

TOP SEALS GMBH
STANDARD TERMS AND CONDITIONS OF SALE (Germany)
EFFECTIVE NOVEMBER 30, 2018

These Standard Terms and Conditions of Sale (the "Agreement"), exclusively govern and contain all of the terms and conditions which apply to all sales of products by Top Seals GmbH ("Seller") to any buyer ("Buyer") of such products ("Sales Contract"). This Agreement will not apply to Seller products which are sold pursuant to an authorized written agreement signed by Seller and Buyer which contains complete terms and conditions of sale, and expressly excludes all other, terms and conditions of sale. If and to the extent that an authorized Seller document in respect of specified products has been provided to Buyer, containing terms regarding pricing, payment, shipment, warranty, disclaimers, exclusions, limitations, or other particular terms which are different to this Agreement, then this Agreement and such terms together shall constitute the complete agreement of the parties and in the event of a conflict of terms and/or conditions between this Agreement and the Seller document, the terms and conditions of the Seller document shall prevail.

Buyer agrees that any order for, acceptance of, or payment for Seller products shall each conclusively constitute Buyer's acceptance of this Agreement. Each shipment of products by Seller shall be a separate and independent transaction and no sale of products by Seller shall obligate Seller to continue the sale of products to Buyer. Seller may modify this Agreement at any time, provided that no such modification shall apply in respect of any order for products which has been accepted by Seller, by referring to the amended Agreement on the written order acknowledgement or by informing the Buyer otherwise.

All Buyer requests for quotation, purchase orders, requests for shipment and all other Buyer terms (in particular terms and conditions of purchase), documents, or oral statements, and all prior performance, courses of dealing, and industry practices are excluded and shall not apply to the purchase of any Seller products or be used to waive, modify, vary, explain, or supplement all or any part of this Agreement, even if Seller does not expressly object to or reject them.

1. Prices; Taxes.

1.1 Prices are subject to change at any time, except with respect to orders which have been accepted by Seller and outstanding quoted prices which shall be valid for the longer of 10 days or the period specified with the quote. All prices are based on the quantity indicated and are Ex Works ("EXW" - Incoterms 2010) Seller's facility. Any notice or instruction from the Buyer requesting a change in the quantity, specifications, scope of work, or other terms, will not be effective unless accepted in writing by Seller, including appropriate adjustments to price, specifications, delivery date and other terms. Seller reserves the right to correct errors in pricing due to inaccurate or incomplete information, clerical mistakes or other causes. With regard to long term contracts concluded with Buyer, i.e. especially long term supply contracts, Seller is entitled to regularly adapt its prices based on raw material costs on a pro rata basis upon prior reasonable notice to Buyer. If and to the extent Seller's other costs for the products increased during any calendar year, Seller may reasonably increase its prices with effect from the first day of January of the next calendar year upon prior reasonable notice to Buyer.

1.2 Prices do not include any tax or other governmental charge or assessment on the sale, shipment, production, or use of any products or services. Buyer shall pay or reimburse Seller, on demand, for any and all taxes, or other governmental charges or assessments (other than taxes on or measured by Seller's income) which are based upon or measured by the sale, transportation, delivery, or use of the products or services under this Agreement. All drawbacks of duties paid on items used in the manufacture of the products delivered hereunder shall accrue to Seller, and Buyer agrees to furnish Seller with all documents and cooperation necessary to obtain payment of such drawbacks.

2. Payment, Discounts and Retention of Title.

2.1 Subject to the approval of Seller's credit department, terms of payment shall be net 30 days from the date of Seller's invoice. Buyer shall make all payments in Euro only and in full without any discount, set off or other reductions, unless Buyer's

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counterclaim is uncontested, ready for decision or has been finally adjudicated.

2.2 Invoices not paid in accordance with payment terms will be subject to late payment interests. Late payment interests shall accrue and be added to the unpaid balance in the applicable statutory amount. If payment is not made as provided herein, or if there is a risk of Buyer's inability to make payments prior to delivery of Products, Seller may, at its option, (i) elect to withhold future deliveries of Product until such breach has been cured or Buyer's creditworthiness has improved, (ii) require payment in advance as to future deliveries, and/or (iii) rescind the Sales Contract after the unsuccessful expiry of a reasonable grace period. Notwithstanding any provision in this Agreement, Seller shall have no obligation to pay any rebate, issue any credit or make any other payment of any kind to Buyer unless Buyer is fully in compliance with its payment and other obligations under the Agreement. In addition, in the event that Buyer fails to make any payment when due, Seller shall have the right to offset any and all outstanding payment obligations or other indebtedness of Buyer to Seller against any outstanding payment obligations. Buyer shall reimburse Seller for the cost of collection, including, without limitation, reasonable attorney's fees, of any overdue amount owed by Buyer.

