

OSHINO LAMPS (UK) LIMITED

Terms & Conditions Of Sale

1 Defined Terms

“Authorised Person”	means a director of the Company or the manager assigned to your order by the Company. If you have received a quotation the manager assigned to your order will have signed your quotation as the authorising person.
“the Company”	means Oshino Lamps (UK) Limited, a company registered in England and Wales, company number 01457050 whose registered office is at 1 Churchfield Court, Robey Close, Linby, Nottingham NG15 8AA, England.
“the Contract”	means the contract between the Company and the Customer for the sale and purchase of the Goods and/or Services in accordance with these terms and conditions.
“the Customer”	means the person, firm or company who contracts to purchase Goods and/or Services from the Company.
“Goods”	means the equipment or parts provided to the Customer whether as a product of the Services or otherwise.
“Order Acknowledgement”	means the Company’s form detailing the order placed by the Customer with the Company.
“Services”	means any services which the Company agrees in writing to provide the Customer (whether related to the Goods or not).

- 1.1 Where the word “including,” “include”, “in particular” or similar expression appears in these terms and conditions it is to be understood as illustrative and shall not limit the sense of the words preceding those terms.
- 1.2 Words in the singular include the plural and in the plural include the singular.
- 1.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.4 Where the Company’s agreement, confirmation or approval is referred to or required in these terms and conditions it must be obtained in writing from an Authorised Person.
- 1.5 By law consumers have additional statutory rights. These rights are unaffected by these terms and conditions.
- 1.6 Headings are for convenience only and are not intended to affect interpretation.

2 Order Procedures

- 2.1 Quotations are given in good faith but are not binding on The Company. As circumstances can change, all quotations are subject to confirmation in writing by the Company upon receipt of the Customer’s order.
- 2.2 Although The Company will try to ensure the information provided when a Customer contacts the Company about the Goods and Services, is accurate, the Company may not be aware of all the circumstances that may affect your choice. Unless verbal information or advice is confirmed by the Company in writing as part of the Order Acknowledgement it should be treated as guidance only and should not be relied upon without further verification.
- 2.3 An order for the Goods and/or Services shall be deemed to be an offer by the Customer to buy Goods and/or Services in accordance with and subject to these terms and conditions of sale. The Company will only have accepted that offer only when it has indicated in writing to the Customer in the Order Acknowledgement. Such acceptance shall take effect only on these terms and conditions of sale so as to form the Contract between the parties. No term or provision that is not expressly agreed and set out in the Order Acknowledgement shall be incorporated into the Contract. This includes any provision contained in standard terms and conditions put forward or routinely used by the Customer in the course of its business that the Customer purports to bring into effect as governing any contract with the Company. Nor shall any such standard terms and conditions of the Customer be treated as a counter offer. No purported variation of any of these terms and conditions shall become binding on the Company unless and until the Company has agreed to it in writing in terms that conform to **condition 18.4**.
- 2.4 The Customer must ensure the Order Acknowledgement accurately sets out the terms of its order including any particular uses of the Goods and Services that have been agreed with the Company. Any special conditions or amendments to these terms and conditions of sale that have been agreed by the Company must be noted on the Order Acknowledgement. Unless the Customer notifies the Company in writing of any error in the Order Acknowledgement within 24 hours of receipt or (if earlier) before the Company begins work on the Goods and/or Services, such Order Acknowledgement will be the agreed order.

3 Description of Goods and Services

- 3.1 All descriptions and illustrations and particulars of weights and dimensions issued by the Company in catalogues, price lists, advertising matter and forwarding specifications are by way of general description and approximate only and shall not form part of any Contract or give rise to any liability on the part of the Company. Unless otherwise agreed in the Order Acknowledgement, any sample given of any Goods and/or Services is by way of identification only and does not constitute a sale by sample.
- 3.2 Unless otherwise expressly agreed between the parties, samples submitted by the Company or at the Customer’s request must be returned within ninety days of receipt and the Company shall be entitled to charge for them if they are not so returned.
- 3.3 It is the policy of the Company to endeavour to develop and improve its products and accordingly the Company reserves the right to change all specifications without prior notification or public announcement pursuant to such policy, provided that nothing in this condition shall oblige the Customer to accept Goods that do not reasonably comply with the Contract.

