

## DATALOGIC

### GENERAL TERMS AND CONDITIONS FOR SALES OF PRODUCTS

#### APPLICABILITY

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Unless a written contract executed between the procuring party (“Buyer”) and **Datalogic Vietnam LLC** (directly or through any of its branches, or one of its Affiliates) (“Datalogic”) provides otherwise, any purchase order covering the sale of any product (“Product”) contained in any Datalogic offer will be governed solely by these terms and conditions (“Conditions of Sale”), whether or not the offer or these Conditions of Sale are referenced in the Buyer’s purchase order (“Order”). Buyer’s silence or acceptance or use of Products is acceptance of these Conditions of Sale. Any Order placed by the Buyer for Products if and when accepted by Datalogic shall constitute a separate binding contract entered into by Datalogic and Buyer in accordance with and incorporating the Conditions of Sale and any relevant Datalogic quotation document or other document (“Agreement”). For purpose hereof “Affiliates” shall mean parents, subsidiaries, partnerships, joint ventures and any entity(ies) that directly or indirectly controls or is controlled by a party, or with which a party shares common control. A party “controls” another entity when the party, through ownership of the voting stock or other ownership interest of that entity, or by contract or otherwise, has the ability to direct its management.

#### ORDERS AND SPECIFICATIONS

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No Order placed by the Buyer shall be deemed to be accepted by Datalogic unless confirmed in writing by Datalogic within thirty (30) days from the receipt of the Order. Orders are subject to Datalogic’s minimum order requirements, if any, and Datalogic’s acceptance. Datalogic reserves the right to limit Order quantities for certain Products. Datalogic's Order acknowledgment and receipt will not constitute acceptance. Any additional or conflicting terms on an Order will not apply unless specifically agreed to in writing by Datalogic. Any request from the Buyer to Datalogic for additional Products shall be deemed to constitute a new and independent Order. The quantity, quality, specifications and description of the Products shall be those set forth in Datalogic’s quotation, if applicable, or in the Order (if accepted by Datalogic). The Products specifications, sales literature, quotations etc. shall be strictly confidential and must not be disclosed to third parties. The Buyer is responsible to Datalogic for ensuring the accuracy of all data reported in the Order. The Buyer shall promptly give Datalogic any necessary information to enable Datalogic to fulfill the Order in accordance with the terms provided for therein.

#### PRICE AND PAYMENT TERMS

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The Products and other items or services covered by this Agreement shall be sold and invoiced at Datalogic's prices and charges in effect at the time of each shipment of Products or otherwise as notified by Datalogic to Buyer in writing. Prior to acceptance of an Order by Datalogic, Datalogic reserves the right to change, without notice, the published list prices referenced on any purchase Order. Prices do not include value added taxes, sales, excise, use, or other taxes now in effect or hereafter levied by reason of this transaction. The Buyer shall pay all such taxes. If Datalogic is required to pay any such tax, fee or charge at the time of the sale thereafter, Buyer shall reimburse Datalogic therefore upon demand.

Payment terms are net thirty (30) days from the date of invoice. All payments must be made without set-off, counterclaim, withholding or other deduction. Datalogic reserves the right to require alternative payment terms, including, without limitation letter of credit or payment in advance and, if any alternative payment terms apply, will indicate these in the Order confirmation. If shipments are delayed by the Buyer, payment shall be made based on the contract price and percentage of completion.

If Buyer is delinquent in its payment to Datalogic, then until all delinquent amounts are paid Datalogic may, in its sole discretion: (1) be relieved of its obligations with respect to guarantees, including without limitation, turnaround times, spares support and delivery lead times; (2) refuse to process any credit to which Buyer may be entitled; (3) set off any credit or sum owed by Datalogic to Buyer against any undisputed amount owed by Buyer to Datalogic; (4) withhold future shipments to Buyer; (5) declare Buyer’s performance in breach and terminate any Order; (6) repossess Products for which payment has not been made; (7) deliver future shipments on a cash-with-Order or cash-in-advance basis; (8) charge interest on delinquent amounts at a rate of four percent (4%) per annum above the State Bank of Vietnam discount rate, until full payment is made, or the maximum rate permitted by law, if lower, for each month or part thereof; (9) charge storage or inventory carrying fees on those custom products; (10) recover all costs of collection including, without limitation, reasonable attorneys’ fees; (11) accelerate all remaining payments scheduled and declare the total outstanding balance then due and owing; or (12) combine any of the above rights and remedies as may be permitted by applicable law. The above remedies are in addition to all other remedies available at law or in equity.

