



Conditions of Sale of KLX Aerospace Solutions Logistics GmbH

1 Applicability

- 1.1 These Standard Terms and Conditions of Sale ("Conditions") shall exclusively apply to any purchase order covering any products, systems or parts offered for sale ("Product(s)") by **KLX Aerospace Solutions Logistics GmbH** ("Seller") to the procuring party ("Buyer"), save as varied by express agreement accepted in writing by Seller and Buyer.
- 1.2 These Conditions shall govern any future individual contract of sale between Seller and Buyer to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by Buyer.

2 Purchase Orders

- 2.1 Seller's offers shall not be binding; in particular with reference to quantities, price and delivery time. If Buyer orders Products from Seller, and Seller delivers Products to Buyer, these Conditions will apply to all such purchase and sales transactions.
- 2.2 Seller's acceptance of Buyer's purchase order is made expressly conditional on Buyer's assent to these Conditions and the terms contained in any Seller purchase order acknowledgment. Seller's automated order acknowledgments, if any, do not constitute Seller's acceptance. Seller does not waive any term in these Conditions if it fails to object to provisions appearing on, incorporated by reference in, or attached to Buyer's purchase order, except as provided below.
- 2.3 Seller hereby objects and rejects any additional or different terms, which may be contained in any documents furnished by Buyer. Any such additional or different terms are effective only if in writing and signed by an authorized representative of Seller.
- 2.4 Buyer's purchase orders must include and may only serve to specify (i) Seller's part number or applicable specifications referenced in Seller's quotation, including a general description of the Product; (ii) requested delivery dates; (iii) price; (iv) quantity; (v) location to which the Product is to be shipped; (vi) location to which invoices should be sent for payment; (vii) Buyer's purchase order number and Seller's quotation number, if applicable; (viii) Buyer's carrier and mode of transportation plus any special routing, packing, labelling, handling or insurance requested by Buyer, if applicable; and (ix) the end-use and end-user, if known, of the Product ordered and whether the Product will be used for a military, nuclear, chemical and biological weapon or otherwise controlled end uses (according to the applicable export control laws).
- 2.5 Buyer acknowledges that Seller is a distributor of products and that Seller will be purchasing Products from third parties to the specifications Buyer provides to Seller. Therefore, Seller makes no representation about the sufficiency of Products to meet Buyer's needs. In particular, any use indicated by Buyer in accordance with the



European Community Regulation on chemicals and their safe use (EC 1907/2006) concerning the Registration, Evaluation, Authorization and Restriction of Chemical substances ("REACH Regulation"), shall not be deemed a quality agreement nor does it constitute a use intended under these Conditions.

- 2.6** If Buyer makes known to Seller a use according to Article 37 Section 2 of the REACH Regulation, which requires an actualization of registration or any other obligation according to the REACH Regulation, Buyer is obliged to reimburse any expenses to Seller arising out of the fulfilment of any such obligations. Seller cannot be held liable for any delay in delivery arising out of the fulfilment of any such obligations. In case Seller is not able to, or elects not to, include this use as an identified use under the REACH Regulation and Buyer intends to use the applicable Products against Seller's recommendation, Seller may terminate Buyer's purchase order with respect to the applicable Products without any liability to Buyer.

3 Prices

- 3.1** Prices are quoted and payable in Euro and are valid for Products delivered within thirty (30) days of quotation, unless stated otherwise, and do not include any of Seller's non-standard costs, including but not limited to, testing, Buyer-specific certification or inspection requirements, etc., unless specifically cited on Seller's quotation. If there is an objective reason, Seller reserves the right to correct any inaccurate invoices and to change quoted prices to the amount indicated by the reason.
- 3.2** Buyer's order is subject to Seller's minimum order requirements. Seller reserves the right to limit order quantities for certain Products.
- 3.3** Prices do not include any taxes or duties on the purchase or sale of Products, including, but not limited to, federal, state, or municipal excise, sales, use or value added taxes or import duties, if any. Any such taxes and duties will be paid by Buyer, excluding taxes based upon Seller's gross income. Buyer shall reimburse Seller upon demand for any such taxes, duties or similar charges that Seller is required to pay or collect.

