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2. **PRODUCTS AND SERVICES.** The products are those described in Seller's order confirmation or packing slip, unless, in the event of a discrepancy between Buyer's order and Seller's order confirmation or packing slip, Buyer notifies Seller in writing of its disagreement, not later than five working days after receipt of Seller's order confirmation or packing slip. Where appropriate in these T&C, the term products shall include services provided by Seller. Lease or rental of equipment shall always be subject to a separate signed agreement.
3. **PRICE.** Prices are exclusive of VAT and determined by the confirmation Buyer receives from Seller and unless otherwise stated will be FCA Seller's facility, place of manufacture or warehouse (Incoterms 2000) and payment will be due within 30 days of the invoice date in the manner set out in this clause. Sellers invoices will only be issued without domestic VAT where Buyer either makes available to Seller their valid VAT number in the case of an intercommunity supply or provides a valid certificate or acceptable statement for VAT or duty exemption. If Buyer is to arrange the export or intercommunity shipment, upon request by Seller, Buyer agrees to provide free of charge to Seller, evidence of exportation or intercommunity shipment that makes reference to Seller's invoice number and this documentation is acceptable to the relevant tax or custom authorities. In the event that there is either a failure to meet any of the above conditions or the information or documentation provided is deemed to be defective in any way by the tax or custom authorities then the Seller will have the right to separately invoice Buyer for any taxes, VAT or duties payable together with any interest or penalties that Seller incurs as a result and Buyer shall pay this invoice in accordance with the payment terms of these T&C. **Buyer shall read carefully any further detailed VAT instructions Seller inserts in the relevant quote, order confirmation or invoice.** Buyer shall not be entitled to make any deduction from payments due to Seller on account of any alleged set-off or counterclaim. Seller has at all times the right to claim full or partial advance payment and/or otherwise claim security for payment. Should Buyer fail to pay Seller in a timely manner, Buyer agrees to reimburse Seller for Seller's costs of collecting the amounts due and to pay Seller interest on any late payment at a rate of 3% above the base rate of Seller's bank from time to time to accrue until actual payment is made. By the mere fact of non-performance or late performance Buyer is in default without notice. Seller may suspend or cancel delivery of any order or instalment in the event that Buyer exceeds its credit limit with the Seller. All remittances must be in a single payment in the full amount of the invoice (adjusted for any credit notes issued by Seller) and must be done through Wire or electronic funds transfer (Buyer must be the originator of the wire) or irrevocable letter of credit with a reference to the invoice number.
4. **DELIVERY.** Any delivery dates Seller quotes or which are set out in Seller's order confirmation or acceptance are estimates only and are not intended to be legally binding. Seller cannot guarantee delivery on a specific date. The Buyer will be invoiced for the quantity actually delivered. Unless otherwise agreed in writing, delivery may be made in instalments. Delivery time may be extended if and for so long as the Buyer is delayed in the performance of any obligation to Seller. Seller will not in any circumstance be liable for any loss or damage whatsoever due to delay in delivery (including pursuant to instalments) however occasioned unless the same was attributable to Seller's gross negligence or willful misconduct. The quantity recorded on Seller's packing slip shall be accepted by both parties as correct, unless objected to in writing by Buyer within five working days from delivery. If Buyer refuses to accept delivery of products or any instalment thereof, Seller may, without prejudice to its other rights, arrange for the storage of the products at the expense and risk of Buyer. All risk of loss or damage passes to Buyer at the time products have been delivered to the carrier at Seller's premises, or another place that has been agreed in writing. Seller shall retain title to the products delivered to Buyer until Seller has received full payment for all products described in Seller's confirmation. Until such time as title in the products passes to Buyer, if Buyer re-sells the products or any goods manufactured out of products sold by Seller, Buyer assigns to Seller all proceeds from their sale up to the amounts owing to Seller and Buyer shall hold such amounts separately on trust for Seller. Seller shall have the right to access any premises where the products are stored to inspect or recover the goods if Buyer is in breach of any of these terms or is declared bankrupt, requests (temporary) moratorium, is insolvent or is unable to pay its debts, or takes any steps or any other person takes such steps towards the liquidation of Buyer's business.
