the purpose of considering a resolution (or other steps are taken) for its winding up (other than for an amalgamation or reconstruction) or a petition is presented for an administration order in relation to it, then the Company shall be entitled to cancel the Contract in whole or in part, without any liability whatsoever to the Purchaser, or prejudice to any other right or remedy which accrues to the Company.
- 21.2 Pursuant to Clause 22.1.1 and without prejudice to any other right or remedy available, the Company shall be entitled to suspend any further deliveries under the Contract without any liability whatsoever to the Purchaser, and if the Products have been delivered but not paid for, the Price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary between the Parties.

22. TERMINATION

- 22.1 The Company may by written Notice terminate the Contract without any liability if:
- 22.1.1 The Purchaser fails to pay any sum due under the Contract within thirty (30) days of any due date;
 - 22.1.2 The Purchaser breaches any terms of the Contract (other than failure to pay, such breach falling within Clause 13) and fails to cure such breach within fourteen (14) days of written notice from the Company requiring that such breach be remedied;
 - 22.1.3 The Purchaser suspends or threatens to suspend payment of its debts or becomes unable to pay its debts as they fall due (as defined in section 123 of the Insolvency Act 1986) or similar legislation applicable in the jurisdiction of the Buyer;
 - 22.1.4 The Purchaser ceases or threatens to cease to carry on its business or a significant part of it; or
 - 22.1.5 The Purchaser makes a proposal for a compromise in satisfaction of its debts or for a scheme of arrangement of its affairs or other arrangements or any proceedings for the benefit of creditors are commenced under any laws, regulations or procedures relating to the reconstruction or readjustment of debt; or
 - 22.1.6 A petition is made for an administration order under the Insolvency Act 1986 or the Purchaser or any other person takes any steps to wind up or dissolve the Purchaser or to appoint a liquidator, trustee, receiver, administrative receiver or similar officer to the Buyer or any part of its undertaking or assets.
- 22.2 Subject to Clause 22.1 above termination, howsoever or whenever occasioned shall be subject to and shall not:-
- (a) Prejudice any rights and remedies the Company may have under the Contract and under the applicable law in respect of any breach of the Contract to the extent such rights or remedies have accrued or become available prior to such termination; or
 - (b) Relieve the Purchaser of any payment obligation that arose prior to termination.

23. WAIVER

23.1 Any failure by Company to insist at any time upon the performance of any of the terms, provisions or undertakings of the Purchaser contained within this Contract or to exercise any rights thereunder shall not constitute or be construed as a waiver thereof or a relinquishment of Company's rights to require the future performance of any such term, provision or undertaking but the obligation of Purchaser with regard to the same shall continue in full force and effect.

24. SEVERABILITY

24.1 If, for any reason, any provision of this Contract shall be declared void or invalid by any court of law having jurisdiction over this agreement, such declaration shall not affect the validity of the remainder of this Contract, which shall remain in full force and effect as if executed with the void or invalid provision eliminated.

25. ENTIRE UNDERTAKING

25.1 Unless otherwise agreed by the Parties formally in writing this Contract supersedes any previous discussion, agreement or understanding between the Parties, whether oral or reduced to writing, contains the entire understanding between the parties with respect to the subject matter hereof, and there are no representations, warranties, promises or undertaking other than those contained in the provisions above.

26. CONFIDENTIALITY

26.1 The Purchaser shall treat the details of the Contract and any information made available in relation hereto as private and confidential and shall not publish or disclose the same or any particulars therefore (save as may be required by law or insofar as may be necessary for the purposes of the Contract) without the previous consent of the Company, providing nothing in this clause shall prevent the publication or disclosure of any such information that has come within the public domain otherwise than by breach of this clause or which is required to be disclosed by law.

27. COUNTERPARTS

27.1 This Contract may be executed and/or conformed in any number of counterparts, each of which shall be deemed an original.

28. ASSIGNMENT

28.1 Neither Company nor the Purchaser can assign this Contract either in part or in its entirety to any third party without the expressed written permission of the other Party.

29. AMENDMENTS

29.1 No changes, alterations, modifications, or additions to this Contract shall be effective unless in writing and signed by a duly authorised representative of the Company.

