

# General Terms and Conditions of Sales and Delivery (GTC) of RUTRONIK España S.L. – Version as of: April 01, 2023 –

## Section 1 General – Scope of application

**1.1** These GTC apply to all business transactions between RUTRONIK España S.L. (“**Distributor**”) and its Customers (“**Customer**”). The GTC apply, in particular, to contracts for the sale and/or delivery of movable Goods (“**Goods**”), and also to work and services to be provided by the Distributor (together “**Service[s]**”).

**1.2** The GTC shall also apply to all similar future transactions, even if no reference is made to these GTC in future contracts.

**1.3** These GTC shall apply exclusively. Any conflicting, additional or deviating terms and conditions of the Customer shall not become part of the contract unless the Distributor has expressly agreed to their validity. This requirement of consent shall apply in any case, in particular, even if the Distributor carries out a delivery of Goods (“**Delivery[ies]**”) or Service without reservation in the knowledge of the Customer’s terms and conditions. Individual agreements by the contractual partners shall in any case take precedence over these GTC.

**1.4** Should the Distributor be entitled to further or more extensive rights under the statutory regulations than those regulated in these GTC, the statutory regulations shall remain unaffected.

**1.5** The contractual language is English. Insofar as the contractual partners use another language, the English wording shall take precedence.

## Section 2 Offer and conclusion of contract

**2.1** Offers made by the Distributor shall be subject to change and non-binding, unless they are expressly designated as binding. They shall only represent an invitation to the Customer to make an offer by submitting an order.

**2.2** All information on the Goods and Services in catalogues and brochures, as well as their presentation in the Distributor’s online shop, on the Internet and in other advertising media are intended to provide an overview of the Goods and Services and shall not become part of the contract.

**2.3** Orders placed by the Customer contain binding offers. The Distributor may accept orders within 14 days of their receipt. Acceptance takes place either through a separate order confirmation, Delivery of the ordered Goods, invoicing or execution of the Service.

**2.4** If the Customer orders Goods via the online shop of the Distributor Rutronik24, the Distributor will immediately confirm receipt of the order electronically. These confirmation notifications do not constitute acceptance of the contract. When using the online shop, the Customer shall ensure that only authorised persons can place binding orders and declarations on his behalf.

**2.5** The Customer is only entitled to change or cancel orders or to postpone delivery dates with the consent of the Distributor. In the case of accepted cancellations, a lump sum of 15 % of the order value shall be due immediately. Cancellations are always excluded for orders of Goods designated by the Distributor as “Non-Standard” or “NCNR”. The Distributor can mark the Goods as non-standard or NCNR in various ways, e.g. by making a corresponding reference in offers, product lists or order confirmations.

**2.6** The Distributor can stop the sale of individual Goods or the provision of individual Services via the Rutronik24 online shop at any time for justified reasons and block the Customer’s access to the Rutronik24 online shop without the Customer being able to derive any rights or claims against the Distributor therefrom.

**2.7** Should declarations or recommendations of a technical or other nature be made by the Distributor to the Customer, these shall be deemed to be non-binding sales promotional concessions without any obligation to pay a form of remuneration and shall not become part of the contract. The Distributor accepts no liability for the accuracy and/or completeness of such statements or recommendations.

**2.8** Technical support by the Distributor is generally provided by telephone and without detailed knowledge of the Customer’s conditions of use and product application; in particular, the Distributor shall not provide any proprietary development Services. The Distributor shall only carry out product suitability studies or technical tests of the products as a result of a separate order from the Customer in the Customer’s interest and under the Customer’s responsibility.

## Section 3 Technical development, description of Goods and Services

**3.1** If the contract relates to Goods that are subject to further technical development, the Distributor is entitled to deliver the Goods in accordance with the current development status or manufacturer’s data sheet, respectively.

**3.2** Deviations that are customary in trade, such as deviations in quality, quantity or weight, and deviations that occur due to legal regulations, shall be permissible. The Customer shall be obligated to inform the Distributor in writing if his interest is limited exclusively to the type ordered and in no case may deviations be made from this.

**3.3** Information about the Goods or Services distributed by the Distributor (e.g. weights, dimensions, utility values, load-bearing capacity, tolerances and technical data), as well as representations of the same (e.g. drawings and illustrations), in particular, in brochures, type lists, catalogues, data sheets, advertising literature, specifications and descriptions, requirement specifications and other technical delivery conditions, certificates (e.g. certificate of compliance) and other documents are only approximate and shall not constitute quality information unless the usability for a specific purpose is agreed separately in the contract. In any case, they shall not constitute a guarantee of quality or durability on the part of the Distributor. The Distributor also provides no guarantee with regard to the marketability of the Goods or suitability for a specific purpose or use or with regard to the rights of third parties.

**3.4** Samples of the Goods distributed by the Distributor are for testing purposes and shall not constitute a guarantee of quality or an agreement on quality without express prior agreement. The manufacturer’s applicable or customary tolerance ranges must be observed.

**3.5** The manufacturer’s reliability data on Goods delivered or Services rendered serve as statistical averages for orientation purposes only, and do not refer to individual Deliveries or Delivery lots.