4 Payment

- 4.1** Seller's purchase price claims are net cash amounts and are payable free of any deduction within thirty (30) days of the date indicated on Seller's invoice unless other payment terms have been offered by Seller. Buyer's payment(s) must be made in Euro and must be accompanied by remittance detail containing the invoice number as indicated on the invoice and amount paid per invoice.
- 4.2** Seller may establish credit terms with Buyer and, if applicable, re-evaluate Buyer's credit standing at all times. If Seller determines in its sole discretion that Buyer fails to qualify for such payment terms at any time, then Seller may without notice to Buyer, modify or withdraw credit terms including, but not limited to, requiring advance payment, letters of credit, guarantees, or other security.
- 4.3** If Buyer is delinquent in its payment obligations to Seller, Seller may at its option (i) be relieved of its obligations with respect to guarantees, including without limitation,



turnaround times, spares support and delivery lead-times; (ii) refuse to process any credit to which Buyer may be entitled pursuant to Section 4.2; (iii) set off any credit or sum owed by Seller to Buyer against any undisputed amount owed by Buyer to Seller; (iv) withhold future deliveries to Buyer; (v) repossess Products for which payment has not been made; (vi) make future deliveries on a cash-with-order or cash-in-advance basis; (vii) charge interest on delinquent amounts at a rate of eight (8) percentage points above the respective base interest (*Basiszinssatz*) pursuant to Section 247 of the German Civil Code (*BGB*); (viii) charge storage or inventory carrying fees on Products; (ix) recover all costs of collection including, without limitation, reasonable attorneys' fees; (x) if Buyer is delinquent on a payment schedule, accelerate all remaining payments and declare the total outstanding balance then due and owing under the payment schedule; or (xi) combine any of the above rights and remedies as may be permitted by applicable law. The above remedies are in addition to all other remedies available at law or in equity.

- 4.4** If Buyer disputes any invoice, or portion thereof, rendered by Seller, Buyer will so notify Seller within ten (10) days of the date of Seller's invoice and failure to provide notification within said period shall be deemed acceptance of Seller's invoice by Buyer. The parties will use all reasonable efforts to resolve such disputes expeditiously. Notwithstanding any invoice disputes, Buyer shall promptly remit payment on those invoices, or portions thereof, not in dispute.

5 Delivery

Seller shall prepare and package Products in accordance with its normal commercial practices. Delivery of Products shall be FCA (Incoterms 2010) Seller's facility, unless stated otherwise. Seller shall ship Products by the mode and carrier designated by Buyer in accordance with the shipping instructions provided in the applicable purchase order. Where Buyer provides no instructions for the method of shipment, the method of shipment shall be at Seller's discretion. Seller will schedule delivery in accordance with its standard lead time unless (i) Buyer's order requests a later delivery date or (ii) Seller agrees in writing to a separate delivery date. Seller reserves the right to make partial shipments against total purchase order requirements and deliver in advance of the scheduled delivery date whenever possible. Buyer's acceptance of late deliveries shall constitute a bar to a claim of late delivery. All shipping expenses from the FCA point to Buyer, including transportation and insurance costs, shall be for the account of Buyer. If Seller prepays such transportation charges, Buyer will reimburse Seller upon receipt of an invoice for those charges. Title and risk of loss (*Eigentum und Gefahrübergang*) will pass to Buyer when Seller places Products at the disposal of Buyer at Seller's facility. Seller is entitled to quote additional charges for any rush shipments, special routing, packing, labelling, handling or insurance requested by Buyer.

6 Certification/Documentation

If applicable, Seller shall deliver Products accompanied by applicable certificates of conformity identifying the specifications of the respective Product manufacturers, and such Products shall meet all applicable governmental requirements in effect at that time.