4 Delivery and Risk

- 4.1 The cost of delivery of the Goods to the Customer’s premises shall be charged in addition to the price of the Goods and/or Services unless otherwise agreed in writing.
- 4.2 Unless expressly agreed in writing by the Company on the Order Acknowledgement, all times and dates of delivery of the Goods are given in good faith but are approximate only and time shall not be of the essence. Whilst The Company will endeavour to deliver within the period stated, failure to do so will not entitle the Customer to cancel the Contract. If no dates are specified delivery will be within a reasonable period.
- 4.3 All times and dates for delivery shall be calculated from the date of the Order Acknowledgement, or the date of receipt by the Company from the Customer of all information, instructions and drawings as shall be necessary in the Company’s reasonable opinion, to enable the Company to carry out the Contract, whichever shall be the later.
- 4.4 The Company shall not be liable for any failure or delay in delivery of the Goods that is caused by events beyond the Company’s reasonable control or the Customer’s failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.5 If required, the Customer shall provide any documents, authorisations or other items required to secure customs clearance and/or enable delivery on the date stated for delivery by the Company.
- 4.6 The Customer will provide at its expense at the place of delivery adequate equipment and manual labour for loading (and unloading) the Goods.
- 4.7 Where it is necessary to despatch Goods in crates, cases, pallets, stillages or skids or other such packing, a charge may be made for this, and if a charge is made, the amount will be credited in full on the return, within one month, of such crates, skids, stillages and pallets or other such packaging in good condition carriage paid.



- 4.8 Unless otherwise stated in writing, the Company shall be entitled to make partial deliveries of the Goods.
- 4.9 Goods will be at the Customer's risk from the date of delivery and the Customer should insure the Goods accordingly. If The Company agrees to store the Goods then the Goods will nevertheless remain at the Customer's risk and should be insured by the Customer.
- 4.10 Subject to the other provisions of these terms and conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Customer to terminate or rescind the Contract unless such delay exceeds 60 days.
- 4.11 Where the Goods are to be delivered in instalments, each delivery is a separate Contract under these terms and conditions. Failure by The Company to deliver any one or more of the instalments in accordance with this Contract or any claim by the Customer in respect of one or more instalments does not entitle the Customer to cancel the contract as a whole.

5 Non Delivery or Damage in Transit

- 5.1 When the price quoted includes delivery, the Company shall repair or replace free of charge, Goods damaged in transit or not delivered in accordance with the Order Acknowledgement, provided that the Company is given written notification of such damage or non-delivery within such time (being not more than 7 days), as will enable the Company to comply with the carrier's conditions of carriage as affecting loss or damage in transit, or, where delivery is made by the Company's own transport, within 7 days after receipt of the Goods.
- 5.2 Notwithstanding the above undertaking, the Company will only consider claims for alleged shortage if they are received within 7 working days of the receipt of Goods by the Customer, together with sufficient information to enable the Company properly to identify the shortage including the Order Acknowledgment number, case number and condition of the case.
- 5.3 Any liability for non-delivery of the Goods or damage in transit of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.
- 5.4 If the Customer fails to give notice in accordance with this **condition 5**, the items delivered shall be deemed to be in all respects in accordance with the Contract and the Customer shall be bound to accept and pay for the same accordingly and all claims in respect of non-delivery, loss, damage, defect or non-compliance (save as set out in **condition 11**) shall be wholly barred.
- 5.5 If the Customer or its carrier fails to or delays in taking delivery of the Goods or fails or delays giving the Company adequate delivery instructions and/or to provide any documents, authorisations or other items required to enable delivery on the date stated for delivery then, notwithstanding any agreement to the contrary, the full price of the Goods and Services shall become immediately due and payable and the Customer shall indemnify the Company in respect of any loss, cost or expense incurred by the Company as a result, directly or indirectly, of the Customer's instructions or lack of instructions or through any failure or delay whatsoever in taking delivery or through any other act, neglect or fault on the part of the Customer, its agents or employees. In addition without prejudice to any other right or remedy available to the Company, if the Company is unable to deliver the Goods the Company may exercise any one or more of the following rights:
- at the Customer's risk store the Goods until actual delivery and the Customer shall pay for the reasonable costs of storage and insurance; and/or
 - sell the Goods at the best price readily obtainable and the Customer shall pay for any shortfall below the price due from the Customer under the Contract as well as any costs charged under **condition 5.5.a** .

