

Terms and Conditions of Sale

These terms and conditions of sale (these "**Terms**") together with the attendant proposal, quotation, order acknowledgment or confirmation (the "**Agreement**") are the exclusive terms and conditions that govern the sale of goods or the provision of services by the seller ("**Seller**") to the purchaser ("**Buyer**"). The Seller hereunder is the Struers entity identified on the attendant proposal, quotation, order acknowledgment or confirmation (collectively, "**Seller's Forms**").

1. Definitions

- a. "**Goods**" means all equipment, parts, materials, supplies, software, firmware, documentation (including design engineering) and other products Seller has supplied to Buyer under the Agreement.
- b. "**Services**" means any field commissioning, start-up, installation, repair, calibration, training, consultation, or professional services furnished by Seller to Buyer.

2. Acceptance

The sale of Goods and Services is expressly conditioned on Buyer's acceptance of the Agreement in its entirety (which consists of these Terms together with the terms set forth in Seller's Forms) as the complete and exclusive agreement. Any additional or different terms proposed by Buyer in any documents (including without limitation, Buyer's purchase order) are expressly objected to without need of further notice of objection and are of no effect and will not be binding upon Seller. Any oral or written representation, warranty, course of dealing or trade usage not contained in these Terms or the Agreement shall not be binding on either party. Any changes to these Terms or any additional terms must be agreed to by both Buyer and Seller in a written document expressly stating that it modifies these Terms. Any order for Goods and Services, and/or Buyer's receipt of Goods or Services shipped or performed under the Agreement shall constitute assent to these Terms.

3. Prices

Prices for Goods and Services shall be the price listed in Seller's published price list at the time of shipment or performance of Services, or as otherwise specified in writing; provided that all quoted prices are firm for thirty (30) days from the date of written quotation, or as otherwise specified by Seller in writing (errors and omissions excepted). Quoted prices exclude shipping, freight, or transportation costs, insurance costs, testing and inspection fees, legalization costs and any other costs or expenses, unless otherwise specified. Prices include standard packaging only. Any special handling or packaging requests will result in additional charges to Buyer. Unless otherwise agreed, prices for Resale Products (as defined below in Section 14) will be the price of such Resale Products at the time the Resale Products are shipped to Buyer. Buyer acknowledges that the prices for the Goods and Services are based on these Terms as the exclusive terms of sale, and accordingly, Buyer confirms that the limitations and exclusions of liability and the insurability of the risks concerned have been taken into account by Buyer in agreeing to the prices.

4. Taxes

Quoted prices are exclusive of all local, city, state, province, federal or foreign sales, use, excise, or other taxes or charges payable with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the Goods or Services. All government charges upon the Goods or Services tendered under the Agreement, including, but not limited to, use, occupation, VAT, income, export and import taxes, shall be paid by Buyer or, in lieu thereof, Buyer shall furnish Seller with a tax exemption certificate acceptable to the authority imposing the tax on Seller. However, Buyer will reimburse Seller for any taxes incurred by it on the sale of Goods or Services to the extent such tax exemption certificate proves to be insufficient to the applicable taxing authority for any reason. Such reimbursement must occur within ten (10) days from the date Seller becomes aware of the invalidity of such tax exemption certificate.

5. Documentation

Seller shall provide Buyer with the data and documentation that is specifically identified in the quotation or order acknowledgment. Additional copies of standard data and documentation or requests for special data and documentation will be made available to Buyer at additional cost. Such documentation includes, but is not restricted to, drawings, specifications, instruction manuals, training materials, and other such data or artwork furnished to Buyer or Buyer's subcontractors. The definitions and restrictions set forth in the following subparagraphs apply regardless of the type of media on which the documents are provided.

- a. **Document Classes.** Documentation shall comprise two classes: Class 1 shall include all documents describing the standard functionality and operation of Seller's products, commonly referred to as instruction manuals, which are not produced exclusively for Buyer. Class 2 shall include all documents produced by Seller specifically for Buyer for the purpose of facilitating the fair use of the Goods or Services under the Agreement.
- b. **Copyrights.** Ownership of copyrights for all documents in all classes is retained by Seller. Buyer is granted a license to make, without further approval by Seller, a limited number of copies, in whole or in part, of a Class 1 document, so long as the copied portion includes the applicable copyright and trademark statements found on the original document. Buyer is further granted a license to make a limited number of copies, in whole or in part, of any Class 2 document, so long as the copied portion includes the applicable copyright and trademark statements found on the original document.
- c. **Trademarks.** Buyer is granted a license to use the Seller's trademarks in documentation produced by Buyer for the purpose of facilitating the fair use of the Goods provided under the Agreement, so long as the trademarks are treated in a manner that is consistent with applicable trademark laws of the jurisdictions in which Buyer is located and clearly identified as trademarks of Seller.