2.3 Pallets or other packaging materials which have not been invoiced by Seller will at all times remain Seller's property and must be returned to Seller in good condition within 30 days from delivery. In case Buyer does not return such pallets or other packaging materials in good condition within 30 days from delivery, Seller will be entitled to invoice the cost price thereof to Buyer.

2.4 The Products shall remain the property of Seller until complete and final payment of the price including any transportation charges, taxes and late payment interests. In case the Buyer resells or pledges goods that are subject to retention of title, it will notify the third party that the goods are subject to retention of title from Seller.

2.5 Discounts, rebates and similar items are granted (i) only on the sales price of products for

which payment has actually been received by Seller within the applicable discount or rebate period; and (ii) only if Buyer is in full compliance with all payment and other obligations under the Sales Contract and this Agreement. Transportation costs and other "add-on" charges are excluded from discount or rebate calculation. Buyer will not be granted any discount, rebate or similar items on cancelled orders or returned products or while any past due invoice or other amounts owed to Seller remains unpaid. Any unearned discounts, rebates or similar items given by Seller will be repaid by Buyer on demand.

3. Shipping; Delivery; Risk of Loss; Handling; Packaging.

3.1 Seller will use commercially reasonable efforts to make shipments on date(s) agreed by Seller. Unless expressly provided otherwise, or if delivery terms are ambiguous, delivery of products shall be EXW (Incoterms 2010) Seller's facility. Any delivery requirements in any purchase order or indicated elsewhere represent estimates only, and partial deliveries are permissible. Seller shall not be liable for any delay in performance, or in the delivery or shipment of products, or for any damages suffered by Buyer by reason of such delay for which Seller is not responsible.

3.2 Unless otherwise agreed, all products shall be delivered and risk of loss or damage shall pass to Buyer at such time as the products are readily available for pickup. Buyer is free to arrange and pay for its own shipping and handling EXW Seller's facility. Buyer shall pay, and be exclusively liable for, all costs of shipping, handling, delivery, and any related insurance. All claims by Buyer for damage, loss or delays in transit shall be made by Buyer against the carrier, and Seller shall have no responsibility or obligations with respect to any such damage, loss, or delay. If Seller arranges transportation for Buyer, such arrangements shall be at Buyer's sole risk and expense, and transfer of risk as specified above shall not be affected. Buyer shall pay any increase in transportation costs that are charged to Seller subsequent to its invoice to Buyer, including any fuel surcharges. From time to time, Seller may receive certain discounts and rebates from its freight carriers, which may be retained in whole or in part by Seller.

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3.3 Seller reserves the right to ship prior to the scheduled shipping date and to ship to and invoice Buyer for a quantity of products, which may vary up to 10 percent (10%) over or under the quantity requested by Buyer, and Buyer shall accept delivery and pay for such revised quantity.

3.4 All products will be packed for shipment in accordance with the written specifications for such products or with Seller's standard practices. All applicable demurrage or extra detention charges on such containers or equipment shall be for Buyer's account including demurrage which occurs on any leased track or railroad property track and any switching charges. Buyer is responsible to inspect such containers and equipment for damage caused by the carrier and to promptly notify carrier and Seller of any damages found.

4. Termination.

4.1 If and to the extent a contract is subject to termination (*Kündigung*), including but not limited to Sales Contracts with continuous obligations (*Dauerschuldverhältnisse*) or contracts for works or services, either party may terminate such contract at any time, with immediate effect, in the event the other party commits a material default of any of its obligations, which - if capable of being remedied - the defaulting party fails to cure within sixty (60) days after receiving written notice of such default from the other party.