## Section 4 Framework orders

**4.1** Framework orders, i.e. orders in which the Customer orders a certain quantity of Goods to be delivered in several partial deliveries over a certain period of time, shall only be possible with a separate agreement and a fixed schedule for the individual Deliveries. Unless otherwise agreed, the framework order shall have a maximum term of six months. Remaining stocks shall be due for delivery at the end of the term and shall be accepted by the Customer.

**4.2** In the case of framework order, the call-off of the individual Deliveries must be made by the Customer at least 8 weeks before the desired delivery date. If a call-off is not made, the Distributor shall be entitled to deliver the Goods to the Customer after the requested delivery date, but no later than the expiry of the framework order term, to invoice the Customer and to demand compensation for additional expenses. If the call-off

dates are not met by the Customer, the Distributor reserves the right to change the price to the date of the call-off.

## Section 5 Prices/price adjustment

**5.1** Unless otherwise agreed, the prices stated in the Distributor’s order confirmation shall apply. The prices shall only apply to the scope of Services and scope of Delivery specified in the order confirmation. In particular, costs for packaging, freight, insurance, customs, public fees and value added tax are not included.

**5.2** The statutory VAT shall be shown separately in the invoice at the statutory rate applicable on the date of invoicing.

**5.3** To the extent that cost increases occur between the conclusion of the contract and the Delivery of the ordered Goods for which the Distributor is not responsible and which were unforeseeable at the time of said conclusion of contract, in particular, due to changes in market prices, material and raw material prices or exchange rate fluctuations, which result in the Distributor only being able to obtain the Goods at less favourable economic conditions, the Distributor shall be entitled to adjust the agreed prices in accordance with associated cost increases if the Goods are not to be delivered until at least four months after the conclusion of the contract. If the increase in the price agreed with the Customer thereafter amounts to more than 10%, the Customer may withdraw from the contract within one week of being notified accordingly by the Distributor with regard to those items affected by said increase.

**5.4** The Distributor shall be entitled to execute or render outstanding Deliveries or Services only against advance payment or the provision of collateral, if the Distributor is doing business with the Customer for the first time or if the Customer’s financial circumstances deteriorate significantly after the conclusion of the contract, e.g. if insolvency proceedings are instituted against the Customer’s assets or if deteriorations in the Customer’s assets become known after the conclusion of the contract. This applies accordingly if the Customer refuses or fails to pay outstanding claims of the Distributor and the Customer does not have any undisputed or legally established objections against the Distributor’s claims.

## Section 6 Terms of payment

**6.1** Unless otherwise agreed in writing, all invoices originating from the Distributor are to be paid immediately without deductions in the currency invoiced to the account designated by the Distributor, at the latest within 14 days of the invoice date. Receipt of payment shall be decisive for meeting the respective deadline.

**6.2** Should the Customer be in arrears with a due payment, the Distributor shall be entitled to charge interest from the due date at a rate of 9 percentage points above the respective base interest rate plus a lump sum default fee of EUR 40.00, as well as reasonable collection costs and lawyers’ fees, and to set all outstanding invoice amounts due immediately. The lump sum for default shall be offset against any damages owed, insofar as the damages are based on the costs of legal action. Furthermore, the Distributor shall not be obligated to make further Deliveries from current delivery contracts.

**6.3** Bills of exchange and cheques shall only be accepted on the basis of an express written agreement and only in lieu of payment. Discount charges and other bill of exchange and cheque costs shall be borne by the Customer. The Distributor’s rights under Section 10 of these GTC shall remain in force until all claims arising from bills of exchange have been met in full.

**6.4** The Distributor shall be entitled to offset payments made by the Customer first against the Customer’s oldest debt. Should costs and interest have already been incurred, the Distributor shall be entitled to offset the payment first against said costs, then against the interest and finally against the principal claim.

**6.5** Should the Customer be in default of acceptance, the purchase price shall become due on receipt of the declaration of readiness for shipment.

## Section 7 Offsetting, retention, assignment

**7.1** Liabilities of the Distributor vis-a-vis the Customer, e.g. from credit notes, may be offset by the Distributor against outstanding claims vis-a-vis the Customer.

**7.2** The Customer shall only be entitled to set off if his counterclaims have been legally established, are undisputed or have been recognised by the Distributor. The same shall apply to the Customer’s right of retention, unless the counterclaim is based on the same contractual relationship as the outstanding claims.

**7.3** The assignment of any Customer claims vis-a-vis the Distributor arising from this contractual relationship shall require the written consent of the Distributor. The Distributor shall only withhold his consent for justified reasons.

## Section 8 Delivery, delivery periods, partial Deliveries, partial Services

**8.1** All deliveries are made free carrier (FCA Incoterms 2020) shall apply, in each case warehouse of RUTRONIK Elektronische Bauelemente GmbH, Eisingen, Germany.

**8.2** The delivery periods and dates stated by the Distributor shall be anticipated, non-binding periods and dates. The Distributor shall, therefore, not be liable for any delays. Delivery periods and dates shall only be binding if the Distributor has expressly designated or confirmed them as binding in writing. Unless otherwise agreed, Deliveries shall be fulfilled by the Distributor on time when the Goods are handed over to a transport person ex works of the Distributor, or the Distributor has notified the Customer that the Goods are ready for shipping. This Section 8.2 shall apply accordingly to Service periods and dates.