Documents provided to Buyer, or copies of copyrighted materials made by Buyer under the provisions set forth in subparagraph "b" above, may be used by Buyer or Buyer's subcontractors only for the purpose of facilitating the fair use of the Goods provided under the Agreement. Such documents contain information considered to be Seller's confidential and proprietary property and may not be disclosed to any other third party without Seller's

written permission.

6. Changes Requested by Buyer

No change requested by Buyer after formation of the Agreement that affects the schedule or other requirements of the Goods or Services to be provided or that otherwise affects the scope of the Agreement shall be effective or binding on Seller, unless (i) such change has been submitted in writing by Buyer to Seller, and (ii) Seller has expressly agreed to such change. All charges and delays resulting from any such change shall be solely determined by Seller and shall be binding upon Buyer.

7. Termination, Suspension, and Breach.

- a. Unless the Goods have been shipped or the Services have been performed, Buyer may cancel its order or terminate or suspend performance under the Agreement at Buyer's convenience by providing written notice to Seller, subject to the following charges, which shall be solely determined by Seller:

Buyer will reimburse Seller for any direct or indirect cancellation charges incurred by Seller, including without limitation lost profits and all costs and expenses incurred by Seller to prepare the Goods or Services for satisfaction of Buyer's order. Further, all orders cancelled will be subject to a restocking fee to be determined by Seller in its sole discretion, but in no event will such fee be less than twenty percent (20%) of the purchase price of the Goods or Services.

For custom orders, a 100% cancellation charge shall apply at the time of system completion to all canceled Goods or Services. Further, Seller reserves the right to charge Buyer a non-cancellation fee equal to up to one hundred percent (100%) of the purchase price of the Goods or Services, with the specific amount of such non-cancellation fee to be determined in the sole discretion of Seller. Any non-cancellation fee will be communicated to Buyer, and Seller will have the right to keep the non-cancellation fee (in addition to any other remedies it may have pursuant to this Section) in the event Buyer cancels such custom order. . .

- b. If Buyer fails to make a payment to Seller for the Goods or Services delivered or provided, or if Buyer materially breaches any provision of the Agreement, Seller may take any or all of the following actions: suspend or discontinue delivery of Goods or performance of Services until Seller receives full payment therefor from Buyer, immediately terminate the Agreement, or declare all outstanding amounts to be immediately due and payable.
- c. If Buyer fails to pay any sum to Seller when due or makes a voluntary arrangement with its creditors, or if a receiver is appointed or a petition is presented for the administration, winding-up or bankruptcy of Buyer, or if Buyer enters into liquidation or takes or suffers any analogous action, becomes insolvent, files for bankruptcy, or otherwise admits its inability to pay its debts as they mature, or if Seller has reason to believe that Buyer will be unable to pay its debts to Seller when due, all sums owed by Buyer will become immediately due and payable, and Seller will be entitled to require payment in full prior to further manufacture or delivery of the Goods or performance of the Services, or to cancel, suspend or terminate all or any further manufacture or delivery of Goods or performance of Services, without incurring any liability to Buyer.
- d. Setoffs. Seller will have the right to setoff and apply any funds received from Buyer for the benefit of any other overdue accounts or amounts owed to Seller or its affiliates by Buyer or its affiliates.

8. Credit

The amount of credit offered by Seller to Buyer is contingent upon Seller's opinion of Buyer's capacity, ability, and willingness to promptly pay for Goods received under the terms of the Agreement. Provided that, in Seller's opinion, there is a material adverse change in Buyer's financial condition and/or Buyer has not, within the agreed time, fully paid for Goods and/or Services previously supplied under the Agreement and/or another agreement(s) with Seller, Seller reserves the right to revoke Buyer's credit and/or suspend performance on this and/or other orders for Goods and Services without liability to Buyer.