5. **SITE ACCESS.** Neither party shall require (i) waivers or releases of any personal rights or (ii) execution of documents which conflict with the terms of this agreement, from employees, representatives or Buyers of the other in connection with visits to its premises and both parties agree that no such releases, waivers or documents shall be pleaded by the other or third persons in any action or proceeding.
6. **WARRANTY.** Products sold by Seller to Buyer conform to the manufacturers' specifications as set forth in the applicable manual(s) delivered to Buyer. Buyer will inspect all products Buyer receives for damage, defect or shortage promptly after Buyer receives them, and will give Seller written notice within five working days from delivery of any damage, defect or shortage that Buyer finds or would reasonably be expected to find. In case Buyer resells the products, Buyer is responsible for all damages to the products. Buyer must give Seller written notice of any defect within the warranty period of the product. Unless Seller informs Buyer otherwise, the warranty period starts from the date of delivery of the product and/or completion of the services and lasts for twelve months for products (other than consumables) and ninety days from completion date for services. If any products or services do not conform with this Warranty or are otherwise defective, Seller may at its option, either repair the products, replace the products with same or compatible new or repaired products, re-perform the service or refund the purchase price. This is Buyer's exclusive remedy for breach of warranty. Seller is not responsible for conditions or applications over which Seller has no control. Defects or problems as a result of such conditions or applications are not the responsibility of Seller. Such conditions include normal wear and tear, catastrophe, fault or negligence of the user or a party other than Seller, improper installation, application, storage, maintenance or use of the products, or other causes external to products, calibration services performed by third parties or failure to conform to any applicable recommendations of Seller. The warranty does not cover, and Seller does not warrant, batteries of any type used in connection with the products furnished. With respect to any products not manufactured by Seller, only the warranty, if any, given by the manufacturer shall apply. Seller will not be responsible for labour costs of removal or reinstallation of products. In the case of products repaired or replaced by Seller the Warranty shall terminate at the end of the original Warranty period. Buyer should not return products until Seller agrees that Buyer may do so. Product that is returned without authorization will not be repaired or replaced and will be returned to the sender upon Buyer's expense. Buyer shall bear the cost and risk of transport of the defective products or defective parts thereof to Seller, and Seller shall bear the cost and risk of transport back to Buyer. Should the products, or any part thereof, be found not to have any defect, or where the defect is attributable to an action or omission on the part of the Buyer, its personnel, customers or others, after the delivery was effected, Buyer shall pay all the transport costs. In any event, except as set out in clause 7, the maximum extent of Seller's liability howsoever arising is equal to the net purchase price Buyer actually paid Seller. This Warranty is given only to the original purchaser and does not extend to any subsequent purchaser or transferee of Seller's products. The original purchaser is not entitled to extend or transfer this warranty to any other party. **To the fullest extent permissible by law, this warranty is in lieu of all other warranties, conditions, representations or other terms, whether written or oral, express or implied by statute, including any warranty of merchantability or fitness for a particular purpose.**
7. **LIMITATION OF CLAIMS.** Seller will not be responsible for any harm arising out of Buyer's purchase, possession or use of any products supplied by Seller, Buyer's use of any function on Seller's web-sites or any technical advice Seller may offer, except as agreed in the Warranty set out above or in case of gross negligence or willful misconduct to the extent such is attributable to Seller. Seller will not be liable for indirect or consequential damages, including, but not limited to, loss of profits, cost of any substitute for the products Buyer bought, claims of third parties or injury to person or property. Seller shall not be liable for any damage, injury, contamination or loss resulting in connection with breach by Buyer of its obligations under clause 13 and Buyer shall indemnify and hold Seller, its employees, suppliers and sub-contractors harmless against all claims, costs, loss or damages in connection with such breach. Conditions limiting, excluding or establishing liability, which can be invoked by suppliers or independent contractors of Seller against Seller in respect of the goods delivered, may also be invoked against Buyer. Nothing in clause 6 and 7 or in any other part of this agreement is intended or shall be construed as excluding or limiting Seller's liability for (i) damage ensuing from fraud, gross negligence or willful misconduct by Seller (not including employees, subcontractors or agents) or its executive management; or (ii) any other liability that cannot be excluded or limited under applicable law.