#### DELIVERY AND SHIPMENT

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Unless otherwise agreed in writing by Datalogic and Buyer, delivery terms are EXWORKS (Incoterms 2000) for Orders destined for export and “ex warehouse” for domestic orders, which means that the goods shall be ready for the Buyer's collection at Datalogic's facility or other places designated by us and which further means that the Buyer shall bear all transportation costs for transporting the Products to their final destination. Datalogic will schedule delivery in accordance with its standard lead-time unless Order requests a later delivery date or Datalogic agrees in writing to an earlier delivery date. Buyer will pay all transportation costs (including insurance and customs duties) and for any claims to be filed with the carrier. If Datalogic prepays transportation charges, Buyer will reimburse Datalogic upon receipt of an invoice for those charges. Risk of loss or damage will pass to Buyer when Datalogic places Product at Buyer’s disposal at Datalogic’s facility. Datalogic reserves the right to impose additional charges for any special routing, packing, labeling, handling or insurance requested by Buyer. If a strike, embargo, or any event beyond Datalogic’s control prevents shipment or delivery to Buyer or its agent, or if shipping

instructions for any shipment are not received before shipment date or if payment is to be made on or before delivery, title and risk of loss shall pass to Buyer as soon as the shipment has been set aside by Datalogic and invoiced to Buyer and payment shall be made in accordance with invoice.

Datalogic may make delivery in instalments and may render a separate invoice for each instalment which shall be paid when due, without regard to subsequent deliveries. Each instalment shall be deemed a separate sale. Delay in delivery of any instalment shall not relieve the Buyer of its obligation to accept delivery of remaining instalments. Any delivery not in dispute shall be paid for on its due date, without offset defense or counterclaim and regardless of controversies relating to other deliveries or undelivered products.

### CONSIGNED PRODUCTS

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Buyer acknowledges that certain Products provided by Datalogic may be supplied on a consignment basis. In the event any Product is designated as consigned Products, then Buyer agrees to execute all documents provided by Datalogic necessary to effectuate the consignor-consignee relationship and, in addition to any terms and conditions of consignment, specifically agrees that Datalogic shall retain title to all consigned Products until such time as Buyer sells such Products to its buyers at which time title shall pass from Datalogic to the respective buyers. Buyer shall keep an accurate and current inventory and record of all consigned Products and shall permit Datalogic or Datalogic's representatives to inspect said records and said Products at any reasonable time upon demand.

### ACCEPTANCE

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Buyer shall be deemed to have accepted any Product unless it notifies Datalogic in writing of any Nonconforming Products (as defined herein): (a) in the case of defects discoverable through inspection, 14 (fourteen) days after arrival of the shipment or (b) in the case of defects not discoverable through inspection, 30 (thirty) days after invoice date. "Nonconforming Products" means when and if the Product shipped is different per quantity and type than identified in Datalogic acceptance of the Buyer's Order.

In the case of Nonconforming Products, Buyer shall immediately notify Datalogic whether Buyer will continue to accept similarly Nonconforming Products. Acceptance of any Nonconforming Products shall constitute a waiver by Buyer of specification requirements for said Products. In any event, when the Product shall have been altered from its original state, Buyer shall be deemed to have accepted the Product. Buyer's acceptance of Products tendered under these terms and conditions shall be final and irrevocable.