9. Inspection

Buyer must inspect the Goods and the Services promptly upon physical receipt of the Goods or performance of Services. Buyer may reject Goods or Services if it discovers a defect materially impairing the value of the Goods or the Services, provided that any claim regarding a material defect must be made promptly, and no later than five (5) business days from the date of Buyer's physical receipt of the Goods or upon Seller's performance of the Services, or Buyer will be deemed to have waived such claim. Any lesser defects are governed by the terms of Seller's applicable standard limited warranties. Claims for shortages must be reported to Seller promptly, and no later than five (5) business days from the date of Buyer's physical receipt of the Goods, or Buyer will be deemed to have waived such claim against Seller. To the extent any shortage or damage to the Goods has occurred during shipping, Buyer's exclusive remedy will be to file a claim with the carrier. In no event shall Seller be liable for Goods lost or damage during shipment.

10. Shipment and Risk of Loss

All sales are Ex Works (pursuant to Incoterms 2010) Seller's factory, unless otherwise agreed upon in writing. Shipping contracts made by Seller shall be to Buyer's account. All claims for loss or damage after risk of loss has passed to Buyer shall be filed by Buyer with the carrier. Buyer shall be liable to Seller for the full price of the Goods and Services, irrespective of loss or damage in transit. Notwithstanding the foregoing, Seller reserves its rights to stop goods in transit.

- a. **Transportation Expenses:** Transportation expenses shall be paid by Buyer. Seller shall select the carrier. Full insurable values shall be declared with the resultant insurance premiums being paid by Buyer. Shipping and insurance charges shall be prepaid by Seller and added to Buyer's invoice at cost, unless otherwise agreed to by the parties.
- b. **Schedules:** Dates quoted by Seller are estimated based upon Buyer's specified requirements at time of order acceptance. Delays in receipt of approvals and/or information, changes that result in delays, or requested deferment of schedules may

cause additional expense to Seller. Accordingly, in addition to the escalation provisions of subparagraph "c" below, Seller shall be entitled to an extension of time, and reimbursement of costs. The change in price shall be evenly divided among any invoices remaining to be issued.

- c. **Escalation:** All prices quoted are based on scheduled shipments within twelve (12) months from date of order acceptance. Delays caused solely by Seller beyond the quoted delivery date shall not be subject to escalation.

11. Delivery of Goods or Services

Seller will use reasonable efforts to deliver the Goods or perform the Services on the date or within the period for delivery or performance agreed by the parties, but time for delivery or performance will not be of the essence, and Seller will not be liable for any loss or expense whatsoever caused by late delivery or performance. Seller will use reasonable efforts to comply with Buyer's delivery procedures. If Buyer is unable or unwilling to accept delivery of the Goods in accordance with the Agreement, Seller may retain the Goods and arrange for or provide their storage and insurance as it determines in its sole discretion and at Buyer's expense. If Seller provides such storage, Seller will be entitled to charge Buyer at Seller's then current standard rates for storage. Such retention or dispatch of any Goods for storage will be treated as constituting their delivery to Buyer in accordance with the Agreement for all the purposes of these terms and conditions. If Buyer is unable or unwilling for any reason to accept performance of the Services in accordance with the Agreement, Seller will use reasonable efforts to perform the Services as soon as practicable following Buyer's confirmation, by not less than fourteen (14) days' notice in writing, of the date on which Buyer will be ready. If the date specified is more than 30 days later than the date specified in the Agreement, Seller will be entitled to invoice Buyer and be paid for the Services as if they had been completed, and to invoice Buyer following performance for any additional cost or expense of performance resulting from the delay.

12. Payments

Orders of an aggregate amount less than \$30,000 must be prepaid, or in special cases with Seller's written agreement, paid net cash against shipping documents through irrevocable, confirmed letters of credit. For orders of an aggregate amount equal to \$30,000 or more, Buyer must prepay 30% of the aggregate amount upon Seller's acceptance of the order. Payment of the remaining amount must be made against invoice within the due date specified on Seller's sales order acknowledgement. Invoices will be issued by Seller as of the date of shipment, performance of Services or commencement of Service Plan. Payments due Seller must be paid to Seller by wire transfer at Seller's designated bank account. All payments must be in the currency designated on the Seller's sales order acknowledgement. All invoices will be deemed to be accepted by Buyer unless Seller receives written notice within ten (10) business days from the date of the invoice. Invoiced amounts must be paid in full without any discounts, deductions or set-offs by Buyer. A monthly service charge of 1.5% may be charged on amounts owed by Buyer to Seller that have not been paid within the specified due date, subject to maximum amount permitted by law. If any overdue amounts have been handed over to an attorney for their collection, Buyer will reimburse Seller for all costs of collection and associated attorneys' fees (with such costs and fees being not less than thirty percent (30%) of the total overdue amount payable). Seller may apply any sums received from Buyer first to the payment of any such costs and expenses, then interest accrued, and then all other amounts owed to Seller in date order, starting with the oldest, regardless of any disputes or Buyer's attribution of payment to any particular invoices.