7 Order Cancellation/Changes

- 7.1** Buyer may cancel a purchase order or portion of a purchase order by giving Seller written notice specifying the detailed reason for the cancellation only if (i) Seller fails to correct a breach of these Conditions within a reasonable period of time after receiving notice from Buyer of the breach or (ii) any insolvency of the seller or suspension of Seller's operations or any petition filed or proceeding commenced by or against Seller for the opening of insolvency proceedings over the assets of the Seller.
- 7.2** Any other changes to a purchase order, including but not limited to, specification, price, delivery time, or interchangeability of any Product can only be made by a change order signed by the authorized representatives of Buyer and Seller. Such change order shall include (i) the reason for the change; (ii) a description of the change; (iii) the effect on the specification, price, delivery time and/or interchangeability of the Product; and (iv) the effective date of the change.

8 Tooling and Data

Seller owns all rights to all specifications, drawings, engineering instructions, data, material, equipment, software, processes, facilities and tooling, including, but not limited, to jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, manufacturing aids and replacement items, now existing or hereafter created, except to the extent that title is specifically transferred in writing from Seller to Buyer or originally supplied from Buyer to Seller.

9 Nondisclosure

These Conditions do not supersede any confidentiality agreement executed by Buyer and Seller that otherwise applies to Products, services, technical data or other information delivered in connection with any purchase order. In the absence of such confidentiality agreement, Buyer may use Seller's proprietary and/or confidential information ("Proprietary Information") only in relation to the application, operation and maintenance of Seller's Products by Buyer. For purposes of these Conditions, "Proprietary Information" shall mean all Seller technical information or data of any kind including, but not limited to, all designs, specifications, drawings, concepts, software, know-how, research or the incorporation or embodiment thereof in one or more Products, or any other information expressly marked as "Confidential" or "Proprietary" by Seller. Proprietary Information shall remain the property of Seller. Buyer may only disclose Seller's Proprietary Information to its employees on a need-to-know basis, will protect against its inadvertent disclosure, and will not disclose Seller's Proprietary Information to any third party without Seller's prior written consent.

10 Warranty

- 10.1** "Nonconformance" means (i) failure of a Product to comply with then-current governmental requirements or the applicable specifications of the respective manufacturers, or (ii) a Product having defects in workmanship or material, or (iii) a Product not having the agreed characteristics (*vereinbarte Beschaffenheit*), or (iv) Seller's delivery of less than ninety-five (95) percent of the quantity of Product indicated on Buyer's purchase order (a "Shortfall") or (v) any third party right in relation



- to the Product not accepted by Buyer (*Rechtsmangel*), provided in each case that the Nonconformance has been notified to Seller in accordance with section 10.6.
- 10.2** Seller warrants to Buyer that Products will be free from any Nonconformance at the time of delivery (*Gefahrübergang*).
- 10.3** Seller's obligation and Buyer's remedy under this warranty is to replace the Product that is suffering from a Nonconformance. For a Nonconformance due to a delivery Shortfall, Buyer may direct Seller to fulfil any such Product shortfall. If this fails Buyer may withdraw from the contract or reduce the remuneration to the extent of the Nonconformance. No further remedies shall exist.
- 10.4** At Seller's option Buyer will scrap or dispose the Product being in Nonconformance at Buyer's location or Seller will pay reasonable transportation costs for warranty returns in an amount not to exceed normal surface shipping charges to a facility designated by Seller. Buyer must disposition the Products in accordance with Seller's written instructions. Following initial delivery, the party initiating shipment will bear the risk of loss or damage to Products in transit. In addition, Buyer will comply with Seller's return material authorization policies and will ship returned Products to Seller suitably packed for shipment to prevent damage in transit in accordance with reasonable shipping practices.
- 10.5** For the avoidance of doubt, Seller is not liable under this warranty for any defects of a or resulting from a Product having been exposed or subjected to (i) any alteration, modification, maintenance, repair, installation, handling, transportation, storage, operation or use that is improper or (ii) any accident, contamination, abuse, neglect, or negligence following delivery (*Gefahrübergang*) to Buyer.
- 10.6** Buyer shall without undue delay (*unverzüglich*) check Products with regard to quantities, weight and packaging and record any objections thereto on the delivery note or consignment note and conduct a quality check representatively on a spot check basis. If Buyer notices a Nonconformance, Buyer shall comply with the following procedures and deadlines: (i) Buyer's notification of evident defects resulting in the Nonconformance must be made without undue delay, but in no event no later than one (1) week after the date of delivery of the Products; or (ii) in the event of Buyer's objection to a hidden defect resulting in a Nonconformance which, despite a reasonable first inspection in accordance with the above procedures, such defect has remained undiscovered by Buyer, Buyer must notify Seller without undue delay, but in no event later than one (1) week after discovery of the hidden defect or such date on which the Buyer should have discovered the defect. Buyer's notice of a defect resulting in the Nonconformance of the Product must clearly specify the kind and amount of the alleged Nonconformance. Buyer agrees to make available for inspection the Products allegedly being in Nonconformance at the place of inspection; such inspection may be done by Seller, its suppliers or any other third party designated by Seller.
- 10.7** These warranties are exclusive and in lieu of all other warranties, conditions or representations, whether oral, written, express, implied, statutory or otherwise, which