**8.3** Agreed Delivery or Service periods shall be ex works of the Distributor and shall not commence before the complete provision of the documents, approvals and releases to be procured by the Customer and in no case before the receipt of an agreed down payment or advance payment respectively. Should the prerequisites not be fulfilled, Delivery and Service periods shall be extended accordingly, unless the Distributor is responsible for the delay.

**8.4** Compliance with agreed Delivery and Service periods and dates shall be subject to the Distributor’s own timely and correct delivery.

**8.5** Should, for reasons for which the Distributor is not responsible, the Distributor not receive deliveries or services from manufacturers, pre-suppliers or subcontractors, or should not receive them correctly or in a timely manner despite proper congruent coverage, or should force majeure events occur, the Distributor shall inform the Customer in writing in good time. In such a case, the Distributor shall be entitled to postpone said Delivery or Service for the duration of the impediment or, insofar as the impediment to performance lasts longer than 2 months, to withdraw from the contract due to the unfulfilled component part thereof, insofar as he has fulfilled his aforementioned duty to notify the Customer. Force majeure is the occurrence of an event or circumstance beyond the Distributor’s control, as a result of which the Distributor is prevented from fulfilling one or more of its contractual obligations. These events and circumstances shall include, but not be limited to, war, terror, trade restrictions, epidemics, natural disasters and strikes.

**8.6** The Customer shall be in default of acceptance if he does not accept the Delivery or Service offered to him by the Distributor. From the time of default in acceptance, the Distributor may demand a lump sum for storage costs. This shall amount to 0.5 % of the purchase price sum per week or part thereof and shall be limited to 5 % of the purchase price sum. The Customer shall be at liberty to prove that no (or lower or higher) storage costs were incurred in connection with the Customer's default in acceptance. Any further claims shall remain unaffected.

**8.7** At the Distributor's request, the Customer shall be obligated to declare within a reasonable period of time whether he will withdraw from the contract due to the delay in Delivery or Service, or whether he will insist on the Delivery or Service.

**8.8** Partial Deliveries or partial Services shall be permissible if said partial Delivery or partial Service is deemed usable for the Customer within the scope of the contractually intended purpose, the Delivery of the remaining ordered Goods or the outstanding partial Service is ensured and the Customer does not incur any significant additional expense or additional costs as a result.

**8.9** The Distributor reserves the right to make Deliveries either above or below the specified amount (as is customary) for production or shipping reasons. Refunds shall not be made for Deliveries that are below a stated amount.

#### **Section 9 Transfer of risk/shipping**

**9.1** The risk of accidental loss and accidental deterioration of the Goods shall pass to the Customer when the Goods are handed over to the forwarding agent, carrier or other professional designated to carry out the shipment ex works of the Distributor. This shall also apply if partial Deliveries are made, if the Distributor undertakes the export or installation, or if a shipment free of freight charges or costs for the Customer has been agreed. This shall also apply in the case of delivery to a consignment store at the Customer's premises.

**9.2** At the request and expense of the Customer, the Distributor shall insure the Goods against the usual transport risks by means of transport insurance.

**9.3** Should the handover or dispatch be delayed as a result of circumstances for which the Customer is responsible, the risk shall pass to the Customer from the day on which the Goods are ready for dispatch and the Distributor has notified the Customer thereof.

**9.4** Should the Distributor select the shipping method, the shipping route and/or the shipping person, the Distributor shall only be liable for intent or gross negligence in the selection in question.

**9.5** The Customer may not refuse to accept Deliveries due to insignificant defects.

**9.6** Insofar as the Distributor is obligated under applicable law to take back the Goods packaging used for transport and/or sale, the Customer shall bear the costs of the return transport and the necessary costs of disposal or – insofar as this is possible and deemed expedient by the Distributor – the necessary costs incurred in addition thereto for the reuse of the packaging. By placing his order, the Customer confirms and undertakes vis-a-vis the Distributor to ensure that packaging which is not returned in accordance with applicable law will be recycled in accordance with the national applicable law dispositions of the destination country of the Goods.

#### **Section 10 Retention of title**

**10.1** The Goods delivered shall remain the property of the Distributor until full and unconditional payment of all claims to which the Distributor is entitled vis-a-vis the Customer arising from the business relationship.

**10.2** The Customer shall be obligated to treat the Goods subject to retention of title with care. In particular, he shall be obligated to insure the Goods at his own expense against damage by fire, water and theft at their replacement value. The Customer hereby assigns to the Distributor all claims for compensation arising from this insurance cover. The Distributor hereby accepts the assignment. Upon request, the Customer shall provide the Distributor with evidence of the conclusion of such an insurance policy.

**10.3** The Customer shall be permitted to resell the Goods subject to retention of title in the ordinary course of business. The Customer hereby assigns to the Distributor any and all claims arising from the resale of the Goods – including all ancillary rights – irrespective of whether the Goods are resold without or subsequent to processing. The Distributor hereby accepts this assignment now. Should an assignment not be permissible, the Customer shall immediately instruct the third-party debtor to make any payments to the Distributor only. The Customer is hereby authorised subject to revocation to collect the claims assigned to the Distributor in trust for the Distributor. The collected amounts are to be paid to the Distributor immediately. The Distributor may revoke the Customer's authorisation to make such collections, as well as the Customer's authorisation to resell, should the Customer not duly fulfil his payment obligations vis-a-vis the Distributor, default on payment, stop his payments, or if an application is made to open insolvency proceedings vis-a-vis the Customer's assets. The resale of any claims shall require the prior consent of the Distributor. Upon notification of the assignment to the third party debtor, the Customer's right to collect shall expire. In the event of the revocation of a collection authorisation, the Distributor may demand that the Customer discloses the assigned claims and their debtors, provides all information required for said collection, hands over the relevant documents and notifies the debtors of the assignment.

