

TERMS & CONDITIONS OF SALE (“CONDITIONS”)

1. INTERPRETATION

1.1 In these Conditions:-

“**Brand Manual**” means the manual supplied by the Seller from time to time regarding use of the Trade Marks;

“**Buyer**”: means the Person who accepts a quotation of the Seller for the sale of the Goods or whose Orders for the Goods is accepted by the Seller;

“**Conditions**”: means the standard terms and conditions of sale set out herein and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller and specified herein or overleaf;

“**Contract**”: means each individual Order accepted by the Seller for the purchase and sale of the Goods;

“**Goods**”: means the goods (including any instalment of the Goods or any part of them) which the Seller is to supply in accordance with these Conditions and as described on the face hereof;

“**Intellectual Property Rights**”: means any and all intellectual property rights in any part of the world, including without limitation, patents, registered designs, trademarks and service marks (whether registered or not), copyright, database rights, design rights, trade secrets, rights of confidence and all similar or corresponding property, monopoly or other rights including those subsisting in any part of the world in inventions, designs, drawings, performances, computer programs, databases, semiconductor topographies, confidential information, business names, goodwill and a style and presentation of goods or services in any and all applications and rights to apply for protection of any of the above rights;

“**Order**”: means the Buyer’s order to purchase the Goods;

“**Seller**”: means “XION PG GmbH”(Brammersoll 2, 24235 Stein Germany)

“**Trade Marks**”: means “XION” and any other mark or logo which the Seller may advise Buyer of from time to time.

1.2 Any reference in these Conditions to any statute provisions shall, unless the context otherwise requires, be construed as a reference to that provision as from time to time amended, consolidated, replaced, modified, extended or re-enacted.

1.3 Except where the context otherwise requires words herein denoting the singular include the plural and vice versa, and words denoting any gender shall include all genders.

1.4 Reference to clauses are, unless the context otherwise permits, reference to clauses of these Conditions.

1.5 Condition headings do not affect the interpretation of these conditions.

1.6 In these Conditions, unless the contrary intention appears, words denoting persons shall include any individual, partnerships, company, corporation, joint venture, trust, association, organisation or other entity in each case whether or not having separate legal personality and that person’s successors whomsoever.

1.7 In these Conditions, unless the contrary intention appears, reference to the words “include” or “including” are to be construed without limitation to the generality of the preceding words.

2. PARTIES

2.1 The parties to these Conditions are the Seller and the Buyer. All transactions as between the Seller and the Buyer are as between principal and principal and are subject to these Conditions.

3. VARIATION

3.1 The Contract between the Company and the Buyer cannot be varied, altered or excluded unless such variation, alteration or exclusion is agreed between the parties in writing between authorized representatives of the Seller and the Buyer (being in the case of the Seller a director of the Seller) and signed by the parties to be bound.

3.2 Any concession, latitude or waiver allowed by the Seller at any time shall only apply to the extent specifically covered by such concession, latitude or waiver and shall not prevent the Seller otherwise exercising its full rights under the Contract and these conditions.

4. ACCEPTANCE OF ORDERS

4.1 The Contract(s) between the Seller and the Buyer shall only become binding upon the confirmation of acceptance in writing by the Seller of any Order of the Buyer and signed by the Seller’s duly authorized

13.5 Subject to Clause 13.3 the Seller’s aggregate and total liability in contract, tort (including negligence) breach of statutory duty, misrepresentation or otherwise arising under or in connection with the Contract(s), the Goods, or any act or omission by the Seller in performance of its obligations under the Contract(s) and/or in relation to the supply of the Goods, shall not exceed the value of the order from which any such liability stems.

13.6 The Seller shall not be liable or held responsible for any damages, costs, charges or expenses awarded against or any liabilities incurred by the Buyer arising out of any infringement of any Intellectual Property Rights belonging to third parties. Any recommendations made by the Seller in relation to the applicability of the Goods do not constitute a warranty, either express or implied, of the fitness or suitability of the Goods for a particular purpose nor do they absolve the Buyer from the obligation of investigating third party rights.

