

## TERMS AND CONDITIONS (T&Cs)

AS AT February 2024

of

Pacific Power Source Europe GmbH  
Binzigstr. 21  
77876 Kappelrodeck

### 1. Validity

1.1 All our offers, orders, deliveries and services (hereinafter referred to as "service") - including future ones - are exclusively based on our T&Cs. Our current T&Cs, which will be provided to the distributor following any changes, shall always apply. The T&Cs are an integral part of all contracts with us; they are valid even if no specific reference is made to them.

1.2 Our T&Cs shall only apply towards businesses (§§ 14, 310 BGB). Our T&Cs apply exclusively.

### 2. Contract formation

2.1 Unless expressly stated otherwise, our offers are subject to change. We can accept orders from the customer within 10 working days. A contract, even in the case of a verbal order, shall only be concluded upon our order confirmation, at the latest, however, upon commencement of the performance of the service.

2.2 Verbal and telephone agreements require our written confirmation to be legally valid. Obvious errors, misprints, typing errors, miscalculations and calculation errors are not binding and do not constitute grounds for a claim. We shall only assume a guarantee if we expressly designate it as such in writing.

2.3 Only the order confirmation or, in the case of immediate order execution, the delivery note shall be authoritative for the scope and subject matter of the performance. If these contain changes to the customer's order, the customer's consent shall be deemed to have been given if the customer accepts the service without reservation and does not immediately object in writing. Changes or extensions to the order by the customer after confirmation of the order entitle us to adjust the price and extend the performance period.

2.4 Our offers are based on information provided by the customer, without knowledge of the customer's circumstances or specifications. The customer bears the risk of suitability and use. This also applies if we perform according to drawings, specifications, samples, plans, etc. of the customer. Liability for a specific purpose or a specific - technical - suitability is only assumed to the extent that this has been expressly agreed in writing.

2.5 Information, samples, specimens or illustrations in catalogues, price lists or other advertising material are only approximate (e.g. weight, dimensions, utility values, load-bearing capacity, tolerances or technical data), unless usability for the contractual purpose requires exact conformity. A reference to technical standards serves to describe the performance and is not a guarantee of quality.

2.6 If we produce samples or a prototype and these are approved by the customer, our corresponding performance of the service is deemed to be in accordance with the contract. The same applies if we produce the service according to plans drawn up by us and approved by the customer.

2.7 Unless otherwise agreed, instruction or advice is not owed. Insofar as we provide technical information or act in an advisory capacity and this information or advice is not part of the contractually agreed scope of performance, this shall be done to the exclusion of any liability.

2.8 If we recognize during the performance of the service that it cannot be carried out technically and/or in a process-safe manner or that specific requirements of the service have to be modified, we shall inform the customer of this and, as far as possible, submit alternative proposals. For this purpose, we shall submit a supplementary offer to the customer. The customer must inform us in writing without delay, but at the latest within 7 working days of receipt of the offer, whether he agrees to the modification. If no agreement can be reached, both parties may withdraw from the contract. Our expenses incurred up to that point shall be reimbursed. Claims for damages on the part of the customer arising from this are excluded.

2.9 The customer shall be liable for any accidental loss and any accidental deterioration as of handover of the goods.

### **3. Prices & Payment**

3.1 Our prices listed in the respective offer shall only apply up to the listed validity. Unless otherwise agreed, prices are ex works plus VAT and without ancillary services such as packaging.

3.2 A promised or guaranteed performance shall also be deemed to have been fulfilled if the performance achieved deviates by 10% (tolerance).

3.3 If missing information, unclear objectives, or tasks lead to additional work for us, this additional work will be invoiced separately in accordance with the current list price if the customer does not correct or supplement the missing information despite being requested to do so.

3.4 Unless otherwise agreed, invoices are due immediately without any deduction.

3.5 The credit entry on our account is decisive for the timeliness of a payment.

3.6 In the event of default in payment or reasonable doubt as to the customer's ability to pay, we may demand advance payment and/or assert a right of retention regarding further performance.

3.7 The customer shall only be entitled to a right of retention and the right of set-off if his counterclaims are undisputed, have been legally established or are based on claims for defects.

