DIRECT TRADE (YORKSHIRE) LIMITED COMMERCIAL TERMS AND CONDITIONS OF SALE

The following conditions apply to every Contract entered into by the Company and every Order accepted by the Company for Goods and Services.

1. DEFINITIONS

1.1 In these Conditions:-
"the Company" means Direct Trade Yorkshire Limited Co No 3497488 whose registered office is at Unit 3, Sandall Carr Ind Estate, Sandall Carr Road, Kirk Sandall, Doncaster, "Conditions" mean the Company's standard conditions of sale set out in this document (which super sede any earlier set of conditions appearing in the Company's literature or elsewhere) together with any special conditions specified on the Quotation.
"the Contract" means the Quotation and/or the Order and the Company's acceptance thereof, together with the Conditions.
"the Goods" and/or means the goods, plans, drawings, materials, Services"and/or other items and/or services which are the subject of the Contract (including goods or materials which have been affixed to or form part of any building or other structure) and further include any instalment of the Goods or part performance of the Services or any part of them together with any packing or assembly carried out on the Goods.
"the Order" means the written order placed by the Customer with the Company for the provision of the Goods and/or Services (whether based on a Quotation or not). "the Quotation" means the written quotation or tender submitted by the Company as an invitation to treat.
"the Customer" means the person specified on the Quotation or whose Order is accepted by the Company.

1.2 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. OFFER AND ACCEPTANCE

2.1 The Company shall sell and the Customer shall purchase the Goods and/or Services in accordance with the Contract or any Order which is accepted by the Company in writing (or at the discretion of the Company verbally) subject in either case to the Conditions. No Contract shall come into existence until the Order has been accepted in writing by the Company (or at the discretion of the Company verbally by an [authorised representative] [director] of the Company)

2.2 All Quotations are made and all Orders accepted subject to the Conditions. The Conditions override any other terms, conditions or warranties which the Customer may seek to impose.

2.3 Acceptance of the Goods and/or Services by or on behalf of the Customer shall be conclusive evidence that the Conditions are accepted by the Customer and that they apply to the Contract. If the Customer does not accept the Conditions or any part of them, he must return the Goods or refuse the Services tendered forthwith.

2.4 No variation or supplement to the Conditions shall be binding on the Company unless expressly accepted by [a director on behalf of] the Company in writing.

2.5 If a Quotation is given it is an estimate only. All descriptive matter, specifications, performance ratings, capacities, prices, drawings and particulars of weight, finishes, colours and dimensions and other data submitted by the Company (whether in the Quotation or in any catalogues, advertisements or price lists) are deemed to be approximate only (except where expressly stated in writing in the Quotation to be exact) and are intended merely to present a general idea of the goods and/or services available from the Company.

2.6 Quotations shall be available for acceptance for a maximum period of 21 days from the date of such Quotation, and may be withdrawn by theCompany within such time period at any time by written or oral notice.

2.7 If any statement or representation has been made to the Customer by the Company or its servants or agents upon which the Customer relies (other than in the documents enclosed with the Quotation or acknowledgement of Order) then the Customer must set out that statement or representation in a document to be attached to or endorsed on the Order and in any such case the Company may confirm reject or clarify the point and submit a new quotation. In entering into the Contract the Customer acknowledges that he does not rely on and waives any claim for breach of any such recommendations which are not so confirmed in writing.

2.8 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acknowledgement of order, invoice or other document issued by the Company shall be subject to correction without any liability on the part of the Company.

2.9 The Company shall be at liberty to decline any Order and to withdraw from any negotiations without being under any liability whatsoever to the Customer.

2.10 Any advice or recommendation given by the Company or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Company in accordance with Condition 2.7 is followed or acted upon entirely at the Customer's own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.

2.11 The parties acknowledge that it is not their intention that any third party shall be entitled to enforce any term of this agreement which may confer a benefit on that third party, whether any such entitlement would, but for this provision, arise under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

3. ORDERS AND SPECIFICATIONS

3.1 The Customer shall be responsible for ensuring the accuracy of the terms of the Order and shall give the Company any necessary Information to enable the Company to proceed with the Contract. Any failure to do so will entitle the Company to charge the Customer an additional price for any costs incurred by such delay or to terminate the Contract immediately.