**10.4** The Customer shall not be entitled to pledge the Goods subject to retention of title, to assign them by way of collateral or to enter into any other form of obligation that jeopardises the Distributor's ownership. In the event of seizures or other interventions by third parties, the Customer must notify the Distributor immediately in writing and provide all necessary information, inform the third party of the Distributor's ownership rights and cooperate in the Distributor's measures to protect the Goods subject to retention of title. The Customer shall bear all costs for which he is responsible that have to be incurred in order to cancel the seizure and to recover the Goods.

**10.5** In the event of default in payment on the part of the Customer, the Distributor shall be entitled, without prejudice to his other rights, to withdraw from the contract or to terminate the contract (in the case of continuing obligations). The Customer must immediately grant the Distributor or a third party commissioned by the Distributor access to the Goods subject to retention of title, hand them over and inform them where they are located.

**10.6** The processing or transformation of the Goods subject to retention of title by the Customer shall always be carried out for the Distributor. The Customer's expectant right to the Goods subject to retention of title shall continue in respect of the processed or transformed Goods. Should the Goods be processed, combined or mixed with other items not belonging to the Distributor, the Distributor shall acquire co-ownership of the new items in proportion to the value of the delivered Goods to the other processed items at the time of processing. The Customer shall keep the new items for the Distributor. In all other respects, the same provisions shall apply to the object created by way of processing or transformation as to the Goods subject to retention of title.

**10.7** At the Customer's request, the Distributor shall be obligated to release the securities to which he is entitled to the extent that the realisable value of said securities exceeds the Distributor's claims arising from the business relationship with the Customer by more than 20 %, taking into account all customary bank valuation discounts. The Distributor shall be entitled to choose between various security interests for release.

**10.8** In the case of Goods deliveries to other legal jurisdictions in which the retention of title provisions under Section 10.1 - 10.7 do not have the same protective effect as in Spain, the Customer shall grant the Distributor a corresponding collateral right. Insofar as further declarations or actions are required for this purpose, the Customer shall make said

declarations and cooperate in all measures necessary for the efficacy and enforceability of such collateral rights.

#### **Section 11 Condition of the Goods and intended use**

**11.1** The agreed quality of the Goods shall be deemed exclusively to be the information on specifications, durability and use contained in the respective manufacturer's data sheets. Other information, requirements and specifications shall not become part of a quality agreement unless the Distributor expressly agrees to their validity as a quality agreement.

**11.2** Deviations within the scope of recognised production-related tolerances shall not constitute a material defect.

**11.3** The delivered Goods shall be used only for the purposes and uses recommended or approved by the respective manufacturer in the respective product specification or in the manufacturer's data sheet ("**Intended Use**"). Should the Customer require the Goods for other purposes and uses, he must ensure their special suitability and their compliance with all relevant technical, legal or official regulations at his own expense and responsibility, and check them before the planned use in question. The Customer may only invoke a use intended by him and not provided for in the manufacturer's data sheet if this has been agreed in writing with the Distributor.

**11.4** In particular, Intended Use shall not include the use of the Goods in life-supporting or life-supporting medical devices, in military systems, in nuclear systems, in aerospace systems, in combustion control systems, in safety equipment and in equipment or systems in which the failure or malfunction of the Goods could reasonably be expected to result in injury to life, limb or health or in exceptionally high property damage and/or financial loss ("**Reserved Purposes**"), unless the use of the Goods for such Reserved Purposes is expressly confirmed in writing by the relevant manufacturer or Distributor. If the Customer nevertheless uses Goods for purposes other than those for which they are intended or for Reserved Purposes without such express and written confirmation, such use shall be at the sole responsibility and risk of the Customer. The same shall apply if the Customer uses Goods in a prohibited manner and contrary to Spain, German, US-American (as well as other applicable national EU or international) regulations governing foreign trade law, or embargos or other sanctions.

**11.5** The Distributor shall assume no liability for expenses and damages resulting from improper, unsuitable or inappropriate handling or use, incorrect assembly or treatment, as a result of chemical, electrochemical, thermal, mechanical or electrical influences or for Reserved Purposes without prior express and written confirmation. The Customer undertakes to indemnify the Distributor against all claims asserted by third parties for personal injury and/or damage to property, insofar as these expenses and damages have arisen in connection with the improper, unsuitable or inappropriate handling or use of said Goods for non-recommended, non-approved, prohibited or otherwise Reserved Purposes without the prior express consent of the respective manufacturer or Distributor.

**11.6** The Customer shall be solely responsible for the suitability and safety of the Goods for its Customer-side application unless otherwise expressly agreed in writing. Due to the multitude of potential uses, different requirements and individual conditions of use of which the Distributor has no knowledge, the Distributor cannot guarantee the suitability of the Goods for a particular use, unless it has expressly warranted the suitability for a particular use in writing. The Customer shall be obligated to check the suitability of the Goods for the use intended by him as per his own responsibility. This applies in equal measure to the analysis and verification of information and recommendations of the Distributor, which is the sole responsibility of the Customer, as well as to the manufacturer's information on the intended use of the Goods, for the correctness of which the Distributor assumes no liability, nor for the fact that the Goods do not contain any environmentally hazardous or prohibited ingredients that are above permissible limits.