13. Rights of Seller until Payment by Buyer

Until all amounts have been paid in full, Buyer will hold the Goods and their proceeds upon sale as fiduciary for Seller, and Seller will be entitled to have access to Buyer's premises at all reasonable times to inspect and remove the Goods; provided that Buyer if Buyer is a reseller of the Goods, Buyer may sell the Goods as Seller's agent in the ordinary course of its business, unless and until Seller terminates Buyer's authority to do so by written notice. Notwithstanding the foregoing, Seller may bring an action for the price of the Goods or Services at any time until Seller has been paid in full.

14. Resale Products; Third Party Components

a. "Resale Products" are items that are sold with Seller's Goods and that are not manufactured by Seller, but are supplied as an accommodation to Buyer. Seller's responsibility for Resale Products is limited to reasonable commercial effort to arrange for procurement and shipping. Unless otherwise agreed, all prices are F.C.A. Resale Product manufacturer's factory. Standard documentation shall be only as supplied by the Resale Product manufacturer. Buyer agrees that Seller has no liability for Resale Products beyond Seller's direct control and beyond that which is necessary to reasonably discharge the above stated responsibility, and Seller shall not be liable for delays caused by Resale Product manufacturer.

b. Notwithstanding anything else contained herein, to the extent that any Goods or any component or part of the Goods has been manufactured by a third party and not by Seller or its affiliates ("Third Party Components"), such Third Party Components shall be warranted only to the extent of and under the conditions of the original manufacturer's warranty. Seller will not be responsible for any defects in such Third Party Component; provided that upon Buyer's request, Seller will, to the extent it is able to do so, transfer to Buyer the benefit of whatever warranties and other rights as to defective components that Seller may have against its supplier.

c. SELLER MAKES NO WARRANTY FOR RESALE PRODUCTS OR THIRD PARTY GOODS, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE SOLE WARRANTY SHALL BE THE WARRANTY, IF ANY, PROVIDED BY THE MANUFACTURER OF THE RESALE PRODUCT OR THE THIRD PARTY COMPONENT. Buyer further agrees that Buyer's SOLE AND EXCLUSIVE REMEDY for Seller's breach of its stated responsibilities as set forth above shall be limited to the difference between manufacturer's price to Seller for the Resale Products or Third Party Components and Seller's price to Buyer for the Resale Products or Third Party Components that are the subject of such breach.

15. Limited Warranty.

a. Seller warrants, to its original customer only, that (i) Goods and their component parts manufactured by Seller are free from defects in material and workmanship until the earlier of twelve (12) months from the date of start-up or eighteen (18) months from date of shipment; and (ii) the Services will be performed with reasonable skill and care. If within the specified warranty period it is discovered that the Goods fail to conform to specifications or have a defect in materials or workmanship, or if the Services are not performed as warranted, then Seller must promptly be notified in writing, which notification, in any event must be received no later than twenty (20) months from the date of shipment of Goods or twelve (12) months from the date the Services were performed. The foregoing warranty shall not apply to Goods or Services that Seller, in its sole discretion, determines to be damaged as a result of (i) misuse, neglect or accident; (ii) improper application, installation, storage or use; (iii) improper or inadequate maintenance or calibration; (iv) operation outside of the published environmental specification; (v) damage caused by disasters such as fire, flood, wind and lightning (vi) improper site preparation or maintenance; (vii) unauthorized repairs or replacements or use of parts or consumables not supplied or recommended by Seller; (viii) modifications negligently or otherwise improperly made or performed by persons other than Seller; (ix) Buyer-supplied software or supplies; or (x) use in conjunction with or interfacing with unapproved accessory equipment or attachments.