### WARRANTY

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Datalogic warrants that the Products delivered under these terms and conditions shall be free from defects in materials and workmanship under normal and proper use during the Warranty Period (as defined below). Datalogic's liability under this warranty is limited to furnishing the labor and parts necessary to remedy any Defect, as defined below, covered by this warranty and restore the product to its normal operating condition. Repair or replacement of Product during the warranty does not extend the original warranty term. Products are sold on the basis of specifications applicable at the time of manufacture and Datalogic has no obligation to modify or update Products once sold. The warranty period starts from the date of shipment from Datalogic for the subsequent 12 (twelve) months unless otherwise stated by Datalogic for the specific Product at the time of purchase ("**Warranty Period**").

If, during the Warranty Period, Datalogic determines that a Product has a Defect, Datalogic shall, at its sole option repair or replace the product without additional charge for parts and labor, or - whenever repair or replacement is not possible - give a credit for or, as Datalogic may determine, a refund the purchase price of the defective Products duly returned to Datalogic. "**Defect**" means failure to comply with, or failure to operate due to noncompliance with, applicable Datalogic drawings or having defects in workmanship or material. Normal wear and tear and the need for regular overhaul and periodic maintenance do not constitute a Defect.

Buyer must notify Datalogic (which notice shall be in writing sent by registered courier or mail) of the claimed Defect before the expiration of the Warranty period and obtain from Datalogic a return authorization number for return of the Product to designated Datalogic service center. Buyer shall offer Datalogic the opportunity to investigate the claim and to inspect the allegedly defective Products. Failure to offer Datalogic such opportunity shall constitute acceptance by Buyer and waiver of all claims for Defects. The Products must always be returned within ten (10) days from the date of authorization issued by Datalogic. If Datalogic determines Buyer's claim is valid, Datalogic will repair or replace product without additional charge for parts and labor. To perform repairs, Datalogic may use new or reconditioned parts, components, subassemblies or products that have been tested as meeting applicable specifications for equivalent new material and products. Buyer shall be responsible for packaging and shipping the Product to the designated Datalogic service center, with shipping charges prepaid. Datalogic shall pay for the return of the product to Buyer if the shipment is to a location within the country in which the Datalogic service center is located. Buyer shall be responsible for paying all shipping charges, duties, taxes, and any other charges for products returned to any other locations.

If Datalogic reasonably determines that a Defect does not exist, then Buyer will pay all expenses related to the improper return including, but not limited to, diagnostic and shipping charges.

Datalogic will not be liable under this warranty if the Product has been exposed or subjected to any: (1) maintenance, repair, installation, handling, packaging, transportation, storage, operation or use that is improper or otherwise not in compliance with Datalogic's instruction; (2) Product alteration, modification or repair by anyone other than Datalogic or those specifically authorized by Datalogic; (3) accident, contamination, foreign object damage, abuse, neglect or negligence after shipment to Buyer; (4) damage caused by failure of a Datalogic-supplied product not under warranty or by any hardware or software not supplied by Datalogic; (5) any claimed defect or damage caused by the failure to provide proper maintenance, including but not limited to cleaning the upper window in accordance with product manual

or the replacement of upper window/cartridge due to scratching, stain or other degradation; (6) any defect or damage caused by natural or man-made disaster such as but not limited to fire, water damage, floods, other natural disasters, vandalism or abusive events that would cause internal and external component damage or destruction of the whole unit, consumable items; (7) use of counterfeit or replacement parts that are neither manufactured nor approved by Datalogic for use in Datalogic-manufactured Products; (8) any damage or malfunctioning caused by non-restoring action as for example firmware or software upgrades, software or hardware reconfigurations etc. (9) any consumable or equivalent (e.g. cables, power supply, batteries, etc.).

Datalogic has no obligation under this warranty unless Buyer maintains records that accurately document operating time, maintenance performed and the nature of the unsatisfactory condition of Product. Upon Datalogic's request, Buyer will give Datalogic access to these records for substantiating warranty claims.