**11.7** The Distributor shall not provide any guarantee, in particular, no guarantee for the composition, quality or durability of the Goods.

**11.8** Should the Goods to be delivered be processed by the Distributor on behalf of the Customer, the provisions in Sections 11.1 - 11.8 shall apply accordingly. In such a case, the Distributor undertakes to carry out careful processing in accordance with the Customer's specifications as agreed in writing, without being responsible for any influences of said processing on the function and quality of the Goods.

#### **Section 12 Examination of Goods, notice of defects**

**12.1** The Customer's rights in respect of defects presuppose that he has complied with his statutory obligations to inspect the Goods and to issue a notice of defects in respect of the identity, completeness and defect-free condition of said Goods. To this end, the Customer must carefully inspect the delivered Goods immediately upon receipt and before further use and notify the Distributor in writing immediately after receipt of the Goods of any obvious deficiencies and defects that are usually recognisable during such an incoming goods inspection, stating the complaints and the defect in question, as well as the production and delivery batches concerned. Hidden defects and Customer complaints made in this respect must also be documented by the Customer immediately after their discovery and reported to the Distributor in writing. The notification shall be deemed to be immediate if it is made within three working days at the latest, whereby the dispatch of said notification or complaint shall suffice to meet the deadline. Should the Customer fail to duly inspect and/or issue a notification regarding the defect with the required information in accordance with this regulation, the Distributor's liability for defects – with regard to said defect not notified, not notified properly or not notified on time – shall be excluded.

**12.2** With the issuance of a notification of a defect, the Customer must document any defects discovered by him or reported to him, stating the place, date and number of their occurrence, and notify the Distributor of this in writing.

**12.3** The Customer shall immediately give the Distributor the opportunity and the necessary time to inspect the notifications of defects, Customer complaints and measures carried out by the Customer for this purpose itself, by the pre-supplier or other third parties. For this purpose, the Customer shall submit to the Distributor the Goods subject to complaint, the products concerned and the test reports prepared for them, as well as the Customer complaints and service reports that have been made.

**12.4** If the Goods are delivered by the Distributor in batches that enable a statistical incoming goods quality inspection according to the usual principles in this regard, at least this inspection shall be carried out as an incoming goods inspection. The test conditions and criteria specified in the relevant standard conditions shall apply in this respect.

**12.5** Claims for the reimbursement of costs or expenses resulting from the fact that the processing (or treatment) of the Goods in question was not stopped immediately after attaining knowledge of the defects (or by way of grossly negligent ignorance), or because the mixing of said Goods with Goods from another origin or delivery time was not excluded by the Customer, shall be excluded.

#### **Section 13 Claims for defects**

**13.1** In the event of a defect at the time of Delivery or, in the case of work performed by the Distributor, at the time of acceptance, and if the Customer has notified the Distributor of the defect in good time, together with a request for subsequent performance, the Distributor shall be entitled – at his own discretion and within a reasonable period of time – to effect subsequent performance either by remedying said defect or by delivering Goods that are free of defects. The Distributor's right to refuse subsequent performance under statutory conditions shall remain unaffected. It is expressly understood and reaffirmed that any subsequent performance by the Distributor is carried out within the scope of the good business relations existing between the parties and it is expressly excluded

that they imply an acknowledgement, explicit or implicit, of the actual existence or chargeability to the Distributor of a deficiency or defect in the delivered Goods.

**13.2** Defective Goods may only be returned to the Distributor for the purpose of subsequent fulfillment with prior written consent in accordance with the rules in place for this purpose at the Distributor (RMA process). The Distributor may, at any time, request the return of those Goods subject to complaint by the Customer; this shall also apply to Goods removed from the Customer's products, stating the place and date of removal as well as the type and serial numbers of the Customer's products. The risk of accidental loss or accidental deterioration of the Goods shall only pass to the Distributor at the time of handover to the Distributor. The Distributor shall be entitled to reject the returns of Goods without a previously assigned RMA number.

**13.3** Should the Distributor not be willing (or able) to provide subsequent performance after a reasonable period of time, the Customer may choose to withdraw from the contract or reduce the purchase price. The same shall apply if the subsequent performance repeatedly fails or is deemed unreasonable for the Distributor. In the case of an insignificant defect, there shall be no right of withdrawal. The Customer may not assign claims for defects.

**13.4** The following shall apply to any claims for the reimbursement of expenses by the Customer within the framework of subsequent performance: Expenses incurred by the Customer are not necessary if they are above the usual market rate, if they have increased due to the fact that the Customer did not make use of a subsequent performance offered to him by the Distributor, or if the Goods were taken by the Customer to a place other than the delivery address subsequent to Delivery by the Distributor, unless the Goods were by their nature intended to be taken to a different place. The same shall apply to expenses which are increased by the fact that the Customer grants his Customers rights or payments exceeding the statutory rights in respect of defects without an existing contractual obligation, or does not assert (or otherwise elects to waive) justified objections or defences.