b. If Seller determines that the Goods or Services fail to conform to the warranty, then within a reasonable time after Buyer's notification of a warranty claim, Seller will correct any failure to conform to specifications or any defect in materials or workmanship, or in lieu of such repair, and at its sole option, shall replace the Goods. Seller's obligation with respect to such Goods or Services shall be limited to replacement or repair of the nonconforming Goods or Services (parts and labor only) and conditioned upon Buyer promptly returning the Goods in question to Seller upon its request. Seller may, in its sole discretion, refund all or any part of Seller's charge for any Services that Seller determines, in its reasonable judgment, failed to conform to the express warranty. In no event shall Seller be liable for consequential, incidental, indirect or special damages, or for transportation, installation, adjustment or other expenses that may arise in connection with such Goods or Services. All warranty service will be performed by the Seller's employees or authorized representatives. If Seller determines that the Goods or Services did not fail to conform to the warranty, or that such failure to conform was not the solely caused by Seller, then Buyer shall reimburse Seller for Seller's time, costs and expense incurred in responding to Buyer's claim. Prior to any obligation of Seller to perform any limited warranty service as set forth herein, Buyer must have paid all invoices to Seller in full, whether or not they are specifically related to the Goods or Services at issue.

c. There is no warranty by Seller with respect to: (i) the Goods operating uninterrupted or error-free; (ii) the actual performance of the Goods, other than their capability to meet Seller's specifications therefor; (iii) the removal or installation of the Goods from a worksite or process, or the suitability of an installation environment; (iv) the Goods' electronic components or associated accessories (including without limitation circuit boards and integrated circuits); (v) the Goods' maintenance, adjustments, minor repairs, and other inspection requirements, preventative or otherwise; (vi) the use of the Goods under inappropriate conditions or not in accordance with operating instructions; or (vii) the use of Goods in connection with the operation of a nuclear facility.

d. EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY. SELLER DISCLAIMS ANY AND ALL OTHER WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE GOODS AND SERVICES PROVIDED HEREUNDER, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, ORAL OR WRITTEN STATEMENTS OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, FREEDOM OF INTERFERENCE WITH ENJOYMENT, QUALITY, ACCURACY, COMPLETENESS, FITNESS OF RESULTING WORK PRODUCT, OR THAT THE PRODUCTS OR SERVICES WILL GENERATE CERTAIN RESULTS, WORK IN COMBINATION WITH OTHER COMPONENTS OR AS AN INTEGRATED SYSTEM OR WILL FULFILL ANY OF BUYER'S PARTICULAR PURPOSES OR NEEDS. SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO THE DESIGN, SALE, INSTALLATION OR USE OF ITS PRODUCTS. SELLER'S WARRANTIES WILL NOT BE ENLARGED BY, NOR WILL ANY OBLIGATION OR LIABILITY OF SELLER ARISE DUE TO SELLER PROVIDING TECHNICAL DIRECTION, FACILITIES OR SERVICE IN CONNECTION WITH ANY GOODS OR SERVICES.

16. Buyer's Obligations

a. Buyer shall comply with all applicable laws related to its order for and receipt and use of the Goods and Services.

b. Buyer shall cooperate with Seller in all matters relating to Services and provide sufficient access to the premises where the Services will be performed and to such office accommodation and other facilities and storage as Seller may reasonably request in connection with providing the Services. Buyer shall ensure that Seller has sufficient access to an adequate supply of utilities and shall be responsible for obtaining and maintaining all necessary licenses, permits and consents for the Services.

c. Buyer will ensure that each location where Services are being performed (other than Seller's facilities) is safe and free of hazards, and that the working conditions will not adversely affect the health and safety of Seller's personnel, or the personnel of Seller's agents or contractors; and Buyer shall indemnify and hold harmless Seller from and against any claim, loss, damage or expense or injury of whatever nature suffered or incurred by Seller or any such personnel or any third parties, arising from or in respect of the performance of the Services at the site, except to the extent resulting from Seller's negligence. Buyer acknowledges that individuals who provide Service shall have the right to refuse or decline to provide any Service if such individual perceives a health or safety risk, and such action shall not be deemed to be a breach of any Seller obligation.

d. Except as otherwise expressly stated in these Terms, and to the fullest extent permitted by law, Buyer will indemnify and hold harmless Seller and its officers, employees, agents or contractors fully from and against any third party claims, including all legal fees, costs

and expenses, for damage, injury, expense or loss of amenity, income, business or profit or any other loss, whether due to negligence or otherwise, arising from or in respect of the Goods or Services or otherwise from or in relation to the Agreement.