THESE WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER LEGAL OBLIGATIONS FOR BREACH OF CONTRACT IN RELATION TO THE FITNESS OF THE PRODUCT AND/OR OTHER OTHER WARRANTIES, WHETHER WRITTEN, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR PARTICULAR PURPOSE, WHICH ARE AGREED TO BE EXPRESSLY EXCLUDED AND SUPERSEDED BY THE WARRANTY. DATALOGIC SHALL NOT BE LIABLE FOR ANY DAMAGES SUSTAINED BY BUYER ARISING FROM DELAYS IN THE REPLACEMENT OR REPAIR OF PRODUCTS UNDER THE ABOVE. THE REMEDY SET FORTH IN THIS WARRANTY STATEMENT IS THE BUYER'S SOLE AND EXCLUSIVE REMEDY FOR WARRANTY CLAIMS. NO EXTENSION OF THIS WARRANTY WILL BE BINDING UPON DATALOGIC UNLESS SET FORTH IN WRITING AND SIGNED BY DATALOGIC'S AUTHORIZED REPRESENTATIVE. DATALOGIC'S LIABILITY FOR DAMAGES ON ACCOUNT OF A CLAIMED DEFECT IN ANY PRODUCT DELIVERED BY DATALOGIC SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCT ON WHICH THE CLAIM IS BASED. DATALOGIC SHALL NOT BE LIABLE FOR DAMAGES RELATING TO ANY INSTRUMENT, EQUIPMENT, OR APPARATUS WITH WHICH THE PRODUCT SOLD UNDER THIS AGREEMENT IS USED.

#### **EXCUSABLE DELAY OR NON PERFORMANCE**

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Datalogic will not be liable to Buyer for any failure to meet its obligations due to any cause beyond its reasonable control including, but not limited to: government embargoes or any other government acts that interfere with performance; seizure or freeze of assets; delays or refusals to grant an export license or the suspension or revocation thereof; fires, floods, severe weather conditions; any other acts of God, quarantines or regional medical crisis; labor strikes or lockouts; riots, strife, insurrection, civil disobedience, armed conflict, terrorism or war, declared or not or impending threat of any of the foregoing, if reasonably expected to cause injury to people or property; and shortages or inability to obtain materials or components. The due date of any performance affected by such an event will be extended by the period of time that Datalogic is actually delayed. If the inability to perform continues for more than sixty (60) days, either party may terminate the affected Order by providing written notice to the other party.

#### **CHANGES**

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Datalogic may, without notice to Buyer, incorporate changes to Products provided that such changes do not materially affect overall product performance. Any changes to the specifications requested by the Buyer shall be subject to agreement by the Buyer and Datalogic.

#### **OUT OF WARRANTY PRODUCTS**

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For Products no longer covered by warranty services, Datalogic may offer billable repair services on products, provided such products are serviceable. Buyer acknowledges and accepts that for some older Products the repair may exceed the costs of manufacturing a new Product and Datalogic may decline to perform repair services. Upon Buyer's request for out of warranty services, Datalogic will evaluate the request of repair and shall provide, to the extent applicable and feasible according to the above, a cost-estimate for repairs, which will be on a time and materials basis.

#### **CANCELLATION**

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Unless otherwise stated in these Conditions of Sale, either Party may cancel any Order or portion of an Order by giving other Party's written notice if the other party becomes insolvent, files a petition for bankruptcy, or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors. Furthermore, Datalogic, in addition to any remedies that may be provided under these terms, may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement and such failure continues for ten (10) calendar days after Buyer's receipt of written notice of nonpayment; or (ii) has not otherwise performed or complied with any of the terms of this Agreement, in whole or in part.

#### **PROPRIETARY RIGHTS**

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All Proprietary Rights in the Products and all future modifications and variations made to the Products are and shall vest in Datalogic or its licensors including techniques and components of the development of software incorporated in the Product, unless otherwise agreed in writing and signed by Datalogic. For purpose hereof **Proprietary Rights** shall mean any intellectual property rights including without limitation: (a) patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, ideas and concepts, processes, methodologies, tools, techniques, utility models, moral rights, topography rights, database rights and rights of confidence and all embodiments thereof, whether tangible or intangible in all cases whether or not registered or registrable in any country, for the full terms (including any extension to or renewal of the terms) of those rights and including registrations and applications for

registration of any of these and rights to apply for the same; and (b) all rights and forms of protection of a similar nature or having equivalent or similar effect to any of those set out in (a) anywhere in the world.