13.7 All Goods must be stored by the Buyer in suitable conditions and the Seller will not be liable to the Buyer for any defects brought about by the Buyer storing the Goods in unsuitable conditions. Suitable conditions include BUT are not limited to: protection of the Goods from high temperatures, high humidity and from compression, especially at high temperatures and high humidity. In particular the Goods shall not be subject to temperatures above 60 degrees centigrade or below minus 10 degrees centigrade. The Goods shall not be subjected to more than RH80% (High Humidity) for more than 24 hours, and whilst subject to humidity over RH50% shall not be additionally subject to temperatures below 0 degrees centigrade or above 40 degrees centigrade. The Goods shall not be subjected to loads that create more than 5% compression of the material for more than 24 hours. The Goods shall not be exposed to open flames or other direct or indirect high temperature ignition sources such as burning cigarettes, matches, fireplaces, space heaters, fork lift tailpipes, welding sparks or bare light bulbs. The Goods shall be stored away from strong oxidizers for example hypochlorite.

13.8 The Buyer accepts that where a standard of quality has been agreed between the Parties for the Goods then this will be the agreed specification by which quality and/or defectiveness of the Goods is to be adjudged as it is ultimately interpreted by the Seller. For the avoidance of doubt a standard of quality cannot be amended whilst a Contract has commenced but is as of that time unfulfilled by one or both of the Parties, nor can it be applied de facto to previous Contracts fulfilled. Where a standard of quality has not been agreed the Buyer accepts that the nature of the manufacturing process and/or material causes variation in the physical properties and aesthetics of the Goods and the Buyer is therefore bound by the Sellers’ ultimate and reasonable interpretation of such variances being minimal and therefore not detrimental to the Buyers’ onward use of the Goods. The understanding under this Clause will be hereafter known as the “Agreed Specification”.

13.9 Goods supplied to the Buyer may not be returned without the Seller’s written consent. Where Goods are alleged to be defective or not in conformity with the Agreed Specification full details must be provided by the Buyer and no credits or replacements will be issued until defects have been agreed by the Seller. If the alleged defects have been agreed by the Seller, the Buyer’s sole remedy will be to request replacement of the defective Goods. The Seller reserves the right to refuse Goods so returned. For the avoidance of doubt where it is not established that Goods supplied by the Seller are not in conformity to the Agreed Specification then the Seller is deemed to have completed his obligations with regard to the quality of the Goods and the Buyer will have no cause or available action or right to receive remuneration, credit or replacement for such Goods. The Buyer will additionally have no similar right if it is reasonably determined by the Seller that the Buyer or any agent, person, commissioning party, company or otherwise associated party has, at the point where Risk is transferred in line with Clause 14.3, not complied with any instruction in respect to the handling and packaging instruction for the Goods whether written, verbal or implied passed by the Seller to the Buyer or any agent, commissioning party, person, employee, sub-contracted worker or otherwise associated party of the Buyer.

13.10 The Seller shall not be liable for any claims arising out of the misuse, alteration or damage of the Goods by the Buyer or by any other person.

representative, and all quotations or tenders made and price(s) first supplied by the Seller shall be treated as invitations to treat only.

4.2 The Seller reserves the right, in its sole discretion, to accept or refuse Orders. The Seller also reserves the right (without prejudice to any other remedy) to cancel any uncompleted Order or to suspend delivery in the event of the Buyer's commitments (including in particular, without limitation, the payment on the due date for Goods delivered) with the Seller not being met. The Seller reserves the right to refuse, modify or renegotiate Orders in the event of changes in the German Governments trade policy pertaining to imports, tariffs, surcharges, pound sterling exchange rate fluctuations and other conditions affecting the charges, quotes or procedures the Seller is obliged to follow. If an Order is cancelled by the Buyer in the aforementioned circumstances then the Buyer shall indemnify and keep indemnified the Seller against all loss, costs (including the cost of all labour and materials used and overheads incurred), damages, charges and expenses arising out of the Orders and the cancellation thereof (the Seller giving credit for the value of any such materials sold or utilized for other purposes).