**13.5** A claim for payment of removal and installation costs shall require that the Customer has notified the Distributor in writing in advance of the removal and installation measures he intends to take, and has requested the Distributor to carry out subsequent performance. Costs attributable to the unauthorised removal of defects by the Customer shall otherwise be excluded, unless the Customer is thereby threatened with considerable damage, which is prevented by way of immediate removal. The Customer shall not be entitled to demand an advance payment for removal and installation costs.

**13.6** Should the removal of Goods and/or the installation of Goods or the replacement Goods only be possible at disproportionate cost – taking into account, in particular, the value of the Goods in a defect-free condition and the significance of the defect, and if the Distributor is not responsible for the delivery of defective Goods – the Distributor shall only bear the associated expenses up to the amount of twice the order value of the affected Delivery of Goods.

**13.7** In the event of a cross-border resale of the purchased Goods by the Customer, the Distributor shall not be liable for any increased expenses in the context of subsequent performance.

**13.8** Should a request to remedy a defect and an associated claim for defects by the Customer transpire to be unjustified, which the Customer could have recognised without further ado upon notification by the Distributor and subsequent to careful examination, the Distributor may demand reimbursement of those costs incurred by it as a result.

**13.9** The Customer's right of recourse for the reimbursement of expenses for subsequent performance in relation to its Customers shall be excluded, insofar as the Distributor is not at fault and the last contract in the supply chain for said Goods does not concern the purchase of consumer Goods Anyway in whatever case there were grounds, on the basis of applicable law, for the Customer to take recourse against the Distributor, this right is expressly excluded by agreement between the parties and the Customer expressly renounces to take recourse.

**13.10** Claims for defects on the part of the Customer shall be excluded if the Customer was aware of the defect in the Goods or Services at the time the contract was concluded, or at the time the Goods concerned were called off, or if the Customer remained unaware of the defect due to gross negligence. Any claims for defects shall also be excluded in the event of only insignificant deviations from the agreed quality, in the event of only insignificant impairment of usability, in the event of natural wear and tear or damage occurring after the transfer of risk as a result of incorrect or negligent handling, excessive strain, unsuitable operating materials, defective construction work, unsuitable building ground, or as a result of special external influences which are not assumed under the contract, as well as in the event of any non-reproducible software errors. If the Customer or third parties carry out improper modifications, installation/removal or repair work, there shall also be no claims for defects for these and the resulting consequences.

**13.11** Any claims by the Customer for payment of removal and installation costs shall also be excluded if the Customer was aware of the defect in the Goods at the time of acceptance, resale, processing or installation, or if the defect remained unknown to the Customer due to gross negligence. The exclusion of liability in the case of gross negligence shall not apply in the case of fraudulent intent or a guarantee of quality on the part of the Distributor. In particular, gross negligence shall also be deemed to exist if the Customer fails to carry out inspections that are reasonable for him in the ordinary course of business, or fails to arrange for supplementary inspections to be carried out immediately after an accumulation of complaints regarding said Goods, and immediately discontinues the sale or processing of the Goods.

**13.12** The Customer's warranty claims shall lapse if the Customer attempts to repair defective Goods himself or has them repaired by a third party or otherwise processes, alters, damages or destroys them without prior written notification to the Distributor, and if this renders it impossible or unreasonably difficult for the Distributor to rectify said defect or provide evidence of the condition of the Goods at the time of the transfer of risk.

**13.13** The limitation period for claims for defects on the part of the Customer shall be one year; namely for warranty claims for defects and claims under a right of recourse from the time of delivery of the Goods to the Customer and for all other claims, including claims in tort, from the time of the Customer's knowledge or grossly negligent lack of knowledge of the circumstances giving rise to the claim and the person of the debtor. Insofar as Goods have been used in accordance with their customary use for a building and/or insofar as the Distributor's liability for damages from a breach of a guarantee or from injury to life, body or health – as well as for malice, intent and gross negligence or under the Product Liability law – is affected, the statutory limitation periods shall always apply exclusively.

**13.14** A statement by the Distributor in response to a complaint by the Customer shall not be deemed to be an acknowledgement or entry into negotiations regarding a claim, unless the Distributor expressly declares the same. This applies, in particular, if the Customer has not asserted a claim in writing or if the Distributor rejects the Customer's claims.

**13.15** Claims for damages by the Customer due to a material defect shall be excluded. This shall not apply insofar as expressly regulated otherwise in this Section 13, or in the case of a fraudulent concealment of the defect, in the case of non-compliance with a quality guarantee, in the case of injury to life, body or health and in the case of an intentional or grossly negligent breach of duty on the part of the Distributor. A change in the burden of proof to the detriment of the Customer shall not be associated with the above provisions.

#### **Section 14 Other claims for damages and reimbursement of expenses**

**14.1** Unless otherwise provided for in these GTC or otherwise expressly agreed between the parties, the Distributor's liability, irrespective of the legal grounds, shall be excluded.

**14.2** The Distributor shall be liable without limitation for damages arising from the breach of a guarantee or from injury to life, limb or health. The same shall apply to intent and gross negligence, as well as within the scope of the Distributor's statutory liability for product defects (in particular, under the Spanish Civil Code and Spanish Commercial Code) and liability for fraudulent concealment of defects. The Distributor shall only be liable for simple negligence, irrespective of the legal grounds, in the event of a breach of a major contractual obligation arising from the nature of the contract, the fulfilment of which is a prerequisite for the proper performance of the contract and on the observance of which the Customer regularly relies and may rely, and to an extent that is limited to foreseeable and typically occurring damage.