## **CONFIDENTIALITY**

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All non-public, confidential or proprietary information of Datalogic, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Datalogic to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with the Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Datalogic in writing. Upon Datalogic's request, Buyer shall promptly return all documents and other materials received from Datalogic. Datalogic shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

## **PATENT AND COPYRIGHT INFRINGEMENT INDEMNIFICATION**

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If an infringement claim is made against the Buyer alleging that a Product furnished under these Conditions of Sale infringes a patent or copyright of the European Union and/or the United States, Datalogic may, at its option and expense, (1) replace or modify the Product so that it becomes non-infringing; or (2) procure for Buyer the right to continue using the Product; or (3) require the return of the Product and refund to Buyer the including price paid less a reasonable allowance for use.

Datalogic will defend or settle, at its sole option and expense, any action brought against Buyer alleging that a Product furnished under this Agreement infringes an issued patent, registered trademark, or registered copyright of a third-party. Datalogic will pay damages that are attributable to the infringement action and finally awarded by a court of competent jurisdiction against Buyer or agreed upon in settlement, provided that Buyer must: (1) notify Datalogic promptly in writing of the action and (2) provide Datalogic all reasonable information and assistance to settle or defend the action.

Datalogic will not be responsible for any compromise or settlement made without Datalogic's prior written consent.

Datalogic will have no obligation or liability with respect to: (1) Products provided pursuant to Buyer's designs, drawings or manufacturing specifications; (2) Products used other than for their ordinary purpose; (3) claims of infringement resulting from combining any Product furnished hereunder with any article not furnished by Datalogic; or (4) any modification of the Product other than a modification by Datalogic. Because Datalogic has exclusive control of resolving infringement claims hereunder, in no event will Datalogic be liable for Buyer's attorney fees or costs.

Notwithstanding the foregoing, Buyer shall indemnify and hold Datalogic harmless from any claim, loss, damage, suit, liability, fees or expenses (reasonable attorney's fees) which may be suffered by Datalogic on account of: (1) the use of components or goods not supplied by Datalogic; (2) the modified Products which become infringing as a consequence of the modification; (3) the use of the Products in infringing combinations or systems or apparatuses; (4) the use of the goods in infringing processes; (5) Datalogic's compliance with specifications furnished by Buyer and (5) the use of the Products in association with third parties trademarks or distinctive signs.

## **EXPORT CONTROL**

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The Products and all related technical information that the Datalogic may deliver or disclose to the Buyer are subject to United States, European and Vietnamese export control laws and may be subject to export or import restriction in other countries. The Buyer shall at all times comply with the United States Export Administration Act of 1979, as may be amended from time to time (the "Export Act")<sup>1</sup>, and the rules and regulations of such act. The Buyer shall obtain all required licenses and approvals necessary to comply with the Export Act and any other applicable law, including any applicable laws pertaining to the export of the Products from the Buyer's country. Datalogic may refuse to deliver Products to the Buyer where the Buyer is located or the Products have to ship in a country which the US Department of Commerce and/or the US Department of Treasury has placed an embargo ("Embargoed Countries").

## **COMPLIANCE WITH LAWS**

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Both Parties shall comply with all applicable laws and regulations directly relating to the Products and the Datalogic specifically will comply with the EU directive on Waste Electrical and Electronic Equipment (WEEE) where the Datalogic is deemed a "Producer".

If the Buyer uses any Product within any Member State of the European Union, the Buyer agrees, at the end of such Product's useful life, to make available the Products for collection within UK, Spain, Germany, Italy, France, Netherlands, Slovak, or Ireland and to comply with Datalogic terms and conditions for return for those electrical and electronic equipment Products no longer in use.