4.3 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any Order including any applicable specifications submitted by the Buyer and for ensuring that the Goods requested are suitable for its needs and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

4.4 The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation or the Buyer's Order as accepted by the Seller.

4.5 If the Goods are to be manufactured, or any process is to be applied to the Goods, by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify and keep indemnified in full the Seller against all loss, damages, costs and expenses for infringement of any Intellectual Property Rights of any other person which results from the Seller's use of the Buyer's specification.

4.6 The Seller reserves the rights to make any changes to the specification of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

5. REPRESENTATIONS

5.1 The Seller's employees or agents are not authorized to make a legally binding representation concerning the Goods or this Contract and no representations shall bind the Seller unless the same shall have been put into writing and signed by a director of the Seller.

5.2 In entering into this Contract, the Buyer acknowledges that it does not rely on and waives any claim for breach of any representations which are not confirmed in writing as provided for in clause 5.1.

5.3 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

5.4 All illustrations, drawings and general descriptions accompanying any quotation from the Seller or contained in the Seller's price list advertisements or other literature or otherwise provided to the Buyer are intended for general guidance only and shall not be binding on the Seller and are only approximate indications of the type, size or colour of Goods quoted for and sales of such Goods, shall not be by reference thereto and do not form part of the Contract or give rise to any independent or collateral liability whatsoever on the part of the Seller. Any typographical, clerical or other error or omission in any sale literature, quotation, price list, acceptance or offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

6. CARRIAGE AND PACKAGING

6.1 Unless expressly stated in writing by the Seller all prices quoted are Ex-works (INCOTERMS 2010) and carriage is not included. The Seller may deliver the Goods at its delivery charges current at the time of delivery, and such delivery charges shall be in addition to the price of the Goods.

14. TITLE AND RISK

14.1 The Buyer acknowledges that before entering into each Contract for the purchase of the Goods from the Seller, it has expressly represented and warranted to the Seller that it is not insolvent and there are no circumstances which would entitle any debenture holder or secured creditor to appoint a receiver or entitle any person to petition for its winding up or exercise any other right over or against the Buyer or its assets.

14.2 Notwithstanding delivery and the passing of risk, legal ownership of the Goods shall not pass from the Seller to the Buyer until the Seller has received payment in full in cleared funds of the price for the Goods. Furthermore, title in the Goods shall remain vested in the Seller and shall not pass to the Buyer unless and until the full price of any other delivered goods the subject of any other business transaction between the Buyer and the Seller has been paid in full either by way of cash or cleared funds.

14.3 Risk of damage to or loss of the Goods shall pass to the Buyer:-

14.3.1 In the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or

14.3.2 In the case of Goods to be delivered otherwise than at the Seller's premises at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has deemed to have tendered delivery of the Goods.

14.4 Until such time as the ownership in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee and shall keep the Goods from the time when the Seller has deemed to have tendered delivery of the Goods properly protected and insured against loss or damage with an insurance office of good repute and stored separately and identified and identifiable as the Seller's property.

14.5 Until such time as the legal ownership in the Goods passes to the Buyer, the Seller may at any time enter upon any of the Buyer's premises or any other premises where the Goods are, or are thought to be, held (as the case may be) and remove the Goods therefrom (including removing or detaching the Goods from any other goods to which they may be attached or affixed) and the Buyer permits the Seller access to the said premises to do so. The Buyer shall indemnify the Seller on a full indemnity basis against all loss, damage, costs or expenses so arising including in particular, without limitation, loss, damage, costs or expenses in respect of third party claims.

14.6 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does not so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

14.7 The Buyer may attach or fix the Goods to other property belonging to the Buyer, but provided that the Goods may be removed without causing damage (other than superficial damage) to the property of the Buyer such attaching or fixing shall not affect the ownership of the Goods.

14.8 In the event that the price for the Goods is not paid by the due date the Seller shall at its absolute discretion and without prejudice to its other rights or remedies be at liberty either to recover the Goods or maintain an action for the price of the Goods and/or damages.

14.9 No provision of these Conditions shall prejudice the Seller's rights to exercise any alternate remedies whatsoever in default of payment by the Buyer or any other breach of contract.