### **4. Proof of export**

4.1 If the customer, who is domiciled outside the Federal Republic of Germany (external customer) or his agent collects services from us and transports or dispatches them to the external territory, the customer shall provide us with the documentary evidence required for tax purposes. If this proof is not provided, the customer shall pay the VAT rate applicable to the delivery within the Federal Republic of Germany from the invoice amount.

### **5. Delivery transfer of risk**

5.1 The performance/delivery and the presentation of the documents shall be in accordance with ICC Incoterms® 2020.

5.2 Unless unreasonable, partial, excess, short or early performance is permissible.

5.3 A delivery deadline shall be deemed to have been met if the shipping service provider collects the consignment for dispatch within this period; we shall not be liable for its delays. Upon prior instruction and at the expense of the customer, we shall insure our performance and/or transport.

5.4 Insofar as acceptance is to take place, this shall be decisive for the transfer of risk. It must be carried out immediately after notification of readiness for acceptance. The customer may not refuse acceptance in the event of a non-essential defect.

5.5 The risk of accidental loss or deterioration shall pass to the customer at the latest upon acceptance or handover to the shipping service provider. In the event of delays in acceptance or dispatch due to circumstances for which we are not responsible, the risk shall pass to the customer upon notification of readiness for acceptance or dispatch.

5.6 The contradiction of regulations or the non-existence of approvals shall not affect an acceptance obligation.

5.7 Performance times or dates promised in writing or orally are only approximate, unless a fixed performance date has been promised in writing. Performance times shall commence upon receipt of the order confirmation, the complete and defect-free provision of materials, but not before all commercial and technical questions have been clarified or a required advance payment has been credited.

5.8 Compliance with the time of performance is subject to timely delivery by our suppliers. We shall not be liable for the fault of the upstream suppliers; any claims for compensation against them shall be assigned to the customer. After expiry of a non-binding performance period, the customer may only withdraw from the contract if he has previously set us a period of grace of at least 30 days in writing with the threat of refusal.

5.9 Force majeure, official measures and other circumstances for which we are not responsible, e.g. strikes, operational disruptions, lack of permits, difficulties in procuring materials, riots, embargoes, travel warnings issued by the German Foreign Office, which make our own performance or that of our suppliers considerably more difficult or impossible, not only temporarily, shall release us from our performance obligation for the duration of their effect. We shall not be liable for delays or impossibility due to these events. The customer may request us to declare within a period of 2 weeks whether we wish to withdraw from the contract or fulfil it within a reasonable period. We are entitled to withdraw from the contract in whole or in part if we cannot reasonably be expected to fulfil the contract for the above reasons, without the customer being able to derive any claims for damages from this. In this case, the customer shall be released from his corresponding counter-performance obligation. If the performance is no longer reasonable for the customer for the above reasons, the customer may withdraw from the contract after setting a reasonable grace period. We shall inform the customer of any delays - irrespective of the reason.

5.10 In the event of a delay in performance, we shall be liable in the case of slight negligence for lump-sum damages of 0.5% per full week of delay, but not more than 5% of the invoice value of the performance affected by the delay. We shall be entitled to prove a lower damage. In all other respects, our liability shall be determined in accordance with the liability provisions of these T&Cs.

5.11 Storage costs after transfer of risk shall be borne by the customer. In the event of storage by us, these shall amount to 0.5% of the outstanding invoice amount for each month or part thereof, starting 1 month after notification of readiness for dispatch. We reserve the right to claim and prove further, lower or no storage costs.

## 6. Reservation of title

6.1 We reserve all rights, in particular property rights and copyrights as well as other intellectual property rights, to all samples, tools, specifications, models, plans, data, drawings, cost estimates, information of a tangible and

intangible nature, etc. provided to the customer - including in electronic form. Reproduction or transfer to third parties is prohibited.

6.2 Until the fulfilment of all claims (including all balance claims from current account) to which we are entitled against the customer for any legal reason now or in the future, the customer shall grant us the following securities, which we shall release upon request at our discretion, insofar as their value exceeds the claims by more than 20%:

6.3 We reserve title to the performance until receipt of all payments arising from the business relationship. During the period of retention of title, the following shall apply:

6.3.1 The performance remains our property. Processing or transformation shall always be carried out for us as manufacturer, but without any obligation for us. If our ownership expires due to combination, it is already agreed now that our (co-) ownership of the uniform object resulting from this shall be transferred to us in proportion to the net invoice value. The customer shall store our (co-) ownership free of charge.