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30. DISPUTE RESOLUTION

- 30.1 Any dispute that either Party may have with the other Party must be raised in writing with other Parties representative as appropriate giving all relevant details including the nature and extent of the dispute. The Company and the Purchaser shall use reasonable endeavors to resolve any dispute as follows:
- 30.1.1 A dispute which has not been resolved by the Parties representatives within 14 days of being raised may be referred by the Parties to the first level by written notice to the other; and
 - 30.1.2 If the dispute is not resolved at the first level within 14 days of referral, either Party may refer the dispute to the second level by written notice to the other.
- 30.2 Any dispute not resolved by the process detailed in Clause 30.1 above, can be referred by either Party to Mediation by one Party formally and in writing of their intention to use this process. Within two weeks of the notification the Parties agree to select a mediator to resolve any differences of opinion. The mediator will be an independent third party agreed by the Parties who will seek by mediation to resolve the dispute.
- 30.3 If the dispute is not resolved after the procedures detailed in Clauses 30.1 and 31.2 have been followed then the Parties agree to consider resolving the dispute by an Alternative Dispute Resolution (ADR) mechanism, including but not limited to:
- 30.3.1 Early neutral evaluation in accordance with the IDRS (Dispute Resolution Services) Model Early Neutral Evaluation Procedure; or (ii) expert non-binding determination in accordance with the IDRS Cost-Controlled Expert Determination Procedure; or
 - 30.3.2 Mediation in accordance with the IDRS Cost-Controlled Mediation Procedure.
- 30.4 Any ADR will be conducted in UK and in the English language.
- 30.5 The names of the Parties representatives at the first and second levels will be notified to the respective Parties from time to time.

31. HEADINGS

- 31.1 The paragraph headings used in this Contract are for the convenience of the parties hereto and for references purposes only and are not of substantive effect.

32. EXPORT TERMS

- 32.1 For the purposes of this Contract, Incoterms means the international rules for the interpretation of trade terms of the International Chamber of Commerce 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 this Contract, but in the event that there is any conflict between the provisions of Incoterms and this Contract then the latter terms and conditions shall prevail.
- 32.2 Where the Products are supplied for export from the United Kingdom, the provisions of this Clause 32 shall (subject to any special terms agreed in writing between the Company and the Purchaser) apply notwithstanding any other provision of this Contract.

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- 32.3 The Purchaser shall be responsible for securing the necessary permits, permissions and documentation needed to comply with any legislation or regulations governing the importation of the Products into the country of destination and for the payment of any associated duties, taxes or charges.
- 32.4 The Purchaser shall also be solely responsible for ensuring that the Products comply with all local regulations for use in the country in which they are intended to be used.
- 32.5 Unless otherwise agreed in writing between the Company and the Purchaser, the Products shall be delivered FOB the air or sea port of shipment and the Seller shall be under no obligation to give notice under section 32(3) of the Sale of Products Act 1979.
- 32.6 Subject to Clause 8 and if applicable, the Purchaser shall be responsible for arranging for testing and inspection of the Products at the Company's premises before shipment. For the avoidance of doubt, the Company shall have no liability for any claim in respect of any defect in the Products which would be apparent on inspection and which are made after shipment, or in respect of any damage during transit.
- 32.7 Unless otherwise agreed by the Company in writing, payment for the Products provided by the Company shall be made by irrevocable letter of credit opened by the Purchaser in favour of the Company and confirmed by a bank in the territory making the purchase acceptable to the Company or, if the Company has agreed in writing on or before acceptance of the Purchaser's order to waive this requirement, by acceptance by the Purchaser and delivery to the Company of a bill of exchange drawn on the Purchaser payable 30 days after sight to the order of the Company at such branch of a Bank in England as may be specified in the bill of exchange.
- 32.8 The Purchaser under takes not to offer the Products for resale in any country unless otherwise agreed by the Company in writing.

33. NOTICES

- 33.1 Any formal communications between the Company and the Purchaser shall be sent in writing, and signed by a director, other officer or authorised signatory on behalf of the Company or personally or by a director, other officer or authorised signatory on behalf of the Purchaser or by electronic communication (as defined in The Companies Act 1985 (Electronic Communications Order 2000 (S.I.2000/3373)) and shall either be delivered personally or sent by first class post or facsimile transmission or electronic communication to their respective addresses. Communications delivered by hand, will be taken as being received immediately upon delivery, communications by post will be deemed to have been received on the second business day after posting (or in the case of international post on the fifth business day after posting) and communications by telefax or electronic communication three business hours after transmission (if sent before 2.00 pm on a business day) or 10.00 am on the following business day in any other case.

34. GOVERNING LAW

- 34.1 This Contract shall be governed by, construed and enforced in accordance with the laws England and Wales without regard to the principles of conflicts of law thereof. The Parties expressly agree that the courts of England and Wales shall have subject matter jurisdiction to entertain any action brought to enforce this Agreement and, by execution hereof, the Parties voluntarily submit to

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personal jurisdiction of such courts.

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