1. DEFINITIONS: In these Terms and Conditions of Sale, “Seller” means Nidec Motor Corporation d/b/a Nidec Industrial Solutions; “Buyer” means the person, firm, company or corporation by whom the order is given; “Goods” means the goods ordered by Buyer and shipped in accordance with any Software and Documentation, as defined in Clause 9; “Contract” means the written agreement (which incorporates these Standard Terms and Conditions of Sale) for the supply of Goods and Services referred to in the Acknowledgement of Order Form; “Contract Price” means the price payable to Seller by Buyer for the Goods and Services supplied under each individual order; “Seller Affiliate” means any company which is for the time being directly or indirectly controlled by, controlled or owned by, or under common control with Seller; “Services” means any services set out in the Acknowledgement of Order Form or requested by Buyer in writing; “SOFTWARE” means any software licence or software documentation provided to Buyer; “Heritage Company” means a company that is a member of the Nidec Group and the Nidec Group, as defined in Clause 2.1; “Trade Mark” means a trade mark or service mark as defined in Clause 5.1; “Liability” means any liability whatsoever whether in contract, delict, strict liability or other legal basis; “Any Party” means Seller or Buyer; “Services and/or Documentation” means any Software and associated documentation; “Exclusive Warranties” means the Exclusive Warranties discussed in Clause 8.8; “Standard Terms and Conditions of Sale” means the terms and conditions of sale, including terms and conditions that are different from or additional to the terms and conditions of Buyer’s order. Any reference in these Standard Terms and Conditions of Sale to “contract”, “the contract”, “Clause” or “Clause(s)” or any similar reference is a reference to the contract, whichever is the later (the “Effective Date”). If the details of the Goods or Services described in Seller’s quotation differ from those set out in the Acknowledgement of Order Form the latter shall apply. “Activity Period” means the period from the Effective Date to the date the Activity Period shall end. The Activity Period shall be three (3) years from the date the activity begins. Unless previously withdrawn, Seller’s quotation is open for acceptance within the period stated therein or, when no period is so stated, within thirty (30) days after its date. In the event of a conflict between these Standard Terms and Conditions of Sale and the Acknowledgement of Order Form, the Standard Terms and Conditions of Sale shall prevail. Goods are offered and sold with the understanding that Buyer has had the opportunity to inspect them and has had the opportunity to determine whether they fulfill Buyer’s needs. The quotation does not contain a full description of the Goods and Services and are in lieu of and exclude all other warranties, expressed or implied, arising by operation of law or otherwise, including without limitation, merchantability and fitness for a particular purpose whether or not the purpose or use has been disclosed to Seller in specifications, drawings or other communications. The seller shall not be responsible for the performance of such Goods or Services if they are used with any other equipment or software, or not specified by or disclosed to Seller prior to the date of the contract or in association or combination with any other equipment or software. The function of software is to interface with any other equipment or software and to control them. The absence of specific instructions or recommendations in this section will not be interpreted to mean that the software, or any part of it, can be used in connection with any other equipment or software. In the event of a conflict between these Standard Terms and Conditions of Sale and the Acknowledgement of Order Form, the Standard Terms and Conditions of Sale shall prevail. “Any Party” means Seller or Buyer; “Services and/or Documentation” means any Software and associated documentation; “Exclusive Warranties” means the Exclusive Warranties discussed in Clause 8.8; “Standard Terms and Conditions of Sale” means the terms and conditions of sale, including terms and conditions that are different from or additional to the terms and conditions of Buyer’s order. Any reference in these Standard Terms and Conditions of Sale to “contract”, “the contract”, “Clause” or “Clause(s)” or any similar reference is a reference to the contract, whichever is the later (the “Effective Date”). If the details of the Goods or Services described in Seller’s quotation differ from those set out in the Acknowledgement of Order Form the latter shall apply. “Activity Period” means the period from the Effective Date to the date the Activity Period shall end. The Activity Period shall be three (3) years from the date the activity begins. Unless previously withdrawn, Seller’s quotation is open for acceptance within the period stated therein or, when no period is so stated, within thirty (30) days after its date. In the event of a conflict between these Standard Terms and Conditions of Sale and the Acknowledgement of Order Form, the Standard Terms and Conditions of Sale shall prevail. Goods are offered and sold with the understanding that Buyer has had the opportunity to inspect them and has had the opportunity to determine whether they fulfill Buyer’s needs. The quotation does not contain a full description of the Goods and Services and are in lieu of and exclude all other warranties, expressed or implied, arising by operation of law or otherwise, including without limitation, merchantability and fitness for a particular purpose whether or not the purpose or use has been disclosed to Seller in specifications, drawings or other communications. The seller shall not be responsible for the performance of such Goods or Services if they are used with any other equipment or software, or not specified by or disclosed to Seller prior to the date of the contract or in association or combination with any other equipment or software. The function of software is to interface with any other equipment or software and to control them. The absence of specific instructions or recommendations in this section will not be interpreted to mean that the software, or any part of it, can be used in connection with any other equipment or software.
Buyer has made without Seller's prior written consent any admission which is or may be prejudicial to Seller and/or Manufacturer in respect of any such claim or action, or

(v) the Goods have been modified without Seller's prior written authorization.