6.3.2 The customer shall keep the performance in perfect condition. The customer shall insure the service at his own expense in our favor against theft, breakage, fire, water, and other damage, insofar as this is reasonable for him. Proof shall be provided upon request.

6.3.3 The customer is revocably entitled to sell and process the performance in the ordinary course of business as long as he is not in default. Pledging and transfer of ownership by way of security are not permitted.

6.3.4 The customer assigns claims arising from the resale of the performance, in lieu of the performance or otherwise regarding the performance (e.g. insurance, tort), including all ancillary rights, to us already now by way of security, irrespective of whether the performance is resold without or after processing. We hereby accept the assignment.

6.3.5 The customer is revocably entitled to collect the claim assigned to us in his own name for our account. Our authority to collect the claim ourselves remains unaffected by this. We are entitled to disclosure.

6.3.6 In the event of access by third parties to the performance, in particular through compulsory enforcement measures, the customer shall notify the third party of our ownership and inform us immediately. The customer shall reimburse us for the costs of our intervention insofar as we are unable to enforce reimbursement of costs against third parties.

6.4 Conduct of the customer in breach of the contract, in particular default of payment or application for insolvency (enforcement case), shall entitle us to withdraw from the contract and to demand immediate surrender of the performance or, if applicable, assignment of the claims for surrender against third parties. In this case, the customer shall have no right of retention. Claims for damages, including claims for compensation for lost profit, shall remain unaffected. We may satisfy ourselves in the performance taken back by private sale.

## **7. Rights arising from product defects**

7.1 If the customer is a merchant, he must carefully inspect the received service immediately after receipt. Defects must be reported to us in writing without delay ("complaint"). Shipping or transport damage must be documented in accordance with our instructions supplied. In all other respects, § 377 of the German Commercial Code (HGB) shall apply. If the notification is omitted, the performance shall be deemed to be flawless and in accordance with the order, unless it is a defect which was not recognizable during the inspection. Such defects shall be notified immediately after their discovery.

7.2 The resale, installation or other use of the performance complained of shall be deemed to be approval of performance in accordance with the contract and shall exclude claims for defects in this respect.

7.3 By negotiating complaints, we do not waive the objection that these complaints were not made in time, were unfounded or were otherwise insufficient. Measures to mitigate damage shall not be deemed to be an acknowledgement of defects.

7.4 We do not assume any liability for compliance with any special regulations applicable to the customer's business or to the regulations applicable to import or export or for the existence of any necessary permits. The service may only be used in the country for which it has been ordered. Unless otherwise agreed, export shall be at the responsibility, liability, and expense of the customer. In the event of export, the customer undertakes to observe the statutory provisions (e.g. dual use), in particular those of German foreign trade law. Liability for the infringement of industrial property rights outside Germany shall only be assumed in the event of a separate written agreement.

7.5 Material-related deviations from the agreed quality and scope as well as changes to the performance in the course of technical progress, in the construction, design, dimensions, weight or color are permissible within the tolerances customary in the industry, provided that they do not restrict the usability for the contractually intended use, that no guarantee exists and that they are reasonable for the customer when objectively assessing all circumstances.

7.6 We warrant that the software essentially fulfils the functions described in the associated documentation, provided that the software is used in accordance with the contractually agreed prerequisites and operating conditions (e.g. operating system). We do not warrant that the program functions of the software selected by the customer meet the customer's requirements or that the software will work together with software programs otherwise available at the customer. The customer shall report faults without delay within the bounds of what is reasonable and, in doing so, shall formulate the information as precisely as possible (submission of error messages and specification of operating steps) so that we can begin to rectify the fault in a targeted manner. The customer shall, as far as possible, in particular provide the necessary data-related information and documents completely and without delay, if possible, in a form that enables the fault to be reproduced. Subsequent performance may, if reasonable for the customer, also be affected by pointing out a substitute solution, a workaround, or a software update.