**14.3** The Distributor's liability for simple negligence shall be limited to a maximum of EUR 100,000.00 per instance of damage and, in the case of the Distributor's delay in delivery, to a maximum of EUR 50,000.00.

**14.4** The exclusions and limitations of liability regulated in this Section 14 shall apply to the same extent in favour of the Distributor's executive bodies, legal representatives, employees and other vicarious agents.

#### **Section 15 Product liability**

**15.1** The Customer shall not modify the Goods; in particular, the Customer shall not modify or remove existing warnings indicating the dangers of improper use of said Goods. In the event of a breach of this obligation, the Customer shall indemnify the Distributor internally against product liability claims asserted by third parties, insofar as the Customer is deemed responsible for the defect giving rise to any liability.

**15.2** Should the Distributor be prompted to issue a product recall or warning due to a product defect in the Goods, the Customer shall support the Distributor and take all reasonable measures ordered by the Distributor. For this purpose, the Customer shall provide the Distributor with all documents relating to the production, Delivery and complaint of said Goods. The Customer shall be obligated to bear the costs of the product recall or warning, insofar as he is responsible for the product defect and the damage incurred. Further claims of the Distributor shall remain unaffected.

**15.3** The Customer shall immediately inform the Distributor in writing of any risks in the use of the Goods and possible product defects or product failures of which he becomes aware in each individual instance.

#### **Section 16 Industrial property rights and copyrights; software**

**16.1** The Goods may be subject to patent rights, trademark rights, copyrights, design rights and other rights of third parties (together "Property Rights"). Unless otherwise agreed, the Distributor shall only be obligated to make the delivery in the country of the place of delivery without infringing any Property Rights.

**16.2** Should a third party assert claims vis-a-vis the Customer for the infringement of Property Rights by those Deliveries or Services provided by the Distributor and used in accordance with the contract, the Distributor shall only be liable in accordance with the following:

**16.2.1** The Distributor shall, at his own discretion and expense, either obtain a right of use for the Deliveries or Services concerned, modify them in such a way that the Property Rights of third parties are not infringed, or replace them. Should this not be possible for the Distributor under reasonable conditions, the Customer shall be entitled to the statutory rights of reduction or withdrawal.

**16.2.2** Claims for damages against the Distributor shall be governed by Section 14.

**16.2.3** The Distributor's aforementioned obligations shall only exist insofar as the Customer immediately notifies the Distributor in writing of the claims asserted by third parties, does not acknowledge an infringement, and all defensive measures and settlement negotiations are reserved for the Distributor. Should the Customer discontinue the use of said Goods or Services for reasons relating to the mitigation of damages or other important reasons, he shall be obligated to point out to the third party that the discontinuation of use does not imply any acknowledgement of an infringement of Property Rights.

**16.2.4** Claims by the Customer shall be excluded insofar as the Distributor is not responsible for the infringement of Property Rights.

**16.2.5** Claims of the Customer shall also be excluded if the infringement of the Property Right is caused by way of special stipulations of the Customer, by improper use or by the fact that the Delivery or Service has been changed by the Customer, or is used together with Goods not delivered by the Distributor.

**16.2.6** In all other respects, the provisions of Sections 12 and 13 shall apply.

**16.3** Should the scope of Delivery include software or intellectual property of the Distributor, the Customer shall be granted a non-exclusive right to use the delivered software or intellectual property (including its documentation) within the scope of the Intended Use of the Goods and, if applicable, the corresponding licence conditions. Use of the software or intellectual property on more than one system shall be prohibited.

**16.4** The Customer may only reproduce, transfer or translate the software or the intellectual property to the extent permitted by law. The Customer undertakes not to remove manufacturer's details – in particular, copyright notices – or to change them without the express consent of the Distributor or the pre-supplier.

#### **Section 17 Export control**

**17.1** The delivered Goods are intended to remain in the country of Delivery agreed with the Customer. Goods subject to embargo regulations may not be exported by the Customer from the country of Delivery. The same shall apply to Services rendered by the Distributor.

**17.2** The fulfilment of contractual obligations shall be subject to the provision that there are no obstacles in place due to Spain, German, US-American or other applicable national, EU or international regulations stemming from foreign trade law, or embargoes or sanctions, respectively. The Customer shall be responsible for compliance with export control regulations. In particular, the Customer himself shall be obligated to provide all information and documents and to obtain permits, licences, approvals and releases at his own expense, which are required for the export, transfer or import of Goods, respectively. The Customer undertakes not to export the Goods directly (or indirectly) to a country to which export is prohibited. The refusal of an export licence shall not entitle the Customer to withdraw from the contract or to claim damages. The provisions shall apply accordingly to Services rendered by the Distributor.

**17.3** The Customer shall be liable vis-a-vis the Distributor for all damages caused by his culpable non-compliance with the provisions stated under Section 17, and shall indemnify the Distributor against any claims of third parties.

#### **Section 18 Disposal**

To the extent required by law, the Customer shall be obligated to dispose of Goods covered by the Electronics Acts, Battery Acts) or Packaging Acts under his own responsibility and in accordance with all statutory provisions. The Customer shall assume all related payment and notification obligations to the extent legally permissible and shall impose the above obligations on its Customers accordingly.