14.10 Each of the preceding clauses shall be construed and take effect separately and in the event of one or more of such clauses being held ineffective this shall not affect the validity of the remaining clauses.

15. TERMINATION

15.1 Save as herein appears the Buyer shall have no right to cancel the whole or any part of the Contract and if notwithstanding this clause, the Buyer shall purport to cancel the whole or any part of the Contract, the Seller may, by notice in writing to the Buyer elect to treat the Contract as repudiated and the Buyer shall thereupon be liable to pay to the Seller by way of liquidated damages a sum equal to all the expenses incurred by the Seller in connection with the Contract including, in particular without limitation, an appropriate amount in respect of administrative overheads, costs or losses or profit.

15.2 The Seller's reasonable estimate of the expenses incurred by it on repudiation by the Buyer as referred to in clause 15.1 shall be final and binding on the parties.

15.3 If the Seller for whatsoever cause is unable to make delivery of the Goods on the delivery date set out in the Contract or if the Seller is unable to perform any of its other obligations under the Contract, the Seller may,

6.2 The packaging of the Goods is at the sole discretion of the Seller who shall have the right to pack the Goods in such manner and with such materials as it thinks fit.

7. PRICE

7.1 All prices shall be exclusive of Value Added Tax and any other taxes from time to time in force and shall be such prices as stated by the Seller.

7.2 Prices shall be subject to variation at the sole discretion of the Seller at any time.

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

8. PAYMENT

8.1 Unless otherwise agreed between the parties, the price of any Goods sold pursuant to this agreement shall be secured by an irrevocable letter of credit satisfactory to the Seller, established by the Buyer in favour of the Seller immediately upon receipt of the Seller's acceptance of the Buyer's order and confirmed as acceptable to the Seller's bank. The letter of credit shall be for the price payable for the Goods (together with any tax or duty payable) to the Seller and shall be valid for six months. The Seller shall be entitled to immediate cash payment on presentation to its bank.

8.2 Subject to clause 8.1 the Seller will invoice the Buyer immediately upon receipt of an Order. Save where otherwise indicated on the invoice in writing the total invoice value must be paid by the Buyer to the Seller PRIOR TO the delivery of the Goods which are the subject matter of the invoice in question.

8.3 Where the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or, as the case may be, the Seller has tendered delivery of the Goods.

8.4 The time for payment of the price shall be of the essence of this Contract. Should full payment of invoices from the Buyer not be received by the Seller within the required period, the Buyer will be liable to the Seller for a late payment surcharge in accordance with clause 8.5.3.

8.5 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:-

8.5.1 Cancel the Contract or suspend any deliveries of further Orders to the Buyer; and/or

8.5.2 Appropriate any payment made by the Buyer to such of the Goods for the Goods supplied under any other contract or Order between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and/or

8.5.3 Charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of eight per cent per annum above the Sellers' Bank plc base rate from time to time, unless payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

8.6 The Buyer shall make all payments due under any Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid credit authorized by the Seller in writing of an amount equal to such deduction.

9. COLLECTION

If the recovery of any sums outstanding from the Buyer to the Seller is passed to a debt collection agency, the Buyer shall pay the Seller's costs incurred on an indemnity basis in instructing the said debt collection agency and all legal and other costs ancillary thereto.

10. DELIVERY

10.1 Save where the Buyer collects the Goods from the Seller's premises (in which case delivery shall take place at the Seller's premises) delivery shall

by notice in writing to the Buyer, terminate the Contract or suspend the Contract without liability for any loss or damage thereby incurred by the Buyer.

15.4 In addition to the right to cancel any uncompleted Order or to suspend delivery thereof pursuant to clause 4.2, the Seller shall have a similar right of cancellation of any uncompleted Order or to suspend delivery in respect of any Orders where the delivery of such Goods would result in the amount of monies outstanding to the Seller from the Buyer for those Goods and for any other Goods supplied by the Seller, would exceed the Seller's credit limit on the Buyer, as provided by the Seller's insurers.