3.2 Where a representative of the Company completes an Order form on behalf of the Customer, the Customer shall be solely responsible for ensuring that all information recorded or detailed is correct, accurate and completely consistent with the purchase requirements of the Customer.

3.3 The quantity, quality and description of and any specifications for the Goods and/or Services shall be those set out in the Quotation or the Order (if accepted by the Company).

3.4 The Company reserves the right to make any changes in the specification of the Goods to comply with any applicable safety or statutory requirement or, where the Goods are to be supplied to the Company's specification, which do not materially affect the quality or performance, without notice.

3.5 The Customer shall indemnify the Company and its sub-contractors against all claims, damages, costs, penalties and expenses incurred by the Company or its sub-contractors or to which the Company may become liable if any work done in accordance with the Customer's specifications involves an infringement of a registered design, trademark, patent or other intellectual property right.

3.6 No Contract may be cancelled by the Customer except with the written agreement [signed by a director] of the Company and on the terms that the Customer shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation.

3.7 Any plans, drawings or technical documents or software, or computer based or transmitted information prepared by the Company and submitted to the Customer prior or subsequent to the formation of the Contract shall remain the property of the Company and shall be returned to the Company on demand. The Customer shall not without the Company's written consent copy the said plans drawings or technical documents or software, or any computer based or transmitted information or any part of them or part possession with them or disclose them or any part of them to others or allow others to use or copy them nor will the Customer use or allow any third party to use the said plans drawings or technical documents or software or computer based or transmitted information other than in connection with the installation or assembly or use of the Goods or performance of the Services.

3.8 Contracts are conditional upon the Company and its suppliers receiving any necessary licences to purchase import or use the required raw materials or components and upon the Company and its suppliers being able to obtain such raw materials and components.

4. PRICE

4.1 (Subject to the following provisions of this Condition) the price for each delivery of the Goods and performance of the Services shall be the Company's current list price ruling at the time of delivery except where specifically detailed otherwise in the Company's Quotation or acknowledgement of the Order. Until the Contract has become binding on the Company all specifications and prices are subject to change without prior notice.

4.2 All prices are exclusive of value added tax and similar taxes, levies, or duties, which the Customer shall be additionally liable to pay to the Company.

4.3 The Company reserves the right, at any time before delivery, to increase the price of the Goods and/or Services to reflect any increase in the cost to the Company in executing the Contract due to any factor beyond the control of the Company, such as, without limitation,

4.3.1 any increase in the cost of labour, raw materials, overheads, transport or currency,

4.3.2 any change in delivery dates, collection dates, delivery locations, quantities, or specifications for the Goods and/or Services arising as a result of any error or omission by or changes requested by the Customer,

4.3.3 or any delay or interruption on the Contract not attributable to the Company,

4.3.4 any costs to the Company resulting from delay by the Customer in giving to the Company information sufficient to enable it to supply the Goods or provide the Services,

4.3.5 any extra cost to the Company resulting in the Goods being carried, at the request of the Customer, by carriers or modes of transport more expensive that the Company's normal form of transport.

4.4. The Customer shall not instruct the employees of the Company or its sub-contractors to carry out any alterations or additions to the Goods or

their specification and/or Services without the consent [of a director on behalf] of the Company in writing, and such alterations or additions shall be the subject to an extra charge on terms to be agreed and confirmed by the Company in writing.

4.5 The price shall [exclude] [include] installation, assembly, packaging, insurance delivery and transport charges, [which the Customer shall be liable to pay in addition to the price].

5. TERMS OF PAYMENT

5.1 (Subject to the following provisions of this Condition) unless otherwise agreed in writing, the price will be due and payable and the Company shall be entitled to invoice the Customer for the price of the Goods and/or Services on or at any time after [the date on which the Goods have been notified by the Company to the Customer as being ready for collection or dispatch (in the case of sales ex-works) whether notification has been made verbally or in writing or be electronic means or] delivery of the Goods or performance of the Services, unless the Customer fails or refuses to take delivery of the Goods, in which event the Company shall be entitled to invoice the Customer for the price at any time after the Customer has been notified that the Goods are ready for collection, or the Company has tendered delivery of the Goods.