8. **TECHNICAL ADVICE.** Buyer is responsible for the design, configuration, integration, testing and labelling of any system that Buyer makes using products Buyer buys from Seller and Buyer will not rely on anything on Seller's web site or otherwise about the suitability of products or services Seller provides. Buyer is responsible for testing and investigating products sold by Seller enough to form an independent judgment concerning their suitability for the use, conversion or processing intended by Buyer and will not make any claim against Seller based on Seller's technical advice, statements, data, services or recommendations.
9. **PATENTS.** Seller warrants that products furnished hereunder shall be delivered free of any rightful claim of any third party for infringement of any valid US or European patent. If notified promptly in writing by Buyer and given authority, information and assistance, and contingent upon Buyer not taking any position adverse to Seller in connection with such claim, Seller shall defend, or may settle at its expense, any suit or proceeding against Buyer so far as based on a valid claim for infringement which would result in a breach of the warranty stated in this section and Seller shall pay all damages and costs awarded therein against Buyer due to such breach. In case any product or part thereof is in such suit held to constitute such an infringement and the use for the purpose intended of said product or part is enjoined, Seller shall, at its expense and option, either procure for Buyer the right to continue using said product or part, or replace same with a non-infringing product or part, or modify same so it becomes non-infringing, or remove the product and refund to Buyer the purchase price (less reasonable depreciation for any period of use) and any transportation costs separately paid by Buyer. The foregoing states the entire liability of Seller for patent infringement by the products or any part thereof and is subject to Buyer promptly informing Seller of any claim and allowing Seller full conduct of the claim. Seller assumes no liability whatsoever for patent infringement and Buyer will hold Seller harmless against any infringement claims in relation to product or part specified by Buyer or manufactured to Buyer's design, or to the use of any product furnished hereunder in conjunction with any other product in a combination not furnished by Seller as a part of this transaction.
10. **EVENTS BEYOND SELLER'S CONTROL.** Seller is entitled to invoke force majeure if the implementation of the agreement is, in whole or in part, temporarily or not, prevented or impeded by circumstances reasonably out of its control, including extreme weather conditions, natural catastrophe, warfare, fire, government commission, site or building blockades, transport interruptions, strikes, work-to-rule slowdowns and lockout, machine breakdown, delay from third parties to supply Seller, accidents and interruptions of business. In the event of force majeure on the part of Seller, Seller shall not be liable and its obligations are suspended. If the force majeure lasts longer than 90 days, both parties are authorized to rescind the non-feasible parts of the agreement by a written declaration.
11. **SOFTWARE.** All Software provided by Seller under these T&C remains Seller's property and shall be subject to the Seller Software License available upon request.
12. **REGULATORY APPROVAL COMPLIANCE.** Seller will give Buyer, if possible, approval certifications on request and Buyer will provide these to all those required by law to receive them. Buyer agrees to dispose of products and/or disposable packaging as required by any applicable disposal or recycling laws. Should Buyer be regarded as "Producer" under European Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment and its implementing legislation applicable, as amended from time to time, Buyer will be solely responsible for and shall ensure full compliance with such obligations.
13. **EXPORT CONTROL COMPLIANCE.** Buyer undertakes to Seller that any products, technology or software which Buyer receives from Seller will only be exported by Buyer in compliance with applicable export control laws. Buyer agrees that it will not use or knowingly support the use by others of such products, technology or software in the design, development, production or use of nuclear, chemical or biological weapons or ballistic missiles.