15.5 This clause applies if:-

15.5.1 Any distress, execution or other process is levied upon any of or any part of the assets of the Buyer;

15.5.2 the Buyer enters into any compromise or arrangement with its creditors, is unable to pay its debts, commits any act of bankruptcy or if an order is made or an effective resolution is passed for its winding up, liquidation or dissolution (except for the purposes of amalgamation or reconstruction as a solvent company) or if a petition is presented to court, or if a receiver or administrator, manager, liquidator or other similar officer is appointed in respect of the whole or any part of the Buyer's undertaking or assets or an encumbrance takes possession of any or all of its property or assets;

15.5.3 The Buyer ceases or threatens to cease to carry on its business; or

15.5.4 The financial position of the Buyer deteriorates to such an extent that in the opinion of the Company the capability of the Buyer adequately to fulfil its obligations under the Contract has been placed in jeopardy; or

15.5.5 The Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer.

15.6 If clause 15.5 applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspended any further deliveries under the Contract forthwith without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary, and if such price is not paid forthwith the Seller shall have the right to recover the Goods as set out in Clause 14.5.

15.7 Any termination or expiration of this Contract shall not affect any accrued rights or liabilities or either the Company or the Buyer nor the coming into force or continuance in force of any provision which is expressly or by implication intended to come into or continue in force after termination or expiration of the Contract, including the following clauses: Clauses 8, 9, 13, 14, 15, 19 and 22.

15.8 On expiration or termination of the Contract for whatever reason, the Buyer shall immediately deliver to Seller all Goods not paid for and all confidential information or any material in which the Seller has Intellectual Property Rights. If such Goods or confidential information or any material on which the Seller has Intellectual Property Rights is not delivered up, the Seller shall be entitled to collect the Goods and/or confidential information in accordance with Clause 14.5.

16. CONFIDENTIALITY

16.1 The Buyer shall keep in strict confidence all technical or commercial know how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Buyer by the Seller or its agents and any other confidential information concerning the Seller's business or its products which the Buyer may obtain and the Buyer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Buyer's obligations to the Seller and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Buyer.

16.2 The obligations of confidence within clause 16 shall survive five years after expiration or termination of this Contract or until such time as the information becomes public through no fault of the Buyer whichever is the sooner.

17. SAMPLES OR DISPLAYS

The Buyer shall be responsible for the cost of any samples or displays supplied by the Seller to the Buyer.

18. TRADE MARKS

18.1 The Seller is the proprietor of certain Trade Marks and the Buyer agrees to use the Trade Marks on any products which incorporate the

take place at the Buyer's premises or such other actual location of which the Buyer shall have previously notified the Seller in writing at least fifteen days before the scheduled date of delivery.

10.2 The Seller will endeavour to complete on any delivery dates stipulated, but such dates are only estimated and are not guaranteed and the Seller will not be liable to the Buyer for any loss, damage, injury, penalty, claim or any other matter of whatsoever nature arising from any delay in delivery and time for delivery shall not be of the essence of the Contract.

10.3 The Seller shall be entitled to deliver Goods by instalments. Where the Goods are to be delivered in instalments, each delivery where applicable and each Order shall constitute a separate Contract and failure by the Seller to deliver any one of more of the instalments or Order in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments or Order shall not entitle the Buyer to treat the Contract as a whole as repudiated.

10.4 The Seller reserves the right to withhold delivery of Goods to the Buyer at any time when the Buyer is exceeding or upon delivery would exceed any credit limit with the Seller either in relation to such Goods or otherwise.

10.5 A delivery or collection note signed by or on behalf of the Buyer or of the Buyer's customer or the duly authorised agent of either of them is deemed to be absolute evidence of delivery or collection of the Goods specified therein.

11. DEMURRAGE

Where the unloading of Goods is for any reason delayed the Buyer shall indemnify and keep indemnified in full the Seller in respect of any loss or damage which it may sustain in consequence thereof.