4.2 Seller shall be entitled, without prejudice to any other rights it may have, to terminate the Agreement with the Buyer with immediate effect, in case (i) debt settlement proceedings (in particular insolvency) are instituted against the assets of the Buyer or an application is filed in this respect and, despite specific request, the Buyer cannot prove the obvious unfoundedness of such application within a reasonable time period and (ii) the Buyer breaches any of its obligations.

4.3 If a contract is terminated for any reason, then Buyer shall be required to pay Seller for (i) products produced to date of termination, (ii) raw materials purchased for production, (iii) shipment of products to the extent paid by Seller, (iv) any

outstanding mold and/or tooling costs, if applicable, and (v) any other amounts due and outstanding to Seller and (vi) all other damages recoverable by Seller under the statutory provisions. In such case, all sums due to Seller by the Buyer shall immediately become due and payable and the Buyer will be held to return any goods supplied by Seller within 48 hours from receipt of written notice by Seller. In case the Buyer does not return the goods within 48 hours, Seller or its designated agents shall be entitled to enter the premises where the goods are located in order to re-take possession of the goods.

5. Ownership of Intellectual Property, Molds & Tooling.

5.1 All materials, inventions, know-how, trademarks, information, data, writings and other property, in any form whatsoever, which is provided to Buyer by or on behalf of Seller or which is owned by Seller prior to its performance hereunder or which is developed by Seller, shall remain the property of Seller ("Seller Property"). Buyer shall acquire no right, title or interest in the Seller Property as a result of Seller's or Buyer's performance hereunder. The foregoing notwithstanding, any mold and/or tooling regardless of which party has paid for it, shall be Seller Property.

6. Product Warranty.

6.1 Seller exclusively warrants to Buyer that at the time of passing of the risk (i) Seller will convey the products with good title, free from any lawful lien or encumbrance, (ii) the manufacturing process or processes for the products and the products will not, to Seller's knowledge, infringe any valid patents in the Seller's country, and (iii) the products materially conform to the written technical specifications for each such product (the "Product Warranty").

6.2 The Product Warranty does not cover and excludes, without limitation: (i) any failure, losses, damages, deficiencies, costs or expenses arising from or relating to any misuse (including use with incompatible materials, abnormal conditions of use, use for purposes not intended for the product, and use beyond the product's useful life), accident, abuse or neglect; normal wear and tear; improper storage,

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handling, installation, maintenance or application of the product or other materials or items used with the product; and any similar acts, events or circumstances; (ii) products made with materials or parts supplied by Buyer if such material or parts were defective or manufactured pursuant to Buyer's specifications and the products comply with the Buyer's specifications; (iii) products which have been incorrectly or inappropriately altered, repaired, modified, or serviced by a third party commissioned by Seller; (iv) products which are sold as obsolete, off-spec, seconds or substandard, and (v) any other claim or matter not within the scope of the Product Warranty.

6.3 Since Seller has no control over Buyer's (or others') use, disposition, subsequent processing, admixing or reaction of any of the products with other products or materials, Buyer assumes the entire liability and responsibility therefor and agrees to protect, defend and hold harmless Tekni-Plex, Inc., its parent and affiliated companies, and any of its or their direct and indirect subsidiaries, employees, officers, and directors (collectively, the "Tekni-Plex Companies") from and against any and all claims, demands, causes of action, damages, losses, liabilities, costs, expenses (including reasonable attorney's fees), penalties and judgments (collectively "Claims") arising therefrom including, without limiting the generality of the foregoing, Claims associated with infringement of any third party's intellectual property rights or patents. This obligation shall not apply if Buyer does not bear any responsibility for the Claims. Seller has no control over Buyer's use of the products and Seller has made no warranties, guarantees, or assurances as to the results that may be obtained from the use of the products whether used singly or in combination with other items. All Seller products and services are sold with the understanding that it is the sole and exclusive responsibility of Buyer to determine the suitability of the products and services for Buyer's intended purposes.

6.4 Except as expressly provided in this Agreement, no representative of Seller is authorized to give or make any other warranty or modify the Product Warranty in any way and that no Seller

samples, tests, trials, data, catalogs, brochures or other publications and no statement, advice, recommendation, or instruction made or assistance given by Seller in connection with any products shall constitute a warranty or a waiver or modification by Seller of this Agreement. Except for the Product Warranty, Buyer assumes all risk and liability from Buyer's use of the products and does not rely on. Any samples, tests, trials, data, information provided in catalogs, brochures, publications, statement, advice, recommendation, or instruction regarding the products given to Buyer by Seller shall under no circumstances constitute a guarantee for any specific quality of the products.