Datalogic shall not be liable for any breach of the Agreement directly or indirectly occasioned by or resulting from compliance with any regulatory action or decision taken by any competent authority in respect of the Agreement or any provision of the Agreement or if any provision of the Agreement is held to be void or unenforceable by such authority. Additionally, where necessary to comply with any relevant applicable law including any act or requirement of a competent authority or where the Datalogic for whatever reason has a regulatory requirement to make an amendment to this Agreement, Datalogic may modify this Agreement

The Buyer shall effect or secure and maintain at its own cost all necessary governmental permits, licenses, approvals and registrations required in connection with the execution or performance of the Agreement and the importation and resale of the Products.

#### LIMITATION OF LIABILITY

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**IN NO EVENT SHALL DATALOGIC BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT DATALOGIC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

**IN NO EVENT SHALL DATALOGIC'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO DATALOGIC FOR THE PRODUCTS SOLD HEREUNDER WHICH ORIGINATED THE CLAIM OR DAMAGE.**

The limitation of liability set forth in this section above shall not apply to (i) liability resulting from Datalogic's gross negligence or willful misconduct and (ii) death or bodily injury resulting from Datalogic's acts or omissions.

#### APPLICABLE LAW AND JURISDICTION

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The validity, interpretation and construction of the Agreement shall be governed by and construed in accordance with the laws of Vietnam. Parties expressly disclaim the application of the United Nations Convention for International Sale of Goods.

Datalogic and Buyer hereby agree that any dispute arising out of or in relation to any Order ("**Dispute**") shall be resolved by arbitration which will be held in Singapore in accordance with the Arbitration Rules of Singapore International Arbitration Center ("**SIAC Rules**") then in effect. The arbitration award will be final and binding for the Parties without appeal and will be in writing and set forth the findings of fact and the conclusions of law. The number of arbitrators will be three, with each side to the dispute being entitled to appoint one arbitrator. The two arbitrators appointed by the Parties will appoint a third arbitrator who will act as chairman of the proceedings. Vacancies in the post of chairman will be filled by the president of the SIAC. Other vacancies will be filled by the respective nominating Party. Proceedings will continue from the stage they were at when the vacancy occurred. If one of the Parties refuses or otherwise fails to appoint an arbitrator within 30 days of the date the other Party appoints its, the first appointed arbitrator will be the sole arbitrator, provided that the arbitrator was validly and properly appointed. All proceedings will be conducted, including all documents presented in such proceedings, in the English language. The English language version of these terms and conditions prevails over any other language version.

#### NOTICES

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All notices required to be given under the Agreement shall be in writing and delivered by hand, email, facsimile or by international overnight courier to the appropriate Party as follows:

(a) Notices to the Buyer shall be sent to the billing address as stated on front of the submitted Order or at such address as may be notified by the Buyer from time to time in writing.

(b) Notices to Datalogic shall be sent to the address identified in each respective Order acknowledgment or at such address as may be notified by Datalogic from time to time in writing.

The Buyer shall notify Datalogic of any changes to the Buyer's contact information in writing. Datalogic is not responsible, nor to be held liable, for undelivered notices due to changes to the Buyer's contact information that the Datalogic was not notified of in writing.

#### GENERAL DISPOSITIONS

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**Assignment.** Buyer will not assign any rights nor delegate any obligations under an Order or any portion thereof without Datalogic's advance, written consent which will not be unreasonably withheld. Datalogic may assign an Order in connection with the sale or transfer of all or substantially all of the assets of the business to which it pertains. Any attempt to assign or delegate in violation of this section will be void.

**Waiver.** Failure of either party to enforce at any time any of the provisions of these Conditions of Sale will not be construed to be a continuing waiver of any provisions hereunder.

**Severability.** If any provision of these Conditions of Sale is determined to be illegal, invalid, or unenforceable by court or arbitral tribunal of competent jurisdiction, the remaining provisions will remain valid and enforceable and, in lieu of the illegal, invalid, or unenforceable provision, there will be added as part of these Conditions of Sale one or more provisions as similar in terms as may be legal, valid and enforceable under applicable law.

**Third Party Beneficiaries.** Except as expressly provided to the contrary in these Conditions of Sale, the provisions of these Conditions of Sale are for the benefit of the parties to these Conditions of Sale only and not for the benefit of any third party.

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