7.7 If the performance is defective, we shall fulfil our obligation of subsequent performance at our discretion by remedying the defect (subsequent improvement) or by delivering a performance free of defects (subsequent delivery). We may refuse a type of subsequent performance or the entire subsequent performance if it is only possible at disproportionate cost. The customer must give us the necessary time, opportunity, and access for subsequent performance; otherwise, we shall be released from liability for the resulting consequences.

7.8 Should we decide in favor of subsequent delivery, this shall, if we so wish, only take place concurrently with the return of the defective performance. Replaced parts become our property.

7.9 We shall bear the expenses necessary for the purpose of subsequent performance, insofar as these are not increased by the fact that the performance was taken to a place other than the place of performance. Dismantling and installation costs or other costs shall be borne by the customer.

7.10 If the supplementary performance fails or if both types of supplementary performance are refused by us, the customer may withdraw from the contract, reduce the remuneration and/or claim damages after setting a reasonable period of grace. The right to a reduction is excluded unless there is only a non-substantial defect, the defect was fraudulently concealed or relates to a quality guarantee.

7.11 Only in urgent cases of danger to operational safety or to prevent disproportionately large damage, in which case we must be notified immediately, shall the customer have the right to remedy the defect himself or have it remedied by a third party and to demand reimbursement of the necessary expenses from us.

7.12 If the customer or a third party remedies the defect without first giving us the opportunity to remedy the defect, we shall not assume any liability for the resulting consequences. The same applies to changes made to the performance, replacement of parts or use of consumables that do not comply with the original specifications without our consent, unless the defect is not based on this.

7.13 In the event of unsuitable or improper use and/or repair, faulty assembly, or commissioning by the customer or third parties, non-observance of the processing guidelines or operating instructions, natural wear and tear, faulty or negligent handling or storage, improper maintenance and care, unsuitable operating materials, chemical, electrochemical, electrical or environmental influences, no warranty shall be assumed, unless we are responsible for this.

7.14 The customer shall be liable for unjustified notices of defect if the cause of the defect lies within his area of responsibility, and he failed to recognize this at least through negligence. Expenses for which we are not responsible within the scope of liability for defects shall be charged in accordance with our current list prices.

7.15 The customer's right of recourse pursuant to § 478 of the German Civil Code (BGB) shall only exist to the extent that the customer has not entered into an agreement with the consumer that goes beyond the statutory claims for defects. The suspension of the statute of limitations pursuant to § 479 of the German Civil Code (BGB) shall only apply if the customer has demonstrably provided a warranty to its consumer.

7.16 Further or other claims of the customer due to a defect than those regulated in these T&Cs are excluded.

## **8. Liability**

8.1 In accordance with the statutory provisions, we shall be liable without limitation in the event of fraudulent intent, intent, personal injury, assumption of a guarantee of quality, under the Product Liability Act, or insofar as damage is covered by our liability insurance.

8.2 We shall also be liable in accordance with the statutory provisions in the event of a grossly negligent breach of duty; only in the event of a grossly negligent breach of duty of a non-contractual obligation shall our liability be limited to the foreseeable damage typical for the contract.

8.3 In the event of slight negligence, we shall be liable for the breach of material contractual obligations and in this case limited to the foreseeable damage typical for the contract, the occurrence of which could be expected. Material contractual obligations are those whose fulfilment is essential for the proper performance of the contract and on whose compliance the customer regularly relies and may rely.

8.4 In the event of a delay in performance, we shall be liable for slight negligence limited to lump-sum damages of 0.5% per full week of delay, but no more than 5% of the invoice value of the performance affected by the delay. We shall be entitled to prove that no damage or a reduction in value has occurred at all or that it is significantly lower than the lump sum.

8.5 In all other respects our liability is excluded. The exclusions and limitations of liability shall also apply in favor of our organs, legal representatives, employees, and other vicarious agents.

8.6 The customer is obliged to maintain his own insurance to the extent customary in the industry and structure (e.g. in particular business interruption insurance). Any contributory negligence must be taken into account by the customer.



8.7 The customer is responsible for regular backup of his data. We shall not be liable for damage caused by negligence due to loss of data if the customer has not ensured that this data can be reconstructed with reasonable effort from data material which is kept in machine-readable form.

## **9. Exclusion and limitation of liability**

9.1 In the event of a limitation of liability to the foreseeable damage typical for the contract, the liability per damage event shall be limited to EUR 5,000,000.00 in the case of damage to property; however, for all damage within one calendar year, the liability shall be limited to a maximum of twice this amount.