14. **ELECTRONIC COMMERCE.** Seller may offer products for sale using the Internet or e-mail. All sales of products made using any such method will be governed by these T&C and by any additional terms set out or referenced in Seller's Internet site. Buyer may not share any password, access code or similar credential which may be issued to it by Seller, and Seller reserves the right to suspend or revoke any such credential. Buyer is solely responsible for ensuring the security and integrity of its ordering process. Any information provided by Seller via any Internet site or electronic communication (i) is subject to correction or change without notice, and (ii) is provided for the sole use of Buyer for purposes of facilitating individual transactions involving the purchase and sale of Seller's products.
15. **DATA PROTECTION.** In its capacity as controller, Seller processes and controls Buyer's personal data ("**Data**") whenever Buyer enters into a relationship with Seller. Seller undertakes this processing for the following purposes: to establish and maintain its debtor database and the respective risk profiles as well as for operational and factoring purposes and to rationalize data protection issues within its group. By entering into an agreement with Seller, Buyer consents to this processing, and consents to Seller's communication of Buyer's Data to affiliated companies for the same purposes as mentioned above. Provided that Seller ensures adequate safeguards, Buyer also consents to the fact that Seller may send Buyer's Data to Seller's affiliated companies located in any jurisdiction outside the EEA. Buyer's Data will be kept as long as necessary, and at least until the Seller/Buyer relationship comes to an end. Buyer is entitled to object at any time and free of charge to the processing of its Data for the purposes of direct marketing by sending an email expressing its objection to Seller. Buyer is entitled to access its Data and have it rectified as necessary.
16. **ANTI MONEY LAUNDERING.** Seller is firmly committed to avoid any involvement with money laundering, to comply fully with all applicable anti money laundering, currency reporting and record keeping requirements and to take affirmative steps to prevent, detect and report to appropriate authorities suspected violations. Seller will request, and Buyer agrees to cooperate, appropriate information from its buyers to determine if its buyers are legitimate, trustworthy and creditworthy.
17. **TERMINATION FOR DEFAULT.** If Buyer does not fulfil one or more of its obligations in these terms and conditions, does not fulfil them timely or adequately, is declared bankrupt, requests (temporary) moratorium, is insolvent or is unable to pay its debts, or takes any steps or any other person takes such steps towards the liquidation of Buyer's business, or if Buyer's assets are attached in whole or in part, or if Buyer undergoes any event that is analogous to any of the aforementioned in any jurisdiction, Seller has the right to suspend the implementation of the agreement or to rescind the agreement in whole or in part, without prior notice or default, by written declaration, at its option and always reserving any rights to which it is entitled with respect to amounts due to Seller, compensation for costs, damage and interest. In these cases all of Seller's claims on Buyer are immediately and totally due. Buyer is authorized to rescind the agreement only in the events referred to in these terms and conditions, and then only after payment to Seller of all amounts owed to Seller at that time, whether due or not.
18. **OTHER.** (a) Each provision of this agreement is separate and independent. If any provision or part of a provision is found by a court that has appropriate jurisdiction to be illegal, void or otherwise unenforceable, it shall to that extent be deemed not to form part of these terms but the remainder of that provision and all of the other terms shall not be affected. (b) Unless otherwise specified by Seller, any quotation of Seller shall expire thirty (30) days from the date of issuance and may be modified or withdrawn at any time prior to the date of Buyer's order. (c) All information sent to Buyer shall be considered as proprietary and confidential.
19. **HEALTH AND SAFETY MATTERS.** Buyer shall take all necessary precautions, at all times, for the safety of Seller personnel at Buyer's site. If, in Seller's opinion, the safe execution of the agreement at the site is, or is apt to be, imperiled by local conditions, Seller may remove some or all of its personnel from the site and/or supervise performance of all or any part of the agreement at a location solely determined by Seller; any such removal by reason of health or safety matters shall be considered to be an event beyond Seller's control. Before issuing its purchase order, Buyer shall advise Seller in writing of all applicable and relevant site-specific rules, regulations, safety codes, and laws.
20. **CHANGES.** Each party may, from time to time, propose changes in the scope of work to be performed by Seller under the agreement, which changes will be subject to mutual agreement of the parties. Neither party shall be obligated to proceed with any change until the parties have agreed upon its effect and signed a written change order document.