17. Force Majeure

Seller shall not be liable for its failure to perform under the Agreement or for any direct or consequential damages caused, either directly or indirectly, as a result of: (i) any act of God, including but not limited to natural disasters such as floods, earthquakes or tornadoes; (ii) failure of supplies or transportation, or governmental action; (iii) damages resulting from or under the conditions of labor disputes, strikes, riot, insurrection, civil commotion or war; (iv) damages or improper operation due to intermittent power line voltage, frequency, electrical spikes or surges, unusual shock or electrical damage; (v) accident, fire or water damage, corrosive atmosphere or causes other than ordinary use; or (vi) any other causes beyond Seller's reasonable control.

18. Software Provisions

If software is provided under the Agreement, Buyer is granted a non-exclusive, non-transferable, royalty free license only for Buyer's use of Seller's software provided with the Seller's system. Under this license Buyer may: (a) use Seller's software with the Seller's system provided; (b) copy the Seller's software into any machine readable or printed form for back up in support of Buyer's use of the Seller's software on the Seller's system provided; and (c) create one additional copy of the software for archival purposes only.

19. Patents

Seller shall defend and indemnify Buyer against any actions of third parties based on claims that the Goods manufactured and sold or Services performed by Seller constitute an infringement of a valid patent of the United States, as judged by a federal court of law in the United States, for the benefit of such third parties, provided that Buyer notifies Seller in writing of any such claim within five (5) days thereof and thereafter gives necessary authority, information and assistance to Seller for the defense of such action. In the event that the Goods manufactured or Services performed by Seller are held to be infringing in such action and their use is enjoined, Seller shall only be required to, at Seller's expense, modify the Goods or Services so they become non-infringing, or, if modification is not possible, refund the Buyer purchase price for the hardware and software items that are infringing and remove them at Seller's sole expense. Buyer agrees that Seller shall not be liable, and that Buyer shall fully indemnify Seller, if infringement is based upon the use of the Goods or Services in connection with goods not manufactured by Seller, or in a manner for which the Goods were not designed by Seller, or if the Goods were designed by Buyer or were modified by or for Buyer in a manner to cause them to become infringing.

20. Intellectual Property

All title to and ownership of all proprietary rights related to Seller's products or services, including all patent rights, copyrights, trademarks, trade secrets, and other intellectual property and any inventions and software shall remain the property of Seller (or Seller's affiliates), even upon completion or termination of the Agreement. Buyer acknowledges and agrees that all software provided under the Agreement is licensed, not sold, by Seller. Buyer acknowledges that all Goods and software (excluding any firmware, software and other items that are proprietary to others) and the intellectual property associated with such Goods and software, including all code, content, protocols, and documentation provided by Seller in conjunction with the Goods and software are (as between Buyer and Seller) the property of Seller or Seller's affiliates and are protected by international copyright, trademarks, patents and other proprietary rights and laws relating to Intellectual Property Rights as well as by such laws of various countries in which Seller and its affiliates conduct their businesses. "Intellectual Property Rights" means, collectively, rights under patent, trademark, copyright and trade secret laws, and any other intellectual property or proprietary rights recognized in any country or jurisdiction worldwide, including, without limitation, moral or similar rights. Buyer may not delete, alter, or remove any copyright, trademark, or other proprietary rights notice Seller has placed on Goods or software. Buyer may not modify, reverse-engineer, decompile, disassemble, or otherwise discover the Goods or software, or attempt to do so for any reason. Further, Buyer may not access, create or modify the source code of the software in any way. Buyer does not have the right to and may not create derivative works of the Goods or software. Buyer will (at Seller's expense) take such steps as Seller may reasonably request to establish, prosecute and defend the Intellectual Property Rights of Seller and its affiliates. All modifications or enhancements to the Goods or software remain the sole property of Seller. All Intellectual Property Rights not expressly granted by the Agreement are expressly reserved to Seller.

21. Confidentiality

Seller and Buyer will not, without the prior written consent of the other, either (a) disclose any confidential, proprietary, or commercially sensitive information of the other that the party may be exposed to in the course of this relationship to anyone other than those officers, employees, agents, or subcontractors who need to know it in connection with performance of the Agreement and have agreed to be bound by these obligations of confidentiality, or (b) use the other's confidential information for any purpose other than performance of the Agreement. Confidential information may include, but is not limited to, all data, maps, reports, drawings, specifications, records, technical information, and computer programs/software concerning either party's operations, processes or equipment which are provided and/or acquired or handled by either party in connection with the Agreement unless that confidential information was already known to the receiving party, is available to persons in the public domain, is lawfully acquired by either party from a third party or other source, or is required by law or legal process to be disclosed provided that the receiving party immediately notify the other party of such disclosure prior to disclosure and cooperates with any attempts by the disclosing party to avoid such disclosure. Proprietary information shall include, but not be limited to, any information, data or know-how in whatever form that is related to the operations of either party including pricing information, marketing information, terms and conditions of any proposed or actual agreement between the parties and their clients or customers, and either party's policies and practices.