(vi) such Goods have been patented in the United States, U.S. patent or copyright in such suit, and the use of such Goods is enjoined, or in the case of a compromise or settlement by Seller, Seller shall have the right, at its option and expense, to procure for Buyer the right to continue using such Goods, or replace them if they have become non-useable by reason of infringement, or grant Buyer a credit for the depreciated value of such Goods and accept return of them. In the event of the foregoing, Seller may also, at its option, cancel the agreement as to future deliveries of such Goods, without liability.

11.3 Buyer warrants that any design or instructions furnished or given by it will not cause Seller and/or Manufacturer to infringe any Intellectual Property Rights in the performance of Seller's obligations under the Contract and will indemnify Seller and/or Manufacturer against all reasonable costs and damages which Seller may incur as a result of any breach of such warranty.

12. LIMITATION OF LIABILITY:

THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF ANY WARRANTY HEREUNDER SHALL BE LIMITED TO THE REFUND OF THE PURCHASE PRICE UNDER SECTION 10. SELLER AND SELLER'S AFFILIATES SHALL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE. THE REMEDIES OF BUYER SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE) SHALL SELLER'S AND SELLER'S AFFILIATES LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXTEND TO INCLUDE INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES.

13. CHANGE OF LAWS:

If Seller's obligations under the Contract will be increased or reduced by reason of the making or amendment after the date of the Contract of any provision of any law or other enactment having the force of law that will affect the performance of Seller's obligations under the Contract, the Contract Price and delivery period will be adjusted accordingly and/or performance of the Contract suspended or terminated, as appropriate.

14. COMPLIANCE WITH LAWS:

14.1 Buyer agrees that all applicable import, export control and sanctions laws, regulations, orders and requirements, as they may be amended from time to time, including without limitation those of the United States, the European Union and the jurisdictions in which Seller and Buyer are established or from which Goods are shipped, or other items may be supplied, and the requirements of any licenses, authorizations, general licenses or license exceptions relating thereto will apply to its receipt and use of Goods, hardware, software, services and technology. If Seller or Seller Affiliate should fail to receive and on request, relevant authorizations, even at the expiration of any relevant government authority, or if any such licenses, authorizations or approvals are denied or revoked, or if there is a change in any applicable laws, regulations, orders or requirements that would prohibit Seller or Seller Affiliate from fulfilling the Contract, or would in the reasonable judgment of Seller otherwise expose Seller or Seller Affiliate to a risk of liability under such laws, regulations, orders or requirements if it fulfilled the Contract, Seller and Seller Affiliate will be relieved without penalty of all obligations under the Contract in relation to such Goods and/or Services. In the event that the Contract is cancelled as a result of a breach of law, Seller will be entitled, without prejudice to any other rights it may have, to cancel the Contract immediately. No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain, or supplement these terms and conditions shall be binding unless in writing, signed by authorized officers of Seller and Buyer, and in accordance with Buyer's obligations under this Section 14.2 and 14.3. In the event that the Contract is cancelled, any amounts due will become payable, any down payments or other payments already paid by Buyer will remain in Seller's hands, and unpaid Goods must be returned to Seller immediately, regardless of where they are located, at Buyer's risk and expense. No order which has been accepted by Seller may be cancelled by Buyer except with Seller's prior written consent and on terms that will indemnify Seller against all costs and expenses (including the cost of all labor and materials used), damages, charges and expenses incurred by Seller and/or Seller Affiliate as a result of cancellation.

15. DEFAULT, INSOLVENCY AND CANCELLATION:

Seller will be entitled, without prejudice to any other rights it may have, to cancel the Contract immediately (or at its option on greater notice) wholly or partly, by notice in writing to Buyer (a) if Buyer is in default of any of its obligations under the Contract and fails, within thirty (30) days of the date of Seller's notification in writing of the existence of the default, either to rectify such default if it is reasonably capable of being rectified within such period or, if the default is not reasonably capable of being rectified within such period, to take action to remedy the default,

(b) if any and all obligations of Seller under the Contract are or will become capable of being discharged by reason of the bankruptcy, insolvency, suspension of payment, or liquidation or bankruptcy, of Buyer (or at its option on greater notice) wholly or partly, by notice in writing to Buyer (i) if Buyer is in default of any of its obligations under the Contract and fails, within thirty (30) days of the date of Seller's notification in writing of the existence of the default, either to rectify such default if it is reasonably capable of being rectified within such period or, if the default is not reasonably capable of being rectified within such period, to take action to remedy the default, or in the event the Contract is cancelled, any amounts due will become payable, any down payments or other payments already paid by Buyer will remain in Seller's hands, and unpaid Goods must be returned to Seller immediately, regardless of where they are located, at Buyer's risk and expense. No order which has been accepted by Seller may be cancelled by Buyer except with Seller's prior written consent and on terms that will indemnify Seller against all costs and expenses (including the cost of all labor and materials used), damages, charges and expenses incurred by Seller and/or Seller Affiliate as a result of cancellation.