6.5 Buyer's warranty rights require that he inspects the products upon delivery without undue delay and notifies Seller of any defects in writing and without undue delay, but no later than seven (7) days following delivery; hidden defects must be notified to Seller in writing without undue delay upon their discovery. In the event the product is determined to be defective or non-conforming, Seller shall, at Seller's option, replace the rejected Product or remedy the defect at no extra cost to Buyer (together "Subsequent Performance"), subject to Buyer: (i) promptly notifying Seller in writing that such products failed to conform to the Product Warranty with a detailed explanation of the alleged non-conformities, (ii) if directed by Seller, returning such products or a sample of such products to Seller, and (iii) Seller's examination of such products establishing to Seller's satisfaction that such alleged nonconformity existed as of the date of shipment and did not result from causes excluded from the Product Warranty. Any shipping charges on replaced product shall be borne by Seller. In the event Seller accepts product for return which is conforming, then, in addition to any other rights Seller may have hereunder, at law or otherwise, Seller may charge Buyer a reasonable restocking charge.

6.6 Should the Subsequent Performance fail, should such remedy be unreasonable for Buyer or has Seller refused such remedy pursuant to Section 439 (4) German Civil Code (*Bürgerliches Gesetzbuch*; "BGB"), Buyer may, at its option, rescind the Sales Contract in accordance with the statutory provisions

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or reduce the purchase price and/or claim either damages pursuant to section 7 or the reimbursement of its futile expenses.

6.7 The Product Warranty does not cover any warranty with respect to merchantability or fitness for a particular purpose, whether or not the purpose or use has been disclosed to Seller in specifications, drawings, or otherwise, and whether or not Seller's product is specifically designed and/or manufactured by Seller for Buyer's use or purpose.

6.8 With regard to any processing of product, Buyer assumes full responsibility for quality control, testing and determination of suitability of product for its intended application or use.

6.9 The limitation period for Buyer's claims for defects shall be twelve months beginning with the handover of the products to Buyer. The provisions on the statute of limitations of Section 445b BGB shall remain unaffected, if and to the extent the last buyer in the supply chain is a consumer. The statutory limitation period shall apply:

- (a) to Buyer's rights with respect to defects concealed in bad faith or caused intentionally;
- (b) if and to the extent Seller has assumed a guarantee;
- (c) to Buyer's damage claims due to culpably caused personal injuries;
- (d) to Buyer's damage claims for damages caused by Seller intentionally or by gross negligence;
- (e) to Buyer's damage claims due to other reasons than defects of the products; as well as
- (f) to claims under the German Product Liability Act or any other mandatory statutory liability.

7. Limitation of Liability.

7.1 The Seller's obligation to pay damages shall be limited as follows: For damages caused by a breach of a material contractual obligation, the Seller shall only be liable up to the amount of the typically foreseeable damage at the time of entering into the contract; the Seller shall not be liable for damages caused by a breach of a non-material contractual obligation.

7.2 The limitation of liability as set out above shall not apply to damages caused intentionally or by gross negligence, culpably caused personal injuries nor to any liability under the German Product Liability Act and in case of any further mandatory liability. Furthermore, it shall not apply if and to the extent the Seller has assumed a guaranty.

7.3 The Buyer shall take all reasonable measures necessary to avert and reduce damages.

7.4

8. Indemnification.

8.1 Buyer agrees to indemnify, hold harmless and defend the Seller from and against any and all claims (whether based on contract, tort, breach of statutory duty, negligence, strict liability or otherwise), judgments, liabilities, damages, losses, expenses and costs (including, but not limited to court costs and attorneys' fees) incurred or suffered by Seller for which Buyer is responsible, and which relate to or arise out of (i) Buyer's or Buyer's buyer use, handling, installation, sale, distribution or disposal of the products, or (ii) Buyer's breach of warranty or other obligations hereunder. Buyer shall defend any such matter with counsel reasonably acceptable to Seller and shall not settle any such matter except with the consent of Seller which consent shall not be unnecessarily withheld. If Buyer fails to promptly and diligently investigate and defend or settle any claim, then Seller shall have the right, at Buyer's cost, expense and risk, from that time forward to have sole control of the defense of the claim and the terms of any settlement or compromise.