22. General Provisions

a. There are no understandings, agreements, or representations, expressed or implied, not specified in the Agreement.

b. No action, regardless of form arising out of transactions under the Agreement, may be brought by either party more than two (2) years after the cause of action has accrued.

c. The Agreement is formed and shall be construed under the laws of country (and state or province, if applicable) of Seller's principal place of business (as shown by the address on Seller's Forms), without regard to any conflict of law provisions that might otherwise require the application of any other law. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms.

d. In the event of any claim arising hereunder, Buyer consents to the exclusive jurisdiction of the court at Seller's principal place of business (as shown by the address on Seller's Forms), provided however, that Seller shall have the right to pursue any remedies against Buyer in any other court having proper jurisdiction. The parties waive any right to a jury trial.

e. All stenographic, typographical, and clerical errors in quotations or field engineering services rate sheet and specifications may be corrected at any time by Seller.

f. Seller may provide various translated versions of these Terms for informational purposes only, except to the extent otherwise required by applicable law. If the parties disagree over the meaning or construction of any provision, the parties agree that the original English language version of these Terms and of any communications between the parties will control.

g. If Goods supplied hereunder are used in a nuclear power generation facility or any nuclear applications, Buyer fully indemnifies Seller for any claims, demands, complaints, or actions of third parties, Buyer or any of Buyer's employees, independent contractors, or agents including but not limited to claims for personal injury or property damage, and any costs, expenses, or damages incurred as a result thereof which are based on the negligence, gross negligence, or intentional misconduct of any party.

23. Electronic Data Interchange

Buyer and Seller may execute an order acknowledgement by transmitting and receiving the data contained in the order acknowledgement electronically rather than in paper form. To provide the legal validity and enforceability of such order acknowledgement, Buyer and Seller further agree the data transmitted herein will be considered "in writing" and to have been "signed." Buyer and Seller agree not to contest the validity or enforceability of an order acknowledgement because of the electronic origination, transmission, storage or handling of such order acknowledgement. Any computer printout of the data contained in the order acknowledgement will be considered an "original" when maintained in the ordinary course of business and will be admissible as between Buyer and Seller to the same extent and under the same conditions as other business records maintained in documentary form. Buyer and Seller agree to properly use those security procedures which are reasonably sufficient to ensure that a transmission of the data contained in an order acknowledgement is authorized and to protect its business records and data from improper sources.

24. Limitation of Liability

IN NO CASE SHALL SELLER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES BASED UPON ANY LEGAL THEORY, WHETHER TORT, CONTRACT OR STRICT LIABILITY, WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE, INCLUDING BUT NOT LIMITED TO THOSE BASED UPON ANY LOSS OF PROFITS, LOSS OF SAVINGS OR REVENUE, LOSS OF USE OF THE PRODUCT OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF ANY SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME, LOSS OR DAMAGE RESULTING FROM GENERAL OR PARTICULAR REQUIREMENTS AND NEEDS OF BUYER OF WHICH SELLER MAY HAVE HAD REASON TO KNOW, THE CLAIMS OF THIRD PARTIES INCLUDING CUSTOMERS, INJURY TO PROPERTY AND, UNLESS PRECLUDED UNDER APPLICABLE LAW, BODILY AND PERSONAL INJURY. Buyer acknowledges that Seller shall not be liable for any acts or omissions by any third parties, including its distributors and sales and service agents. Notwithstanding any other provision of the Agreement, in no event shall Seller's total liability for any and all losses and damages arising out of any and all causes whatsoever including, without limitation, defects in the Goods, Services, software, or documentation supplied under the Agreement or for breach of the Agreement, exceed the purchase price received by Seller for the applicable item(s) of the Goods or the fees for the Services giving rise to the claim. Any action or suit by Buyer against Seller relating to the Agreement or the Goods or Services covered hereby must be brought within one (1) year of the date of invoice for such Goods or Services giving rise to the claim.