6 Price and Payment

- 6.1 Unless otherwise stated on the Order Acknowledgement:
- The price will be the price for the Goods and/or Services applicable at the date of despatch of the Goods (or instalment of the Goods if the Goods are delivered in instalments);
 - Time for payment is of the essence;
 - All prices are quoted exclusive of Value Added Tax and all other duties, carriage, packing, licence fee or insurance charges, import duties and taxes and customs charges which amounts the Customer shall pay in

addition to the price, where they apply.

- 6.2 The Company's reserves the right at any time prior to delivery of the Goods and/or performance of the Services to adjust the price to take account of any increase in the cost of labour, materials, currency fluctuations, compliance with changes in legislation, increases in taxes and duties and other costs. The Company shall notify Customers of any proposed increase in price. Where the increase is more than 5% of the price the Company shall offer the Customer the opportunity not to proceed with the Contract provided the Company is paid for the work carried out and costs it has reasonably incurred up to that point.
- 6.3 Unless otherwise agreed in writing, payment must be made in cleared funds in full and without deduction within 30 days of the end of the month following the date of the invoice. Payment must be made in pounds sterling or such other currency as is specified in the Order Acknowledgement.
- 6.4 If the Customer fails to make any payment on or before the time specified for payment then, without prejudice to any other right or remedy available to the Company may exercise any one or more of the following rights and remedies and shall not incur any liability to the Customer as a result of the exercise of such remedies:-
- Cancel the Contract and/or suspend any further deliveries to the Customer;
 - Appropriate any payment made by the Customer to such of the Goods or Services (or Goods or Services supplied under any other Contract between the Company and the Customer) as the Company may think fit (notwithstanding any purported appropriation by the Customer);
 - Charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of 4 per cent per annum above the National Westminster Bank Plc. base rate from time to time, until payment in full is made (interest to be payable on demand and to accrue daily on the basis of a year of 365 days) together with all costs and expenses incurred by the Company in the collection of overdue monies.
 - Exercise a general lien on all property of the Customer in its possession, custody or control for all sums due to the Company. The Company shall give 28 days' notice to the Customer of its intention to sell or dispose of such property. If the Customer fails to pay all sums due to The Company within the 28 day notice period then the Company shall be entitled to sell all or any part of the Customer's property in the Company's possession, custody or control as agent for and at the expense of the Customer and The Company shall apply the proceeds of sale (net of any costs incurred in association with the sale) in or towards the payment of the sums owed to the Company by the Customer. Upon accounting to the Customer for the balance remaining (if any) after payment of any sum due to the Company and the costs of sale and disposal, The Company shall be discharged of any liability whatsoever in respect of the Customer's property.

For the avoidance of doubt The Company shall be entitled to recover the price notwithstanding that delivery may not have taken place and ownership of the Goods has not passed to the Customer. In the event of the Company exercising its remedy under clause 6.4.a the Customer shall in addition be liable for costs incurred in respect of Goods that are in the course of manufacture or ready for despatch.