5.2 The Company reserves the right at its option to require either payment in part or in full for the Goods and/or Services or the provision of such security or guarantees from the Customer or from other parties on behalf of the Customer for the Goods and/or Services prior to commencing work on the Contract and reserves the right to withhold manufacture or delivery of the Goods or performance of the Services until such payment is received or security or guarantees executed.

5.3 (Subject to Condition 5.2) unless otherwise agreed by the Company [in the Quotation] the terms of payment shall be [net cash against invoice] [21 days from the date of invoice] notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Customer. Receipts for payment will only be issued on request.

5.4 The time of payment of the price shall be of the essence of the Contract.

5.5 Where the Goods are delivered by instalments the Company may invoice each instalment separately and the Customer shall pay such invoices in accordance with the Conditions.

5.6 No right of set-off shall exist in respect of any claims by the Customer against the Company unless and until such claims are accepted in full by [a director on behalf of] the Company in writing and the Customer shall not withhold all or any part of any sum which has become due for payment under the Contract

5.7 If the Customer fails to make any payment due to the Company (whether under the Contract or otherwise) on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:-

5.7.1 cancel the Contract so far as any Goods remain to be delivered or Services performed under it or suspend any further delivery of the Goods or performance of any Service; and

5.7.2 charge the Customer interest at the rate equivalent to that set for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998:

5.7.2.1 calculated on a daily basis from the date of the Company's invoice until payment;

5.7.2.2 compounded on the first day of each calendar month and;

5.7.2.3 before and after any judgement (unless the Court orders otherwise)]

5.7.3 appropriate any payment made by the Customer to such of the Goods and/or Services (or the goods supplied under any other contract between the Company and the Customer) as the Company may think fit (notwithstanding any purported appropriation by the Customer).

6. DELIVERY

6.1 Delivery shall mean delivery of the Goods to the Customer at the [Customer's] Company's premises or delivery of the Goods to a carrier nominated by the Customer. In the absence of specific instructions, the Company may nominate a carrier.

6.2 The Customer shall bear all transport, insurance and forwarding costs.

6.3 [Where the Company has agreed in writing to supply the Goods delivered to premises other than the Company's] All goods must be inspected by the Customer on Delivery and any non-delivery, shortages in delivery or damage to or breakages of the Goods must be notified to the carrier concerned at the time of delivery and notified to the Company within 2 working days of the invoice date with a complete claim in writing. Failure to do so shall preclude the Customer from any rights or remedies against the Company whatsoever. If the Company fails to deliver the Goods for any reason other than any cause beyond the Company's reasonable control or the Customer's fault, and the Company is accordingly liable to the Customer, the Company's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

6.4 The Customer is required to acknowledge receipt of all Goods by signing the delivery note supplied by the Company or its agents. The delivery note must then be returned to the Company. Signature of the Company's delivery note by any employee, representative or agent of the Customer shall be conclusive proof of delivery and condition of the Goods.

6.5 If the Customer shall fail to accept delivery of the Goods as and when proffered by the Company then the Company shall be deemed to have tendered and the Customer to have refused delivery at that date.

6.6 If the Customer fails or refuses to take delivery of the Goods on the due date or fails to give the Company adequate instructions for delivery at the time stated then he shall be liable to the Company for any loss or costs arising from such failure or refusal and for a reasonable charge by the Company for the care custody storage and insurance of the goods until actual delivery. The Company may at its option sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) charge the Customer for any shortfall below the Contract price. This provision shall be in addition to and not in substitution of any other payment or damages for which the Customer may become liable in respect of his failure to take delivery at the appropriate time.