9.2 This limitation does not apply insofar as a statutory unlimited liability exists or damages are covered by the liability insurance.

Warranty claims shall become statute-barred in accordance with the statutory provisions, i.e. as a rule after 24 months.

## **10. Property rights, non-disclosure, data protection**

10.1 If the customer provides us with works (e.g. logos, photos, advertising copy, etc.) to be incorporated or edited in our service, the customer shall be responsible for ensuring that it has all relevant rights for the performance of the service.

10.2 Unless otherwise expressly agreed in writing, the customer shall be responsible for the legal admissibility of the service, in particular regarding the requirements of trademark, copyright or competition law. We will point out legal risks if we become aware of them.

10.3 If, by way of exception and on the basis of a written agreement, we bear the legal responsibility for the property rights of third parties, the following shall apply: If the use of the performance leads to the infringement of industrial property rights or copyrights in Germany, we shall, at our discretion and at our expense, either obtain a right of use for the customer, or modify the performance in such a way that the property right is not infringed, or replace it with a performance that complies with the property right. If this is not possible for us under reasonable conditions, the customer shall be entitled to the statutory rights. This obligation shall only exist insofar as the customer informs us immediately of any claims asserted, does not acknowledge an infringement and all defensive measures are reserved for us. If the customer discontinues the use of the service for reasons of mitigation of damages or other important reasons, he shall be obliged to point out to the third party that the discontinuation of use does not imply any acknowledgement of an infringement of property rights.

10.4 Claims of the customer are excluded insofar as he is responsible for the infringement of property rights or the infringement of property rights is caused by special specifications of the customer, by an application not foreseeable by us or by the fact that the performance was modified by the customer or used together with performance not supplied by us. The customer hereby indemnifies us against all claims of third parties and also bears the costs of reasonable legal defense asserted against us by third parties due to the infringement of third-party rights.

10.5 The customer shall treat all contents of the contract, in particular prices and discounts, know-how and other business secrets, as strictly confidential and shall not disclose or otherwise make available to third parties any information, documentation, drawings or other documents without our express written consent. This shall not apply if these contents are in the public domain without breach of the confidentiality obligation. The customer shall also impose the confidentiality obligation on its employees and affiliated companies as well as third parties to whom it is necessary to make the contents accessible.

10.6 The customer agrees that his data (communication data, responsible employees, type and scope of his orders, etc.) may be used by us to process the contract. We may also use the data to inform the customer about our products and services if they are typically used in connection with the products and services that the customer has purchased from us.

## **11. Closing provisions**

11.1 The T&Cs shall also apply to the customer's affiliated companies within the meaning of § 15 of the German Stock Corporation Act (Aktiengesetz). The customer shall impose these T&Cs on its affiliated companies.

11.2 Amendments and supplements to these T&Cs that are not based on an individual agreement must be made in writing (including fax and e-mail). This also applies to the waiver of the written form requirement. Should provisions of these T&Cs be or become invalid, the validity of the remaining provisions shall not be affected.

11.3 The customer is not entitled to transfer rights from this contract to third parties without our consent. § 354a of the German Commercial Code (HGB) remains unaffected.

11.4 The work, repairs or assembly requested by the customer from us in connection with the performance shall only be carried out on the basis of our corresponding assembly and service conditions. By placing an order, these conditions are accepted.

11.5 If the contract or the T&Cs are drawn up in different languages, the German version shall prevail in case of doubt. German law (without regard to the UN Convention on Contracts for the International Sale of Goods, CISG) shall apply to the contract and the T&Cs insofar as it does not conflict with mandatory national law.

11.6 If the customer is a merchant and unless otherwise agreed, and irrespective of the agreed Incoterm, our registered office and the Regional Court of Baden-Baden shall be the place of performance and jurisdiction, also for warranty claims. However, we are entitled to sue the customer at the court of his place of residence.

11.7 Any legal disputes with customers with main seat outside the EU, the EEA and Switzerland arising from or in connection with the contract or its validity shall be finally settled in accordance with the Arbitration Rules of the German Arbitration Institute (DIS) without recourse to the ordinary courts of law. The arbitral tribunal shall be comprised of three members. The seat of the arbitration is Frankfurt am Main, Germany. The arbitration proceedings shall be conducted in the language of the contract.