9. Force Majeure and Hardship.

9.1 Notwithstanding anything to the contrary in this Agreement, Seller shall not be liable to the Buyer for any loss or damage which may be suffered by the Buyer as a direct or indirect result of the delivery of goods by Seller being prevented, hindered, delayed or rendered more difficult, by reason of circumstances or events beyond Seller's reasonable control including (but not limited to) Acts of God, war, riot, pandemic and/or epidemic and any labor or staffing issues related to or resulting therefrom, strike, lock-out, trade dispute or labour disturbance, accident,

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break-down of plant or machinery, fire, flood, storm, acts of government, difficulty or increased expense in obtaining workmen, materials or transport or other circumstances affecting the supply of goods or of raw materials therefor by Seller's normal source of supply or the manufacture of goods by normal means or the delivery of goods by Seller's normal route or means of delivery ("Force Majeure"). If Seller's performance is suspended in whole or in part for more than thirty (30) days due to a Force Majeure event, Buyer shall be entitled to arrange alternate sources of supply for a corresponding portion of its needs until Seller is able to resume normal production and delivery schedules.

9.2 If a substantial and disproportionate prejudice is caused to the interest of one of the parties as a direct result of changes in economic and/or business conditions beyond the control of such party then upon the written request of such party, the parties shall promptly meet to consider whether such hardship exists and, if so, what modifications, if any, to the terms of the contract are necessary to provide a fair and equitable method of mitigating, removing or avoiding any such hardship; such method to recognize the interests of both parties.

10. **Confidential Information.**

10.1 Buyer shall hold in confidence any Seller proprietary and/or confidential commercial or technical information and shall protect any such information from any disclosure to others and shall not use such information other than in connection with the sale of products and services by Seller to Buyer. Upon request of Seller or termination of sales to Buyer, all such information in whatever form shall be returned to Seller immediately without retaining any copies thereof. The above is in addition to all other obligations set forth in any confidentiality or similar agreement entered into between the parties.

11. **Governing Law.**

11.1 All issues, questions and disputes concerning the conclusion, validity, interpretation, enforcement, performance and termination of the Sales Contract and this Agreement, including all matters of extra-contractual and/or tort liability, if

any, arising out of or in relation with the Sales Contract and this Agreement, shall be governed by and construed in accordance with German law, without giving effect to the UN Convention on Contracts for the International Sale of Goods (1980) ("Vienna Convention").

12. **Dispute Resolution.**

12.1 Any dispute arising between the parties arising out of or in connection with the Sales Contract and this Agreement, including any contractual or non-contractual (including pre-contractual) matters in connection with its conclusion, validity, interpretation, enforcement, performance and termination, shall be resolved by the following procedure: (i) officers of Seller and Buyer, in each case with final decision making authority, shall discuss and negotiate in good faith a solution acceptable to both parties, and (ii) if after negotiating in good faith pursuant to the foregoing clause, the parties fail to reach agreement within thirty (30) days (or such longer period as the parties may agree), then such dispute shall be submitted to the exclusive jurisdiction of the competent courts where the Seller's registered office is located, without prejudice to Seller's right to bring an action before the competent court where the Buyer's registered office is located. Notwithstanding anything contained in this section to the contrary, Seller shall have the right to institute judicial proceedings against Buyer or anyone acting by, through or under Buyer in any competent court as necessary to prevent imminent and irreparable harm to Seller's interests.

13. **Compliance with Laws, Codes and Standards.**

13.1 Buyer shall comply with laws applicable to the application, operation, use and disposal of the products, all U.S., EU and other applicable trade control laws and regulations. Buyer shall not transship, re-export, divert or direct the products other than in and to the ultimate country of destination declared by Buyer and specified as the country of ultimate destination on Seller's invoice.

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13.2 Seller's products are subject to U.S. and/or EU and/or German export controls and economic sanction laws and other applicable trade control laws and regulations, including, but not limited to, the Export Administration Regulations and regulations administered by the U.S. Department of the Treasury's Office of Foreign Assets Control. Diversion contrary to U.S. or EU and/or German law is prohibited, and it is the sole responsibility of the Buyer to apply for and obtain any necessary licenses or other authorizations prior to any direct or indirect export, re-export, import, or transfer of Seller's products, including to another end user or for another end use. Seller shall be exempted from the obligation to export goods, technologies, know-how or individual components with immediate effect if Seller does not receive at all or not in due time, the necessary export or re-export permits.