6.7 Any dates quoted for delivery of the Goods or performance of the Services are approximate only and the Company shall not be liable for any delay in despatch or delivery or performance or any loss or damage thereby arising. Quotations for Goods to be supplied from stock are made subject to such Goods being in stock and available on acceptance of Order. Time of delivery shall not be the essence, and the Customer shall not be able to cancel the Contract, refuse delivery of the Goods or withhold payment on account of any delay howsoever caused.

6.8 The Customer shall be responsible at his own expense and risk for the unloading of the Goods. Where Goods are taken to a location and not unloaded, due to the absence of sufficient labour to off-load, then the Customer shall be responsible for redelivery charges together with those others as outlined above.

6.9 The Company reserves the right to deliver the Goods in instalments and each such instalment shall constitute a separate Contract. Failure by the Company to deliver any one or more of the instalments shall not entitle the Customer to treat the Contract as a whole as repudiated or breached.

7. RISK

7.1 The risk of damage to or loss of the Goods shall pass to the Customer:

7.1.1 in the case of Goods to be delivered at the Company's premises, at the time when the Company notifies the Customer (whether verbally, in writing or by electronic means) that the Goods are available for collection; or

7.1.2 in the case of Goods to be delivered elsewhere than at the Company's premises, at the time of delivery or, if the Customer wrongfully refuses or fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.

7.2 Any claim by the Customer which is based on the quality or condition of the Goods or their failure to correspond with the Contract shall (whether or not delivery is refused by the Customer) be notified to the Company in the manner referred to in condition 6.3 or (where the defect was not apparent on reasonable inspection) within 5 working days after discovery of the failure to correspond with the Contract. If delivery is not refused, and the Company is not so notified, the Customer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract. Time of notification shall be of the essence.

7.3 Unless the Condition in clause 7.2 is strictly observed, the Company shall be under no liability whatsoever in respect of any loss or damage in transit (or non-delivery) of the whole or any part of the Goods.

8. TITLE

8.1 Title in the Goods or any part of them or in any goods of the Company (whether delivered under the Contract or otherwise) shall not pass to the Customer until the Customer shall have paid in full all monies owing under the Contract and any other contract between the Company and the Customer. The Customer shall keep the Goods properly stored and protected and separate from its own goods and those of third parties in such a way that the Goods can clearly be recognised and identified as the property of the Company.

8.2 If the Customer shall be in breach of the terms of the Contract then all monies owed by the Customer to the Company, whether under the Contract or otherwise, shall become immediately due and payable and the Customer hereby grants to the Company or its agents an irrevocable licence and authority to enter upon the Customer's premises or any other premises on or in which the Goods are located to recover and/or resell such of the Goods (irrespective of whether they have become fixtures) as the Company may deem necessary to recover all sums owing to it by the Customer together with any reasonable costs of the Company so incurred. This right shall continue to subsist notwithstanding the termination of the Contract through the happening of any of the events specified in these Conditions or otherwise and without prejudice to any accrued rights of the Company under the Contract.

8.3 Until all monies owing to the Company (whether under the Contract or otherwise) have been paid in full the Goods shall remain the absolute property of the Company and the Customer shall only be entitled to possession of the Goods subject to the Conditions, and shall hold the Goods in a fiduciary capacity as bailee; and any of the Goods affixed to the property of the Customer or any third party may be detached and removed by the Company and shall not and are not intended to become part of any such property.

8.4 The Customer shall keep the Goods in good condition and shall maintain full insurance in respect thereof on the Company's behalf in an amount which is not less than the price payable to the Company for the Goods, and all the proceeds of such insurance shall be held on trust for the Company.

8.5 If Condition 8.1 is held to be invalid to reserve the Company's title to the Goods delivered under the Contract by reason of reservation of title until all goods delivered to the Customer by the Company have been paid for then ownership of the Goods shall remain with the Company until the Goods have been paid for.

8.6 Until such time as the title to the Goods passes to the Customer, the Customer shall be entitled to sell or use the Goods in the ordinary course of its business, but shall account to the Company for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Customer and third parties and in the case of tangible proceeds, stored, protected and insured and shall promptly transfer such proceeds (or a sum equivalent to such proceeds) to the Company on demand.

8.7 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company, but if the Customer purports to do so, all monies owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) become immediately due and payable.