16. CONFIDENTIALITY:

Each of the parties undertakes to maintain the confidentiality of all technical, trade, financial or other information received from the other or from Manufacturer or a Seller Affiliate, whether orally, in writing or by any other means of communication when any order is negotiated and/or fulfilled (“Confidential Information”). The terms of and obligations imposed by this Clause 16 will survive the completion of the Contract but will not apply to any Confidential Information which either party can demonstrate: (i) it is or becomes public other than as a result of a breach of any obligations of confidence; (ii) it was lawfully obtained from a third party not under any obligations of confidence; (iii) it was already known to a party before its disclosure under the Contract other than as a result of a breach of any obligations of confidence. A party may disclose Confidential Information to the extent required by law, regulation or order of a competent authority provided that the other party is given reasonable advance notice of the intended disclosure and a reasonable opportunity to challenge the same.

17. SUPPLEMENTARY TERMS AND CONDITIONS:

The Goods or course or include a System, Seller's Supplementary Terms and Conditions Applicable to the Supply of Systems and Related Services will apply to the System and related services only. Such Supplementary Terms and Conditions will take precedence over these Standard Terms and Conditions of Sale; copies are available from Seller upon request.

18. MISCELLANEOUS:

18.1 No waiver by either party with respect to any breach or default of any of their obligations hereunder will constitute a continuing waiver of any other breach or default or of any other right or remedy, unless such waiver be expressed in writing and signed by the party to be bound.

18.2 If any clause, sub-clause or other provision of the Contract is rendered invalid or unenforceable under any statute or rule of law, such provision, to that extent only, will be deemed to be omitted without affecting the validity of the remainder of the Contract.

18.3 Buyer will not be entitled to assign its rights or obligations hereunder without the prior written consent of Seller.

18.4 UNLESS OTHERWISE AGREED TO IN WRITING BY BOTH PARTIES AND COMBINED WITH AN EXECUTED NUCLEAR INDEMNIFICATION AGREEMENT, GOODS AND SERVICES PROVIDED HEREUNDER ARE NOT SOLD OR INTENDED FOR USE IN ANY NUCLEAR OR NUCLEAR RELATED APPLICATIONS. Regardless whether Buyer is the owner/operator of the nuclear facility, Buyer (i) accepts Goods and Services in accordance with the foregoing restriction, (ii) agrees to communicate such restriction in writing to any and all subsequent purchasers or users and (iii) agrees to defend, indemnify and hold harmless Seller and Seller’s Affiliate(s) from any and all claims, losses, liabilities, suits, judgments and damages, including incidental and consequential damages, arising from use of Goods and Services in any nuclear or nuclear related applications, whether the cause of action be based in tort, contract or otherwise, including allegations that Seller’s liability is based on negligence or strict liability.

18.5 The Contract will in all respects be construed in accordance with the laws of the State of Missouri, and to the fullest extent permitted by law, will be without any conflict of laws or rules which might apply the laws of any other jurisdiction. All disputes arising out of the Contract will be subject to the exclusive jurisdiction of the state or federal courts in Missouri and the parties agree to submit to such jurisdiction. No action, regardless of form, from transactions relating to this contract, may be brought by either party more than two (2) years after the cause of action has accrued. The U.N. Convention on Contracts for the International Sales of Goods shall not apply to this Contract.

18.6 The headings to the Clauses and paragraphs of the Contract are for guidance only and shall not affect the interpretation thereof.

18.7 All notices and claims in connection with the Contract must be in writing.

18.8 No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain, or supplement these terms and conditions shall be binding unless in writing, signed by authorized officers of Seller and Buyer.

18.9 All notices and claims in connection with the Contract must be in writing.

18.10 No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain, or supplement these terms and conditions shall be binding unless in writing, signed by authorized officers of Seller and Buyer.

In the event the Contract is cancelled, any amounts due will become payable, any down payments or other payments already paid by Buyer will remain in Seller's hands, and unpaid Goods must be returned to Seller immediately, regardless of where they are located, at Buyer's risk and expense. No order which has been accepted by Seller may be cancelled by Buyer except with Seller's prior written consent and on terms that will indemnify Seller against all costs and expenses (including the cost of all labor and materials used), damages, charges and expenses incurred by Seller and/or Seller Affiliate as a result of cancellation.