- 6.5 If payment by the Customer is not made in the currency required under these terms and conditions then the Company will convert the payment into the correct currency at the rate of exchange prevailing at the bank used by the Company. If the rates and cost of exchanging the currency together with any premiums, commissions, bank charges or other consequential costs incurred by the Company when deducted from the payment made by the Customer result in the Company receiving less than the full payment then the Customer will pay the shortfall to the Company upon demand.
- 6.6 The Customer shall pay to the Company on demand all receiving bank charges incurred by the Company arising from any act or omission of the Customer.
- 6.7 Each Contract with the Customer and the provision for payment following delivery is subject to the Company being satisfied with the Customer's credit status both prior to and during the Contract. If the Company becomes dissatisfied with the Customer's credit status it may in its absolute discretion (without incurring liability to the Customer) require payment in full in cleared funds prior to despatch for the Goods together with any outstanding amounts which may be due to the Company on any account held by the Customer or by a company, firm or person associated with the Customer.



7 Waste Electrical and Electronic Equipment Regulations

- 7.1 Where the Company has any financing obligations under The Waste Electrical and Electronic Equipment Regulations 2013 (WEEE Regulations), these are passed onto the Customer to the extent legally permissible.
- 7.2 In particular the Customer shall: -
- be responsible for financing the collection, treatment, recovery and environmentally sound disposal of:
 - all equipment subject to the WEEE Regulations arising or deriving from the Goods; and
 - all equipment subject to the WEEE Regulations arising or deriving from products placed on the market prior to 13 August 2005 where such Goods are to be replaced by the Goods and the Goods are of an equivalent type or are fulfilling the same function as that of such Goods;
 - comply with all additional obligations placed upon the Customer by the WEEE Regulations by virtue of the Customer accepting the responsibility set out in clause 7.2.a; and
 - provide the Company's WEEE compliance scheme operator with such data, documents, information and other assistance as such scheme operator may from time to time reasonably require to enable such operator to satisfy the obligations assumed by it as a result of the Company's membership of the operator's compliance scheme.
- 7.3 The Customer shall be responsible for all costs and expenses arising from and relating to its obligations in clause 7.2.
- 7.4 Further information in respect of the arrangements set out in clause 7.2 can be found at www.wastepack.co.uk by clicking on BUSINESS WEEE COLLECTIONS, then clicking 'continue' under final users, and then entering WEEE registration number WEE/MM4609AA where prompted.

8 Ownership of The Company Goods

- 8.1 Ownership of the Goods will not pass to the Customer until the Company has received in cash or cleared funds payment in full of the price of the Goods and/or Services and all other sums due to the Company by the Customer, notwithstanding such Goods may have been delivered to the Customer.
- 8.2 Until such time as ownership of the Goods passes to the Customer, the Customer holds the Goods on the Company's behalf. The Customer must keep the Goods separate from those of the Customer and third parties and properly stored, protected and insured and identified as the Company's property.
- 8.3 Subject to **condition 8.4** the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Company receives payment for the Goods. However, if the Customer resells the Goods before that time:
- it does so as principal and not as the Company's agent; and
 - title to the Goods shall pass from the Company to the Customer immediately before the time at which resale by the Customer occurs.
- 8.4 If before title to the Goods passes to the Customer, the Customer becomes subject to any of the events listed in **condition 15** then, without limiting any other right or remedy the Company may have, the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately and the Company may at any time require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product.
- 8.5 Until the Customer owns the Goods, The Company shall be entitled at any time to require the Customer to return the Goods to the Company and, if the Customer fails to do so, the Customer gives The Company permission to enter any premises of the Customer or of any third party where the Goods are stored on the Customer's behalf and recover the Goods.

9 Inspections and Tests

- 9.1 The Company's products are carefully inspected and where practicable submitted to its standard tests at the Company's premises before despatch.
- 9.2 If tests other than those specified or tests in the presence of the Customer or its representatives are required, the Customer will be responsible for the costs of such additional tests. In the event of any delay on the Customer's part in attending tests after the Customer has received seven days' notice that the Company is ready to perform the tests, the tests will proceed in the Customer's absence and the Customer accordingly hereby agrees to accept and pay for such tests as if they had been performed in the Customer's presence.
- 9.3 Any data, technical information or performance figures provided by the Company are based on tests performed under standard testing conditions at the Company's premises. They are believed to be accurate but cannot be guaranteed under different conditions.