8.8 The Company shall have a full lien over all goods of the Customer which may be on the premises of the Company (whether for repair purposes installation or otherwise) until such time as the Customer shall make payment in full under the Contract and the Company shall be a full right and liberty to sell those goods if the Customer shall default in payment or otherwise be in breach of the Contract.

8.9 All forms of lien to which the Customer may claim to be entitled shall be excluded from the Contract.

8.10 If the Company becomes entitled to repossess any of the Goods by virtue of the Conditions, then if the Goods are not clearly identifiable as the property of the Company:-

8.10.1 it shall be irrefutably presumed that the Customer has used or sold goods which belong to the Customer before any of the Goods; and

8.10.2 the Company shall be entitled to exercise its licence under this Condition to repossess any goods which are similar to the Goods and it shall be irrefutably presumed that goods which the Company shall repossess shall belong to the Company.

8.11 In the event of the Goods or any part thereof being attached to or incorporated in any property of the Customer or any third party or constructed erected or incorporated in any part of any property or as a constituent part of any property prior to payment of all sums due to the Company from the Customer, the Customer shall in the event of the sale of such property, hold that part of the proceeds of sale of the said property as is attributable to the Goods or such part of the Goods or as part attached to or incorporated in or contained in or affixed to the said property) on trust for the Company and will account to the Company for the part of the said proceeds of sale as are attributable to the Goods and pending such accounting the Customer will place the sale proceeds of such property in a separate bank account in trust for the Company.

8.12 Notwithstanding the provisions of this Condition the Company may bring an action for the price due under the Contract at any time after the price has become payable under the Conditions.

8.13 If a receiver, administrator or liquidator be appointed to the Customer and at the time thereof the Customer shall not have received the proceeds of any sale of the Goods the Customer (or the receiver, administrator, or liquidator as agent for the Customer) shall assign to the Company forthwith all rights against the person or to whom the Goods have been sold.

9. GUARANTEES

Any components or parts not of the Company's own manufacture incorporated in the Goods or sold by the Company are not guaranteed by the Company, but carry the maker's guarantee only and the Company shall use reasonable endeavours to assign to the Customer the benefit of any guarantee obtained by it from the manufacturer or supplier.

10. LIABILITY

10.1 Subject to the remaining sub-clauses of this Condition the Company warrants that the Goods and/or Services (being of the Company's design and manufacture, or that part of the Goods which is of the Company's design and manufacture and hereafter called "the Company's Goods") will be of merchantable quality and reasonably fit for their purpose for the period of [12] months following delivery ("the Warranty Period").

10.2 In the event that the Company's Goods or workmanship is proved to be defective, or in need of repair during the Warranty Period, then the Company undertakes at its option either to replace or to give credit for or to repair or rectify the Company's Goods (subject to any intervening wear and tear) to the condition originally required under the Contract provided that:-

10.2.1 the Customer notifies the Company in writing of its claim within 5 working days after discovering the alleged defect giving full details of the alleged defect;

10.2.2. the Company shall be entitled and shall be offered facilities to inspect and test the Company's Goods;

10.2.3 (upon examination) the Company's Goods prove to be defective or fail due to faulty materials manufactured by the Company or defective workmanship of the Company;

10.2.4 no person other than the Company has dismantled repaired or so attempted or otherwise tampered with the Goods or any part thereof;

10.2.5 the Goods shall have been installed, used, maintained, stored and serviced (where appropriate) in accordance with the Company's installation, operating and maintenance instructions and in a proper manner; and

10.2.6 the Goods shall not have been used whilst allegedly defective, in need of repair or otherwise not in accordance with the Contract; and

10.2.7 the total purchase price for the Goods has been paid by the due date for payment.

10.3 If such notice is not received and such proof not forthcoming within the Warranty Period then the Goods shall be deemed to be free from any defect.

10.4 Variations in quantity and/or variations or defects in quality or dimensions in any delivery shall not be a ground for cancellation of the rest of the Contract.