are hereby disclaimed and excluded by Seller, including, but not limited to, any implied warranties of merchantability or fitness for particular purpose. In no event will Seller be liable for any consequential, or indirect damages, including, but not limited to, loss of profits or revenues or use even if informed of the possibility of such damages. Seller's liability under the Produkthaftungsgesetz (German Product Liability Act) shall remain unaffected. Any discharge from liability hereunder will be void if a defect resulted from a grossly negligent act of Seller or Seller's intentional breach of contract. Save for Section 22, the same applies if Seller may be held responsible for the breach of any essential contractual obligation. No extension of these warranties will be binding upon Seller unless set forth in writing and signed by Seller's authorized representative.

11 Excess Deliveries

Buyer shall return or purchase, at its option, Products delivered in excess of Buyer's order. For return shipments of excess Products, Buyer will bear the risk of loss or damage to Products in transit. Seller will pay reasonable transportation costs for excess Product returns in an amount not to exceed normal surface shipping charges to a facility designated by Seller. Buyer will pay all expenses related to the shipment if Seller reasonably determines that there was no excess delivery.

12 Patent Indemnification

Seller has no control over the technology of the Products sold herein, and therefore, save for gross negligence, intentional behavior and in case of a breach of any essential contractual obligations, cannot and does not indemnify Buyer for claims by third parties that Products infringe any patent, copyright, trademark or trade secret. Seller's sole obligation, and Buyer's only remedy, relating to patent, copyright, trademark or trade secret indemnification is, upon Buyer request, to assign or transfer to Buyer all patent, copyright, trademark or trade secret indemnifications of Seller's suppliers and/or manufacturers of Products to the extent such indemnities are assignable. The indemnity, obligations and liabilities of Seller and the remedies of Buyer provided in this section are exclusive and in substitution for, and Buyer hereby waives, releases and renounces, all other indemnities, warranties (expressed, implied or statutory), obligations and liabilities of Seller and rights, claims and remedies of Buyer against Seller with respect to any infringement.

13 Aftermarket Activity

Seller's sale of Products to Buyer does not convey to Buyer any right or license to any present or future patent, trademark, copyright, trade secret or other intellectual property owned, controlled, or licensed by Seller ("Intellectual Property") nor any right to use Seller's Proprietary Information which is incorporated or embodied in Products other than as set forth in these Conditions. If Buyer engages a third party to manufacture, repair and/or sell any products which incorporate or embody Seller's Intellectual Property and/or Proprietary Information or seeks for itself regulatory approval or certification of any products from any country or other government agency or authority, such act will constitute (i) an infringement of Seller's Intellectual Property, or (ii) an unauthorized use of Seller's Proprietary Information; Seller shall have an injunctive relief, in addition to all other remedies available at law or equity.