12. STORAGE CHARGES

12.1 If the Buyer fails to take delivery of or will not accept delivery of the Goods when they are ready for delivery or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of the Seller's fault) then the Goods will be deemed to be delivered and, without prejudice to any other right or remedy available to the Seller, the Seller may:

12.1.1 Store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

12.1.2 Sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

13. CLAIMS AND DAMAGES

13.1 The Buyer shall upon delivery examine the Goods and shall promptly (but in any event within seven working days of delivery) notify the Seller in writing of any apparent damage, defect or shortage.

13.2 In default of the written notification referred to in clause 13.1 the Seller shall be deemed conclusively to have properly performed its obligations under the Contract.

13.3 The Seller does not exclude or limit liability in respect of death or personal injury caused by the Seller's negligence or fraud.

13.4 Subject to Clause 13.3 the Seller shall not be liable for any losses, charges, costs, expenses or damages (whether such were foreseen, foreseeable, known or otherwise) of whatsoever nature or to whomsoever or howsoever caused (including by negligence) arising out of a Contract or out of the use or the supply of the Goods supplied by it hereunder notwithstanding that the same may be due to negligence on the part of the Seller's employees or agents or to any defect inherent, latent or otherwise which may be or which may subsequently develop in the Goods or materials supplied by the Seller or otherwise howsoever arising, including:

13.4.1 loss of sales or turnover;

13.4.2 loss of anticipated savings;

13.4.3 loss of customers;

13.4.4 loss of actual or anticipated profits;

13.4.5 loss of opportunity;

13.4.6 loss of goodwill;

13.4.7 loss of reputation; or

13.4.8 Consequential or indirect loss or damage, costs, expenses or other claims for consequential compensation (howsoever caused).

Goods in accordance with the Brand Manual or as otherwise required by the Seller.

19. FORCE MAJEURE

19.1 Insofar as the performance of the Contract by the Seller may be affected by any strike, any lack of available transport or materials, any restriction, regulation or decree by any local or municipal authority or government department or by any strike, commotion, riot, lockout, delay of Sellers' suppliers or other industrial action, act of God or for any other cause or reason of whatsoever nature beyond the Seller's control the Seller may elect at its absolute discretion either:-

19.1.1 To terminate the Contract; or

19.1.2 To proceed to perform or continue performance under the Contract within a reasonable time after the termination of such events or circumstances and with such reasonable variation as the circumstances shall prevail.

20. CONSENTS

20.1 It shall be the responsibility of the Buyer (and not the Seller) to obtain all consents necessary for the installation, import and storage of any Goods in accordance with the provisions of any relevant by-laws, regulations or statutes.

21. SEVERABILITY

Should any of the Conditions be found by a court or other competent authority to be void or unenforceable such provision shall be deemed to be deleted from these Conditions and the remaining Conditions shall continue in full force and effect.

22. NOTICES

Save as herein before otherwise provided, any notice required or permitted to be given by the Buyer under these Conditions shall be in writing, addressed to the Seller at its trading address shown on the Contract. Any notice required or permitted to be given by the Seller to the Buyer under these Conditions shall be in writing, addressed to the Buyer at the address shown for the Buyer herein.

23. CONFLICT

To the extent of any conflict between these Conditions and any terms and conditions of the Buyer either on the Buyer's Order form or otherwise, the Conditions herein contained shall take precedence. The Seller shall not be bound by the Buyer's terms and conditions or any of them unless expressly agreed to in writing by a director of the Seller.

24. GENERAL

24.1 These Conditions and the Contract shall be construed according to German Law and the parties hereby submit to the exclusive jurisdiction of the Courts in Kiel, Germany.

24.2 The Buyer shall not be entitled to assign (or sub-contract) the Contract(s) or any part of it without the prior written consent of the Seller. The Seller may assign (or sub-contract) the Contract(s) or any part of it to any person, firm or company.

24.3 Each right or remedy of the Buyer under the Contract is without prejudice to any other right or remedy of the Buyer whether under the Contract or not.

24.4 A person who is not a party to this Contract has no rights to enforce any terms of this Contract.

24.5 These Conditions together with any documents referred to therein constitute the entire agreement between the Buyer and the Seller and supersede any previous agreement between the Buyer and the Seller (whether oral or written) relating to the subject matter of the Conditions.