- 9.4 The Customer shall ensure the safe use, storage, servicing, inspection, maintenance and repair of the Goods in accordance with best practice and the manufacturer and the Company's instructions, recommendations and specified operating parameters to not less than the minimum standards suggested by the Company and any third party manufacturer.
- 9.5 The Customer shall use the Goods for the purpose for which they are produced, manufactured and sold by the Company and the Customer agrees not to use or permit the use of the Goods by any third party save in compliance with these terms and conditions and for the requirements notified and accepted in writing by the Company and otherwise in accordance with the operational instructions and recommendations issued by the Company from time to time.
- 9.6 The Customer will hold the Company harmless and indemnify and keep indemnified the Company from and against all claims, damages and/or losses arising directly or indirectly from any failure by the Customer to comply with these terms and conditions.

10 Services

- 10.1 The Services shall be limited to those identified within the Order Acknowledgement.
- 10.2 Unless expressly agreed in the Order Acknowledgement performance of the Services shall not discharge the Customer of its obligations to carry out inspections, testing and other maintenance under these conditions.
- 10.3 The Company is responsible only for the provision of those Services specified in the Order Acknowledgement. All other ancillary equipment and services required to deliver the Services, are the responsibility of the Customer.
- 10.4 Where the Services are provided at the Customer's premises, or at a third party location, as agreed, the Customer must, at its own expense:-
- Provide adequate access to the relevant premises for the purposes of completing the Services; and
 - Ensure all obstructions are removed from the area where the Services are to be performed;
 - Provide a clear and safe area for performance of the Services;
 - Provide power sources, electricity materials, equipment and parts (other than the Goods) and other such facilities, documentation and information (in the English language) necessary for the carrying out of the Services;
 - Ensure that working conditions meet all legislative and good practice requirements for the health and safety of the Company's employees and agents whilst carrying out the Services; and
 - Where the Services are to be performed outside the UK the Customer shall ensure that:-
 - working conditions meet all local legislative health and safety requirements and that working conditions are at least to the equivalent standard as that required by UK health and safety legislation and good practice
 - personnel provided by the Company are fully informed of the applicable health and safety standards and of any legal restrictions or requirements affecting (directly or indirectly) the performance of the Services.
- 10.5 The Customer agrees to comply with its obligations promptly so as not to delay or otherwise interfere with the performance of the Services. Without prejudice to any other right or remedy of the Company the Customer will pay any additional costs incurred by the Company in the event of the Customer breaching this obligation.
- 10.6 The Company shall be entitled to change or substitute the personnel it appoints to carry out the Services at its discretion.

11 Warranties and Guarantees

- 11.1 The Company will at its sole discretion either repair or replace the Goods if they are defective as a result of faulty Design by the Company, materials, or workmanship assuming the Goods were properly stored upon delivery. This warranty does not apply to design issues or defects, which result from designs made and/or furnished by the Customer. This warranty applies for twelve (12) months from the date of delivery and is subject to the remaining terms and conditions herein.
- 11.2 The Warranty given in this condition is subject to the following provisions, namely: -
- that the Customer has paid in full for the Goods in compliance with the terms of this Agreement;
 - that the Customer shall have followed all instructions and recommendations issued by the Company (including any manufacturer's instructions and recommendations) in relation to the Goods and have otherwise have complied with **condition 9.4**;