14 Exemption from third-party claims

Buyer shall defend, indemnify and hold harmless Seller, its affiliates and subsidiaries and their directors, officers, employees and agents from and against any and all third-party claims, suits, damage, loss, liability, cost or expense (including, without limitation, reasonable attorneys' fees and expenses) resulting from, arising out of, or relating to, directly or indirectly, these Conditions or Buyer's activities or contractual relationships with third parties with respect to these Conditions or the installation, operation, use, maintenance, repair or modification of Products, other than such claims as arise from the gross negligence or wilful misconduct of Seller.

15 Excusable Delays

Seller will not be liable to Buyer for any failure to meet its obligations due to any cause beyond Seller's reasonable control and not occasioned by its fault (an "Excusable Delay"). Excusable Delay events may include but are not limited to (i) delays or refusals to grant an export license or the suspension or revocation thereof; (ii) any other acts of any government that would limit the ability for contract performance; (iii) fires, earthquakes, floods, severe weather conditions, or any other acts of God; (iv) quarantines or regional medical crisis; (v) labor strikes or lockouts; (vi) riots, strife, insurrection, civil disobedience, armed conflict, terrorism or war, declared or not (or impending threat of any of the foregoing, if such threat might reasonably be expected to cause injury to people or property); and (vii) shortages or inability to obtain materials or components. If an Excusable Delay event causes a delay of delivery, then the date of Seller's performance will be extended by the period of such delay or Seller may cancel Buyer's order with respect to such delayed Products.

16 Confidentiality

Buyer shall not disclose to any third party the existence of, or any information concerning, the transaction contemplated hereby, nor any pricing of Products offered hereunder, without first obtaining the written consent of Seller, unless required by law.

17 Assignment

Subject to Section 354a German Commercial Code (*HGB*), Buyer will not assign any rights nor delegate any obligations under these Conditions or any portion thereof in whole or in part (by operation of law or otherwise), without Seller's advance, written consent which will not be unreasonably withheld. Any attempt to assign or delegate in violation of this section will be void.

18 Notices

Notices or non-routine communications between the parties, other than orders, will be in writing, sent by prepaid overnight courier service and shall be effective upon receipt by the party to which notice is given. Notices shall be addressed to the following respective addresses of the parties, or such other addresses as the parties may designate by notice from time to time:



If to Seller: The address indicated on Seller's quotation or the applicable Seller facility to which the purchase order was sent.

If to Buyer: To Buyer's address on its order.

19 Waiver

The failure or delay of Seller to enforce any of the provisions of these Conditions shall not be construed to be a continuing waiver of any provisions hereunder nor shall any such failure prejudice the right of Seller to take any action in the future to enforce any provisions hereunder.

20 Compliance

- 20.1** Buyer represents and warrants that it will comply with all relevant EU and German laws and regulations. In particular, Buyer will not act contrary to applicable environmental laws as well as export control and customs laws, including, but not limited to the German Chemicals Act (*Chemikaliengesetz*), the German Ordinance of Hazardous Substances (*Gefahrstoffverordnung*), German Chemicals Prohibition Ordinance (*Chemikalienverbotsverordnung*), the EU Regulation No 1907/2006/EC concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH), the EU Regulation No 428/2009/EC setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (European Dual Use Regulation), the German Foreign Trade Act (*Außenwirtschaftsgesetz*) as well as the German Foreign Trade Regulation (*Außenwirtschaftsverordnung*), the German Act implementing the Chemical Weapons Convention (*Ausführungsgesetz zum Chemiewaffenübereinkommen*), the German Regulation implementing the chemical weapons convention (*Ausführungsverordnung zum Chemiewaffenübereinkommen*), and will retain documentation evidencing such compliance.
- 20.2** Accordingly, Buyer will obtain EU and German law licenses required for Products and their transfer, services and technical data delivered and will retain documentation evidencing compliance with those laws and regulations. In particular, Buyer will obtain all required environmental law licenses. If Buyer plans to export a Product to a third person after the Product has been delivered from Seller to Buyer, Buyer represents to Seller that all required licenses, if necessary, including export licenses, will be obtained.
- 20.3** The parties understand that certain Products, in particular but not limited to Products of U.S. origin might fall within the scope of foreign export control law, notably U.S. export control law, such as the U.S. "Export Administration Regulation" ("EAR"). In such a case further trade of Products, in particular the re-export to a third country might require a license, be prohibited or otherwise restricted under foreign laws, notably U.S. law. If Buyer plans to export a Product to a third person after the Product has been delivered from Seller to Buyer, Buyer shall determine if such restrictions apply in the particular case and shall ensure that all necessary export control licenses, notably U.S. re-export licenses, are obtained, as the case may be.
- 20.4** Buyer will further obtain necessary import approvals and licenses, if necessary in the particular case, required for Products, services and technical data delivered and will