## ANNEX 1

### Terms for Rent of Products

The following terms and conditions apply for any rental contracts entered into between Pacific Power Source Europe GmbH and any customer in derogation of clauses 3.1-3.3, 5.4-5.6, 6.2-6.4, 7.1, 7.2 and 7.4-7.15 above.

#### 1. Beginning and end of the rent; rental period

1.1 Unless otherwise stated in the rental order acknowledgment the rental period for the products shall commence and the rental charges shall begin to accrue on the third business day after the products are dispatched by us for delivery to the customer.

1.2 The rental period for the products shall expire and the incurrence of rental charges shall end as follows:

- a) at the time of the return delivery of the products in accordance with paragraph 2.2 hereof;
- b) for irreparable or lost products - at the time when the customer or its insurers reimburse us the full cost of replacing such products, provided we procure a suitable replacement;
- c) for damaged products – at the time when it is repaired or when we, at our option under paragraph (b), procure and receive appropriate compensation for a suitable replacement, whichever occurs first.

1.3. The minimum rental period for any product shall be 1 month.

1.4. The rental period shall be as set out in the rental order acknowledgement, unless the rental contract is terminated earlier in accordance with this Annex.

#### 2. Return of the products

2.1 The return of the products will be arranged by us with the assistance of the customer in advance. The customer shall inform us at least 7 business days in advance of any return. The customer has to return the products together with the original packaging and the complete original accessories.

2.2 Delivery of the products shall be made to our business address in the Federal Republic of Germany.

2.3 The customer is responsible for keeping and returning to us the original packaging and the complete original accessories, and if necessary any additional adequate packing material for the return of the products. The products must always be returned in good condition and without damage (other than normal wear and tear), otherwise paragraph 1.2 above will apply.

2.4 In the event that damage is detected during the inspection of returned products, we will endeavor to determine whether it is normal wear and tear. In case of dispute, the opinion of the manufacturer of the products shall prevail.

#### 3. Rent and other fees

3.1 The rental fees are based on the rates listed in the respective rental quotation that shall only apply up to the listed validity. Unless otherwise agreed, the minimum rental fee shall be no less than EUR 500.00.

3.2 We shall have the right to revise our rental rates and discounts at any time as we may deem appropriate with 30 days prior notice.

3.3 In addition to the rental fee, at the beginning of the rental period we charge a separate fee for delivery and return.

3.4 Should the customer not return the original packaging and original accessories at the end of the rental period, we have the right to charge its cost and the customer solely responsible for any damages resulting from inadequate packaging.

3.5 Should the customer report defects or damage to the products, but such defects or damage is not detected during our inspection, we have the right to charge the costs and expenses of inspection and replacement of the products.

#### **4. Current obligations**

4.1 The customer undertakes, during the term of the rent:

4.1.1 To keep the products in its own possession and not to trade in or grant any right or interest in the products to any third party and not to permit the products to be taken to any country prohibited by the Federal Ministry for Economic Affairs and Climate Action (Bundesministerium für Wirtschaft und Klimaschutz);

4.1.2 Not to assign, transfer or subcontract any or all of its rights or obligations under the rental contract without our prior written consent;

4.1.3 To promptly notify us of any changes in customer's address, telephone number or other contact information; and

4.1.4 To leave our and manufacturer's identification number or mark or any nameplates on the products; not alter, disfigure or cover up any numbering, marking or nameplates displayed upon the products or any warnings or documentation thereto.

#### **5. Use, defects and damages**

5.1 The customer undertakes:

5.1.1 To use products only for the purposes for which they were designed and operate in a careful, prudent manner and in compliance with all manufacturer's instructions and other regulations issued for the proper use of the products and to be liable for any damage to the products or voiding of the manufacturer's warranty resulting from failure to comply with such instructions or regulations or from improper use of the products;

5.1.2 Not to make any modifications or technical interventions or attempts to repair the products without our prior written consent;

5.1.3 Not to mishandle or misuse the products and to keep the products in good condition and in a secure and suitable environment and to reimburse us for any loss or damage to the products, however caused (excluding only normal wear and tear), while the responsibility for products is the responsibility of customer;

5.1.4 To ensure that the products are used only by suitably competent persons, duly instructed on its safe operation in accordance with manufacturer's instructions and other regulations issued for the proper use of the products and safety warnings;

5.1.5 To inspect the products immediately after receipt and to inform us immediately in writing of any damage to or loss of the products;

5.1.6 To comply with all applicable laws, regulations, rental contract documentation and T&Cs when using the products and not to use the products in a manner that could result in damage to our reputation.