- c. that the Customer has not modified or repaired the Goods without the prior written consent of the Company;
 - d. that the defect has not arisen as a result of fair wear and tear, wilful damage, negligence or abnormal storage or operating conditions;
 - e. that the defect has not arisen as a result of errors, mistakes or misinformation in the information or instructions given by the Customer to the Company or a failure or delay by the Customer to disclose relevant information;
 - f. that in the case of defects which would have been reasonably apparent to the Customer on reasonable examination of the Goods on delivery, the Customer shall notify the Company of the defects in writing within fourteen days of delivery;
 - g. that in the case of defects, not reasonably apparent on inspection, the Customer shall notify the Company of the defects in writing within fourteen days of the date when the defect becomes apparent;
 - h. that on discovery of any defect the Customer makes no further use of the Goods.;
 - i. that suitable access equipment is provided for any on-site repairs or maintenance, particularly where equipment is at high level or with difficult access;
 - j. that any replacement or repaired Goods shall be warranted in accordance with this condition 10 for the unexpired portion of the twelve-month period. These terms and conditions shall apply to any repair or replacement.
- 11.3** The Company may require the Goods to be returned to the Company's premises to allow a full inspection. It is the responsibility of the Customer to collect from the Company's premises any Goods returned to the Company if the Customer's claim proves to be invalid. A handling charge may be deducted from any credit allowed by the Company where it is established that the returned Goods were not defective or the return was not due to any error on the part of the Company.
- 11.4** Except as provided in this **condition 11**, the Company shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in **condition 11.1**.
- 11.5** The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 12 Liability**
- 12.1** Nothing in this Agreement shall be deemed to exclude or restrict the Company's liability for death or personal injury resulting from the negligence of the Company, fraud or fraudulent misrepresentation or any matter in respect of which it would be unlawful for the Company to exclude or restrict liability and all of the exclusions and restrictions of the liability of the Company in these terms and conditions shall be subject to this proviso.
- 12.2** The Company shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any direct or indirect loss of profit, depletion of goodwill, or any indirect or consequential loss arising under or in connection with the Contract; and
- 12.3** The total liability of the Company to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.
- 12.4** The Customer will hold harmless and indemnify and keep indemnified The Company and (as a separate obligation). The Company personnel engaged in providing Services to the Customer, from and against all actions, claims, liabilities, costs and demands arising out of the negligence of any of the Customer's employees, agents and/or contractor, personnel, team members or drivers working with the Company personnel.
- 13 Events outside the control of the Parties**
- 13.1** The Company shall not be liable for any failure to deliver the Goods or provide Services arising from circumstances outside the Company's reasonable control including the Customer failing to furnish necessary instructions or information, war or other hostilities, acts of terrorism, civil commotion, fire, explosion, flood, epidemic, acts of God, government action or legislation, interruption of transport, delays by suppliers, customs authorities, strike, lock out or other form of industrial action, accidents or stoppages to works, shortage of labour, materials, equipment, fuel or power, breakdown of machinery, whether or not such cause exists at the date of the Contract.
- 13.2** Should the Company be prevented from delivering Goods or providing Services in the above circumstances it shall give the Customer written notice of this fact as soon as reasonably practicable after discovering it.
- 13.3** The Company shall be entitled without liability on its part and without prejudice to its other rights, to terminate the Contract or any unfulfilled part thereof, or at its option suspend or make partial deliveries or extend the time or times for delivery, if the manufacture of the Goods by the Company or the Company's suppliers, or the delivery of the Goods or the performance by the Company of any of its obligations under the Contract is hindered or delayed whether directly or indirectly due to circumstances beyond the reasonable control of the Company including, those specified in **condition 13.1**.
- 13.4** If the circumstances preventing delivery Goods or providing Services are still continuing six months (or such shorter period that the Company agrees is reasonable) after the Customer receives the Company's notice then the Customer may give written notice to the Company cancelling the Contract.
- 13.5** If the Contract is cancelled in this way, the Company will refund any payment which the Customer has already made on account of the price (subject to deduction of any amount the Company is entitled to claim from the Customer under the Contract and deducting payment for any Goods which have been delivered and for any Services provided on a pro rata basis and deducting any raw materials ordered and paid for by the Company which the Company agrees to make available to the Customer) but the Company will not be liable to compensate the Customer for any further loss or damage caused by the failure to deliver.
- 14 Cancellation**
- 14.1** Subject to **condition 15.2** below, an order under a Contract may only be cancelled by the Customer with the written agreement of the Company, and subject to the customer reimbursing the Company for any costs incurred by the Company in connection with the Customer's order. A Customer may not cancel an order after work has begun and will be liable for payment of the total price for the Goods and Services.
- 15 Insolvency**
- 15.1** This condition applies if: -
- a. The Customer becomes insolvent or makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or a firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction) or: -
 - b. an encumbrance takes possession, or a receiver or administrative receiver is appointed, of any of the property or assets of the Customer; or
 - c. the Customer is unable to pay its debts as they fall due; or
 - d. the Customer ceases, or threatens to cease, to carry on business; or
 - e. the Company reasonably suspects that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.
- 15.2** If this condition applies, then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further deliveries under the contract without liability to the Customer, and if the Goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 16 Confidentiality**
- 16.1** The Customer agrees to maintain all Confidential Information in the strictest confidence and to only use it exclusively for the purpose set out in the provisions of the Order Acknowledgement or authorised in writing by The Company. It shall be made available to the personnel of the Customer only insofar as it is required for such purpose, and may be disclosed to third parties only after receipt of the prior written agreement of the Company and subject to the Customer ensuring such third parties comply with these confidentiality provisions. Confidential Information includes all data, documents, prototypes, engineering information, know-how, business plans and information relating to intellectual property rights and materials which are directly or indirectly disclosed to the Customer during the course of any Contract and which are not in the public domain (other than because of a breach of confidentiality).
- 16.2** The confidentiality provisions in this condition shall remain in force notwithstanding the termination or expiry of the Contract with the Customer until such time as it ceases to be confidential.