10.5 The Goods are sold explicitly on the condition that they will be used only in the prescribed manner and for the purpose for which they were designed. The Customer must satisfy himself that the intended use of the Goods is use in the prescribed manner and for the purpose for which the Goods were designed, and the Company shall be under no liability for any damage loss or injury resulting from any use of the Goods which is not in accordance with their prescribed manner or design.

10.6 Where the Customer provides a specification for the Goods to be designed manufactured or assembled by the Company, the Company shall not be liable for any defect in the Goods caused by compliance with the specification.

10.7 Nothing in these Conditions shall have the effect of excluding or limiting liability to a person for death personal injury or damage to property where such exclusion from liability is prohibited by section 7 of the Consumer Protection Act 1987.

10.8 In the case of Goods supplied (but not manufactured) by the Company the liability of the Company shall be limited to amounts recovered by the Company under warranties given by the supplier to the Company provided that the Company shall not be called upon to bear any liability or expense greater than the amount recovered from the supplier.

10.9 Nothing in the Conditions shall impose any liability upon the Company in respect of any loss damage consequential or otherwise in relation to or arising out of Goods found to be defective where the defect is attributable directly or indirectly to the acts omissions negligence or default of the Customer or Customer's servants or agents involving (in particular but without prejudice to the generality of the foregoing) any failure by the Customer to comply with the recommendations of the Company as to storage, handling, maintenance and use of the Goods.

10.10 If the Company shall become legally liable to the Customer in any way whatsoever then the liability of the Company in respect of any or all course of action shall in no circumstances exceed the price of the Goods and Services under the Contract.

10.11 The Company's liability does not cover defects arising from the Customer's negligence, wilful damage, faulty assembly or maintenance or from alterations carried out without the Company's written consent or from repairs carried out improperly by the Customer nor does it cover fair wear and tear or normal deterioration.

10.12 Subject as expressly provided in the Conditions, except in respect of death or personal injury caused by the Company's negligence, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law, and the Company shall not be liable to the Customer by reason of any representation, or any warranty, condition or other term, or any duty of common law, or under the contract, for any consequential loss or damage (whether loss or profit or otherwise), costs, or other expenses whatsoever which arise out of or in connection with the supply of the Goods or their use or resale by the Customer.

10.13 The Customer shall ensure that at the time of the sale and delivery of any of the Goods to any customer of the Customer, the Goods are of merchantable quality and comply with all conditions guarantees and warranties whether express or implied by statute or common law applicable in respect of the sale of the Goods and the Customer will indemnify the Company against all claims made by any such customer resulting from the Customer's failure to comply with the terms of this Condition.

ACCEPTANCE OF LIMITATION OF LIABILITY BY THE CUSTOMER

10.14 The Customer agrees and accepts that with regard to the limitation of liability contained in the preceding clauses of this Condition that such limitation of liability is perfectly fair and reasonable having regard inter alia to the following circumstances:-

10.14.1 that the potential losses which could or might be caused as a result of any breach or negligence as referred to in the Contract are greatly in excess and wholly disproportionate to the amount which is being charged by the Company to the Customer in respect of the provision by the Company of the Goods and Services;

10.14.2. that the Company has no knowledge or information as to the value of any contracts to be entered into by the Customer which may involve the Goods in any way;

10.14.3 that the Company is anxious to keep to as low a level as reasonably possible for the benefit of the Customer and all the Company's other customers its charges in respect of goods and services provided by it

10.14.4 that the Company is unable to obtain adequate insurance cover in respect of the potential losses which could or might arise from any breach or negligence as referred to in this condition

10.15 The Customer confirms that it has read and fully understands the terms this Condition and accepts the limitation of liability contained in this Condition

11. INDEMNITY

11.1 The Customer undertakes to indemnify the Company against all claims relating to or arising from the Goods or Services in respect of any loss, damage or expense sustained by any third party howsoever caused save for death or personal injury caused by the Company's negligence.

11.2 The Customer shall indemnify the Company against all loss, damages, costs and expenses suffered or incurred by the Company or to which the Company may become liable as a result of work carried out in accordance with the Customer's' specifications which involves infringement or alleged infringement of any patent, design, copyright or other intellectual property right.