## **6. Software**

6.1 Unless the customer has entered into a license for the use of Software directly with the manufacturer of the products or other relevant parties (in such cases, the relevant license terms shall apply), the following shall apply:

6.1.1 Ownership of all software supplied by us, including programs and manuals, shall remain with the original products manufacturer, subject to any rights we may have in respect of such software. Except as expressly agreed, no licenses or rights to the Software are granted to the customer.

6.1.2 Software supplied by us shall be made available to the customer only for the term of the Rent in connection with the use of the products, either in the central processing unit of the products and/or for processing data. The customer undertakes not to transfer or sublicense the software supplied.

6.1.3 The customer is entitled to make two copies of the Software supplied by us for backup purposes during the rental period, but may not allow any further duplication of any version of the Software.

6.1.4 Upon termination of the rental relationship, the customer is obliged to return to us all software and manuals supplied, including all copies.

## **7. Risk and insurance**

7.1 The customer shall bear the risk of loss of or damage to the products throughout the rental period. The customer is responsible for, and shall indemnify us for, all loss, damage, injury or death to persons or property whatsoever arising in connection with the rental or use of the products, except for the direct and foreseeable consequences of willful default or gross negligence on our part or our employees.

7.2 During the rental period, the customer shall insure, at his expense, against loss or damage to the products to the extent of its replacement value and against any liability for injury, damage or loss arising in connection with the use, storage or maintenance of the products, and agrees to assign to us or hold in trust for us the benefits and proceeds of such insurance.

## **8. Termination**

8.1 If any payment has not been received 30 days after the due date, or if we have reasonable grounds to believe that customer is unable to meet his obligations or has breached his obligations, or if a receiver or administrator has been appointed, the customer shall be deemed to have rescinded rental contract and we may terminate the rental contract and demand return of the products at the customer's expense without notice and the customer agrees to make the products available to us.

## **9. Suitability and quality of products and liability**

9.1 We provide literature references and advice (consultation) regarding products compiled from manufacturer information. Such advice is provided free of charge and in good faith, and we cannot accept any liability or responsibility for the consequences of decisions based on such advice. Whether or not such advice is given, the customer remains solely responsible for ensuring that the products are fit for his intended purpose and the customer shall not be entitled to reject the products if the products prove to be unsuitable.

9.2 In the event of provision of products that are defective due to our fault, our liability shall be limited only to repairing or replacing the products or, if this is not possible, to refunding the Rent paid during the time the products were defective, provided we are informed as soon as the customer becomes aware of the defect.

9.3 At the customer's request and expense, and provided that we are reasonably indemnified by the customer for all costs, liabilities and expenses incurred, we shall enforce on the customer's behalf all warranties, conditions and other rights with respect to the description, performance or quality of the products given by the manufacturer of the products.

9.4 The foregoing provision is in lieu of any representations (unless fraudulent) with respect to the products or warranties, expressed or implied, which would be binding on us but for such exclusion, and all such representations and warranties are excluded, as is any liability of us to the customer for its negligence.

9.5 Our total cumulative liability for damages in connection with the rental of the products or breach of any obligation to the customer shall not exceed the total rental charges actually received by us for the products during the rental period. It is agreed that we shall not be liable to the customer for any consequential or indirect loss suffered by the customer, except that nothing herein shall exclude or limit our liability for personal injury or death due to negligence.

## 10. Product title

10.1 The products shall at all times remain our property or property of the third party which has granted us permission to enter into a rental contract with the customer, and the customer shall have no right, title or interest in or to the products (save the right to possession and use of the product subject to these T&Cs).

10.2 In the event the products are owned by a third party, the customer consents to the assignment or transfer by us of our rights under the rental contract to such third party as long as the customer continues to have the rights arising from the use of the product in accordance with these T&Cs.