retain documentation evidencing compliance with those laws and regulations. Buyer will further comply with all other foreign relevant laws and regulations in the particular case, particularly with U.S. law and regulations. Accordingly, Section 20.2 shall apply mutatis mutandis with respect to those laws and regulations.

- 20.5** Buyer agrees to indemnify and hold Seller harmless from any fines, penalties, or other liability imposed by any public authority or any other competent government agency arising from a negligent failure of Buyer to comply with such laws and regulations.
- 20.6** If delivered FCA (Incoterms 2010), Seller will deliver Products cleared for export. If the planned export is deemed as a re-export according to U.S. export control law so that a re-export license is required under U.S. law, Seller will obtain such a license. However, Seller will not be liable to Buyer for any failure to provide Products, services, transfers or technical data as a result of government actions that impact Seller's ability to perform, including, but not limited to (i) any governmental failure to provide, or the cancellation of, export, re-export or transfer licenses; (ii) any subsequent amendments of applicable import, transfer, export or re-export law or regulation or any subsequent interpretation of such laws and regulations after the date of any order or commitment that has a material adverse effect on Seller's performance; or (iii) delays due to Buyer's failure to follow applicable import, export, transfer, or re-export laws and regulations or to assist Seller in acquiring same.
- 20.7** Seller is not obliged to deliver Products classified under the International Traffic in Arms regulation (ITAR) or under Annex AL of German Foreign Trade Regulation, Part I, Section A (*Rüstungsgüter*) or similar classifications for material specially designed for military purposes.
- 20.8** Seller is not obliged to deliver goods if the shipment of the goods would be contrary to U.S. export control laws or other laws and regulations mentioned in Section 20, in particular, if a re-exportation license is refused under U.S. law.
- 20.9** If Buyer designates the freight forwarder for export shipments from the Federal Republic of Germany, then Buyer's freight forwarder will export on Buyer's behalf and Buyer will be responsible for any failure of Buyer's freight forwarder to comply with all applicable export requirements. Seller will provide Buyer's designated freight forwarder with reasonably required commodity information.
- 20.10** Where Buyer holds the design authority for a Product, Buyer shall provide Seller with the relevant export classification data with respect to the Product, such as classification numbers according to Annex AL of German Foreign Trade Regulation, Annex 1 of Regulation No 428/2009/EC of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (European Dual Use Regulation), Integrated Common Customs Tariff (TARIC), U.S. law Export Control Classification Number ("**ECCN**"), Harmonized Tariff Schedule ("**HTS**") code or International Traffic in Arms Regulations ("**ITAR**") classification, as applicable. Buyer shall complete Seller's "Item Part No. Classification Form" to facilitate Product export classifications. Buyer may access such form at



<http://klxaerospace.com/supplier-resources/supplier-communications/>. Buyer shall provide updates to Seller in a timely manner as changes occur.