In any case the Customer shall comply with any provision of law, regulation, or authoritative measure from time to time applicable and in force in the respective countries of delivery regarding waste disposal and environmental law in relation to product packaging. The Customer agrees, in particular, to hold the Distributor harmless for any costs, expenses, penalties, indemnification obligations however arising from the violation by the

Customer or its agents of provisions of environmental and administrative law in relation to the disposal of Product packaging and containers.

#### **Section 19 Customs duties**

**19.1** Should the Distributor be obligated to pay new, additional or amended customs duties, levies or comparable costs directly in relation to the Customer or indirectly in relation to the Customer's Goods to its supplier, which were not foreseeable by the Distributor in the price calculation in connection with the Goods purchased under these GTC at the time the order was confirmed vis-a-vis the Customer and, therefore, were not taken into account accordingly, the Distributor may – provided that there is a period of more than 4 months between the conclusion of the contract and delivery or performance, respectively – at its option, either:

(i) adjust the price quoted in the order confirmation to the Customer by an amount equal to the change for customs duties, levies or comparable costs without calculating any additional profit for the Distributor; or

(ii) in the event of an increase (or reintroduction) of duties, levies or similar charges which are unreasonable for the Distributor, refund any amounts already paid by the Customer in connection with an affected order and cancel the order without incurring any liability on the part of the Distributor as a result of said cancellation, subject to Clause 14.

**19.2** When adjusting prices in accordance with Section 19.1 (i), the Distributor shall be obligated to take into account cost increases only if they are offset by cost reductions in customs duties, levies or comparable costs and to balance such cost increases and reductions. If said increase is more than 10% compared to the purchase price originally agreed with the Customer, the Customer may withdraw from the contract concluded.

#### **Section 20 Data protection**

**20.1** The Distributor and the Customer (together the "Contractual Partners") undertake to comply with the relevant data protection regulations, in particular, the provisions of the General Data Protection Regulation (GDPR) and the Spanish Constitutional Act 3/2018, of 5 December, on Personal Data Protection and guarantee of digital rights, in the provision of any and all contractual services.

**20.2** The Contractual Partners undertake to execute any and all technical and organisational measures to the extent provided for by the relevant data protection regulations, in order to safeguard the confidentiality, availability, integrity and authenticity of the personal data provided by the respective Contractual Partner.

**20.3** The Contractual Partners undertake to use only employees for the provision of the contractual services who have been familiarised with the statutory provisions on data protection and the special data protection requirements of this business relationship – by means of suitable measures – and, insofar as they are not already subject to appropriate statutory duties of confidentiality, have been comprehensively committed in writing to maintaining said confidentiality (data secrecy). The obligation to data secrecy shall be made at the latest before the initial commencement of a business activity and shall be evidenced upon request. The Contractual Partners shall ensure that data secrecy continues to apply after termination of the contractual relationship between the Contractual Partner and its employees. Furthermore, the Contractual Partners shall ensure that only those persons are employed who are actually required to perform the assigned tasks (need-to-know principle).

**20.4** Should the Distributor collect, process or use personal data by way of commissioned processing within the meaning of Art. 28 GDPR, the Contractual Partners shall conclude the corresponding contract for commissioned processing pursuant to Art. 28 GDPR. In the event of any contradictions between the provisions contained in this clause and any contract for commissioned processing, the latter shall take precedence over the former.

#### **Section 21 Final provisions**

**21.1** The transfer of the Customer's rights and obligations to third parties shall only be effective vis-a-vis the Distributor with the Distributor's written consent.

**21.2** The place of jurisdiction for all disputes arising from or in connection with the contractual relationship is the Distributor's registered office. The Distributor shall also be entitled to take legal action at the Customer's registered office and at any other permissible place of jurisdiction. In addition thereto, the Distributor shall have the right to submit the dispute for arbitration as plaintiff. In such a case, the arbitration shall be held in Madrid, Spain, and the arbitration tribunal shall ultimately decide the legal dispute in accordance with the Arbitration Rules of the International Chamber of Commerce (the "Rules") to the exclusion of ordinary legal process. All proceedings in any such arbitration shall be conducted in English. The number of arbitrators shall be three (3) if the amount in dispute exceeds EUR 50,000.00; otherwise, one (1) sole arbitrator shall decide. Should the arbitration tribunal consist of three arbitrators, the Distributor and the Customer shall each appoint one (1) arbitrator. The third arbitrator (or the sole arbitrator) shall be appointed in accordance with the Rules and shall act as chairman of the arbitration tribunal. No award or procedural order issued in the arbitration shall be published. The initiation of a judicial dunning procedure by the Distributor shall not yet constitute an exercising of an elective right and shall be permissible in any case.

**21.3** The contractual relationship – including its interpretation and execution – shall be governed by the Spanish law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and private international law.

**21.4** The place of performance for Delivery and subsequent performance shall be the Distributor's registered office. The Distributor shall also be entitled to subsequent performance and rectification at the Customer's registered office.

**21.5** Should any provision of these GTC be or become invalid or unenforceable in whole or in part, or should there be a loophole in these GTC, this shall not affect the validity of the remaining provisions. In their place, a valid or enforceable provision that comes closest to the intended purpose of said invalid or unenforceable provision shall be deemed agreed; the same shall apply insofar as a matter requiring regulation has not been expressly regulated.