11.3 If any claim is made against the Customer that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights or any other person, the Company shall indemnify the Customer against all loss, damage, costs and expenses of the Customer, in respect of such claim, provided that:-

11.3.1 the Goods have not been manufactured to a specification of the Customer;

11.3.2. the Company is given full control of any proceedings or negotiations in connection with any such claim;

11.3.3. except pursuant to a final award, the Customer shall not pay or accept any such claim, or compromise any such proceedings, without the consent of the Company (which shall not be unreasonably withheld);

11.3.4 without prejudice to any duty of the Customer at common law, the Company shall be entitled to require the Customer to take such steps as the Company may reasonably require to mitigate or reduce any loss, costs, damages or expenses for which the Company is liable to indemnify the Customer under this sub-clause.

12. DEFAULT OR INSOLVENCY OF CUSTOMER

12.1 This Condition applies if:-

12.1.1. the Customer defaults in any of its commitments with the Company; or

12.1.2 the Customer makes any voluntary arrangement with his creditors or becomes subject to an administration order or becomes bankrupt; or (being a Company) goes into liquidation (other than for the purposes of amalgamation or reconstruction) or makes an application for a corporate voluntary arrangement or has an administrator or a receiver appointed; or

12.1.3 an encumbrancer takes possession, or a receiver is appointed, of any of the property and assets of the Customer; or

12.1.4 the Customer ceases, or threatens to cease, to carry on business; or

12.1.5 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly

12.2 If this Condition applies then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel any partially or wholly uncompleted Order or Contract or to withhold or suspend delivery or performance of the Services.

12.3 In the event of an occurrence as outlined in sub-clause 12.1, then the Customer shall indemnify the Company against all loss including loss of profit, costs (including the costs of labour and materials used and overheads incurred) and all other expenses and damages connected with the Contract and its cancellation (the Company giving credit to the value of any materials sold or utilised for other purposes).

12.4 If the Customer shall become aware that any of the circumstances mentioned in sub-clause 12.1 has or is likely to occur, then the Customer must inform the Company of the occurrence or likely occurrence of such event immediately.

12.5 The Customer shall indemnify the Company in respect of all legal administrative and other costs and expenses resulting from any breach by the Customer of the Conditions, or the Contract.

13. FORCE MAJEURE

13.1 The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or failure to perform, any of the Company's obligations in relation to the Contract if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:-

13.1.1. Act of God, explosion, flood, tempest, fire or accident;

13.1.2. war or threat of war, sabotage, civil disturbance or requisition;

13.1.3. acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

13.1.4 import or export regulations or embargoes;

13.1.5. strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or a third party);

13.1.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;

13.1.7 power failure or breakdown in machinery.

13.2 In the event of the circumstances outlined in condition 13.2 applying, the Company shall, at its option, be entitled to cancel the Contract or (without any liability) extend the estimated time or times of delivery by a period equivalent to that during which such delivery has been delayed or prevented.

14. GENERAL

14.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

14.2 No waiver by the Company of any breach of the Contract by the Customer shall be considered a waiver of any subsequent breach of the same or any other provision.

14.3 If any of the provisions of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions in question shall not be affected thereby.

14.4 The Contract shall be governed by the laws of England and for the purposes of settlement of any disputes arising out of or in conjunction with these Conditions or the Contract the parties hereby irrevocably submit themselves to the exclusive jurisdiction of the English Courts.

14.5 The Company reserves the right to subcontract the fulfilment of the Contract or any part of it.

14.6 The Contract is between the Company and the Customer and is not assignable by the Customer without the consent of the Company.

14.7 The breach of any Holding, Subsidiary, or Associated Company (as defined in Section 736 of the Companies Act 1985 as amended by the Companies Act 1989) of the Customer of any of the terms and conditions of any contract agreement or other arrangement with the Company shall be deemed to be a breach of the terms of the Contract and shall entitle the Company to take or refrain from taking all acts and remedies to which it is entitled under these Conditions as if such default had been a breach or default under the Contract.