21 Governing Law, Venue and Jurisdiction

These Conditions and the transactions arising out of Buyer's purchase order will be governed by and construed in accordance with German law excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG). To the extent legally possible, venue and jurisdiction for all legal proceedings of any kind or nature in relation to these Conditions shall lie within the seat of Seller. In addition, Seller shall have the right to bring a claim before a court at Buyer's seat or at Seller's discretion before any other court being competent for the place of performance of the obligation in question. If Buyer is organized outside the Federal Republic of Germany, to the extent that Buyer or any of its property is or becomes entitled at any time to any immunity on the grounds of sovereignty or otherwise from any legal action, suit or proceeding, or other legal process in any jurisdiction, Buyer for itself and its property does hereby irrevocably and unconditionally waive, and agrees not to assert, plead or claim, any such immunity with respect to its obligations, liabilities or any other matters resulting from or arising under or in connection with these Conditions and the transactions arising out of Buyer's purchase order (including the execution of judgements).

22 Limitation of Liability

Notwithstanding anything in these Conditions to the contrary, in no event will Seller be liable for any consequential damages, indirect damages, loss of profits, loss of revenues, or loss of use, even if informed of the possibility of such damages. Seller's liability for damages, other than those for death or personal injury, arising out of or related to these Conditions and the transactions arising out of Buyer's purchase order is limited to the contract price for the specific product or service that gives rise to the claim. In case of a negligent breach of any essential contractual obligations Seller's liability for damages, other than those for death or personal injury, arising out of or related to these Conditions and the transactions arising out of Buyer's purchase order is limited to all damages foreseeable at the time the contract was concluded; in such a case any further liability of Seller for unforeseeable damages and damages which are not typically associated with the contract is hereby excluded. In no event shall Buyer commence any action arising out of the purchase order or the contract between the parties later than one year after the cause of action has accrued. Save for gross negligence and intentional behaviour and to the extent permitted by applicable law, these limitations and exclusions will apply regardless of whether liability arises from breach of contract, warranty, tort, by operation of law, or otherwise.

23 Setoff, Retention

23.1 Buyer will not set off any amount against sums Buyer asserts are due to Buyer, Buyer's parent, subsidiaries, affiliates or other divisions or units under any transaction with Seller, Seller's parent, subsidiaries, affiliates or other divisions or units, whether under these Conditions or otherwise.

23.2 Buyer has no right to retention unless the underlying counterclaims have been conclusively determined by a court or expressly acknowledged by Seller.



24 Survival

All provisions of these Conditions which by their nature should apply beyond completion of Buyer's order will remain in force after the completion of Buyer's order.

25 Severability

If any provisions of these Conditions are at any time held to be invalid or unenforceable, such provisions shall be construed as severable and shall not in any way render invalid or unenforceable the remainder of the provisions which shall remain in full force and effect and, in lieu of the invalid or unenforceable provisions, there will be added as Product of these Conditions one or more provisions as similar in terms as may be valid and enforceable under applicable law.

26 Third Party Beneficiaries

Except as expressly provided to the contrary in these Conditions, the provisions of these Conditions are for the benefit of the parties hereto and not for the benefit of any third party.

27 Independent Contractor

The parties acknowledge that they are independent contractors and no other relationship, including without limitation partnership, joint venture, employment, franchise, master/servant or principal/agent is intended by these Conditions. Neither party has the right to bind or obligate the other *vis-à-vis* third parties.

28 Headings

Headings and captions are for the convenience of reference only and do not alter the meaning or interpretation of these Conditions.

29 Commercial Use

Buyer represents and warrants that no purchases of Products hereunder will be used in the performance of a contract or subcontract with any government in a manner to affect Seller's rights to data, technology, software or other intellectual property supplied by Seller.

30 Amendments Only in Writing

Any amendment to these Conditions shall be valid only if in a writing signed by an authorized representative of Seller. Any amendment to this section, too, shall be valid only if in writing signed by an authorized representative of Seller. Seller's field workforce employees have no authority to modify these Conditions.