17 Intellectual Property

- 17.1** All intellectual property rights in the Goods and the Services and the products of the Services are, as between the parties, the property of The Company.
- 17.2** The Customer warrants that any drawings, specifications or designs provided by it or at its direction to the Company, for the purposes of the Goods and/or Services shall not infringe the Intellectual Property Rights of any third party and the Customer shall indemnify and keep indemnified the Company against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Company in connection with any claim made against the Company for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Company's use of the drawings, specifications or designs provided to the Company by or at the direction of the Customer. This **condition 17.2** shall survive termination of the Contract.
- 17.3** The Customer shall not authorise or otherwise allow any third party to do anything (including without limitation the copying or exploitation of any design or other specification of the Goods or Services) in respect of the Goods or Services that would or might invalidate or be inconsistent with the Intellectual Property Rights of the Company.
- 17.4** The Customer shall, at the expense of the Company, take all such steps as the Company may reasonably require to assist the Company in maintaining the validity and enforceability of the Intellectual Property Rights of the Company in the Goods and Services.

18 General

- 18.1** No waiver by the Company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 18.2** Any notice required or permitted to be given by either party to the other under these terms and conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Any notice may be delivered personally, or by posted letter (in the UK), electronic mail or facsimile transmission and shall be deemed to have been served, if sent by post in the UK 48 hours after posting or if delivered by hand, upon delivery and if by electronic mail or facsimile transmission sent during usual UK business hours then when despatched (otherwise such email or fax transmission shall be deemed to have been received the next UK working day).
- 18.3** These terms and conditions together with the Company's Order Acknowledgement contain the entire agreement and understanding between the Company and the Customer and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to the Contract.
- 18.4** These terms and conditions may only be amended by formal amendment in writing signed by an Authorised Representative of the Company.
- 18.5** This Contract does not create any right that can be enforced by any person other than the Customer and the Company.
- 18.6** If any provision of these terms and conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these terms and conditions and the remainder of the provision in question shall not be affected.
- 18.7** The Contract shall be governed and construed in accordance with English Law and all disputes arising in connection with the Contract shall be submitted to the non-exclusive jurisdiction of the English Courts.