13.3 Under no circumstances does Buyer undertake to use, transfer, sell, export, re-export or import (in whole or in part) the products under any circumstances, insofar as he knows or has a legitimate reason to believe that they serve one of the following purposes:

(i) nuclear purposes/use, (ii) military purposes/use, (iii) weapons of mass destruction, (iv) rocket technology.

13.4 Buyer undertakes to use, transfer, sell, export, re-export or import the contractual products (in whole or in part) only for civil purposes.

13.5 Seller shall be entitled to verify the Buyer's compliance with its obligations under this section 13. For this purpose, Buyer shall provide Seller with all information such as, but not limited to, documents and data that Seller deems necessary or helpful to verify compliance with the provisions of this section 13.

14. General Provisions.

14.1 Entire Agreement /Modification /Waiver. This Agreement constitutes the entire agreement between the parties. This Agreement supersedes all written or oral prior agreements or understandings with respect thereto. The Sales Contract and this Agreement may not be modified or amended except

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by a written instrument signed by both parties. The same shall apply to an amendment of this written form requirement. E-mail communications containing typed name and/or typed signature blocks do not constitute a written instrument within the context of this paragraph.

No waiver will be implied from conduct or failure to enforce rights, and no waiver will be effective unless in writing signed on behalf of the party against whom the waiver is asserted. The exercise of any right or remedy provided in this Agreement shall be without prejudice to the right to exercise any other right or remedy provided by law or equity, except as expressly limited in this Agreement. This Agreement shall survive any completion of the sale of or any cancellation or termination of any order of products.

14.2 Severability. If any term or provision of the Sales Contract and/or this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other term or provision hereof, and the Sales Contract and/or this Agreement shall be interpreted and construed as if such term or provision, to the extent the same shall have been held to be invalid, illegal or unenforceable, had never been contained herein. The invalid or unenforceable provision shall automatically be replaced by such valid provisions that reflect the economic purpose intended by the parties as closely as possible.

14.3 Notices. All notices, demands and other communications which may or are required to be given to or made by either party to the other in connection with the Sales Contract and/or this Agreement shall be in writing (including fax or other similar writing) and, without limiting either party's right to prove the date of actual receipt by all legal means, shall be duly given or made (i) if sent by certified mail, return receipt requested or if sent by hand or overnight delivery, upon the delivery thereof, and (ii) if sent by fax, upon confirmation of receipt of such fax, in each case addressed to the business unit president and principal place of business of each party or to such other address as either party hereto may specify from time to time by notice to the other party.

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14.4 Assignment; Parties in Interest. The Sales Contract and/or any rights and obligations under this Agreement may not be assigned (by operation of law, including pursuant to a merger, split, consolidation, sale or contribution of business unit, generality or assets, or otherwise) or transferred, in whole or in part, by either party without the prior written consent of the other party. However, the Seller shall be entitled to assign the Sales Contract and/or the rights and obligations under this Agreement, without the prior written consent of Buyer, to an affiliate, any direct or indirect subsidiary, or to any successor which succeeds as a going concern to the business unit manufacturing and supplying the products hereunder pursuant to a merger, split, consolidation, sale or contribution of business unit, generality or sale of all or substantially all of its assets, if such successor assumes Seller's obligations hereunder. Section 354a German Commercial Code (*Handelsgesetzbuch*) shall remain unaffected hereby.

Except as specifically provided herein, this Agreement is not intended to and does not create any rights in favor of any person or entity not a party hereto.

14.5 No Agency. The relationship between Buyer and Seller under the Sales Contract and this Agreement is that of buyer and seller, and Buyer shall have no right and shall not attempt to enter into contracts or commitments in the name of or on behalf of Seller or to bind Seller in any respect whatsoever. Nothing herein shall be construed to make Buyer the joint venturer, partner, agent, servant, franchisee or employee of Seller, and Buyer shall not have the power to bind or obligate Seller.

14.6 Headings. The Paragraph headings of this Agreement are inserted for convenience only and shall not constitute a part of this Agreement in construing or interpreting any provision hereof.