25. Improvements by Seller

Seller and its suppliers continuously improve the quality and performance of the Goods and Services, and accordingly, the Goods and Services will be subject to changes in specifications, design, materials, components, finishes, construction and processes at Seller's sole discretion, without any liability for retrofitting any previously supplied Goods or revising any previously provided Services.

26. Buyer Data

If any data supplied by Buyer, whether in the form of Buyer specifications or pursuant to any purchase order or other documentation, proves to be inaccurate, any warranties or other related obligations of Seller relying thereon will be void.

27. Export

Buyer agrees to comply with all applicable export and re-export control laws and regulations, including without limitation:

(i) the Export Control Act of 2002, the Export Control Order 2008, or any successor acts or order related thereto as in effect in the U.K., and all acts, orders, rules and regulations thereunder (collectively, "UK Export Control Laws")

(ii) the Export Administration Regulations ("EAR") maintained by the U.S. Department of Commerce, trade and economic sanctions regulations maintained by the Treasury Department's Office of Foreign Assets Control ("OFAC") and the International Traffic in Arms Regulations ("ITAR") maintained by the Department of State.

At the time the order is placed, Buyer must identify to Seller's satisfaction the end-user application and/or dual applications for the Goods to be purchased. Seller reserves the exclusive right to refuse to accept any purchase order. Buyer will be responsible for obtaining any license required under the UK Export Control Laws, EAR, OFAC regulations or ITAR. Seller will identify in writing to Buyer those items, technology and software for which an export license is required and provide export classification and licensing information necessary for export documents, including but not limited to the appropriate U.S. Export Control Classification Number ("ECCN") from the Commerce Control List, the applicability of license exceptions, license numbers and copies of licenses. Buyer agrees to indemnify Seller for any fines, penalties, claims, losses, damages, costs (including legal costs), expenses and liabilities that may arise as a result of Buyer's breach of this Section.

28. Anti-Bribery Laws

Buyer agrees to comply, and Buyer's order for Goods and Services shall be deemed to be Buyer's certification that Buyer complies, with all laws, regulations, and international conventions related to bribery and corruption, including but not limited to the U.K. Bribery Act of 2010 (<http://www.legislation.gov.uk/ukpga/2010/23/contents>), the U.S. Foreign Corrupt Practices Act (<http://www.justice.gov/criminal/fcpa/statutes/regulations.html>) and any applicable laws or regulation in furtherance of the Convention on Combating Bribery of Foreign Officials in International Business Transactions of the Organization of Economic Co-Operation and Development (OECD), which prohibits the payment of anything of value to governments, government officials, political parties, political party officials or relatives of such officials, whether directly or indirectly, to gain unfair advantage, obtain or retain business in marketing or selling products.

29. Governmental Procurement

No governmental procurement regulations or contractual clauses will be binding upon either Seller or Buyer unless such regulations or clauses are mutually agreed to by Seller and Buyer.

30. Survival

Each of the representations, warranties, covenants and obligations set forth in these Terms shall survive the sale of the Goods and Services from Seller to Buyer for an indefinite period and each of Seller and Buyer will continue to be bound by these Terms.

31. No Waive

Any failure by any party to strictly enforce the Terms or to exercise any rights acquired hereunder shall not constitute a waiver of such terms or rights and shall not affect the right of the party to enforce or exercise such terms or rights in the future. A waiver must be in writing signed by the party against whom enforcement is sought, and such waiver shall not be considered to constitute a general waiver of any rights.

32. Severability

If any one or more of the provisions or subjects contained in the Agreement shall for any reason be held invalid, illegal, or unenforceable, it shall not affect the validity and enforceability of any other provisions or subjects.

33. Notice & Electronic Signature

All notices hereunder must be in writing, which shall be deemed duly given (i) upon delivery if delivered by express courier, or (ii) when receipt is acknowledged by an authorized representative, if given by electronic transmission. Notice shall be provided at the last known address of the receiving party. Electronic signatures shall not be effective to modify or waive any terms of the Agreement, or to indicate acceptance of any of Buyer's standard terms and conditions.

34. Assignment

Buyer shall not assign or otherwise transfer (by action or operation of law) its rights or obligations under the Agreement without Seller's prior written consent. Except as expressly set forth in these Terms, no person other than Buyer (or its permitted assignees) shall have any rights under the Agreement, whether pursuant to the Contracts (Rights of Third Parties) Act 1999 (U.K.) or otherwise. Any prohibited assignment shall be null and void.