

TERMS AND CONDITIONS OF SALE – UK

Updated 23rd August 2022

Unless otherwise expressly agreed in writing and signed by an Authorised Person, these conditions (the "**Conditions**") will apply to all contracts for the sale or supply of Goods and/or Services by OPTO Innovation Limited (for itself and as trustee for each associated company) ("**the Company**").

PART 1 – GENERAL TERMS

1. DEFINITIONS

In these Conditions:

"Acknowledgement of Order" means the Company's acknowledgement of Order, which shall include details of the Goods and/or Services (as the case may be), the Buyer's address for purposes of Condition 15, and details of the Delivery Point (if applicable);

"associated company" means any associated company (as defined in section 449 of the Corporation Tax Act 2010) of the Company from time to time;

"Authorised Person" means a director of the Company or other person authorised by the Company;

"Buyer" means any person at whose request Goods and/or Services are supplied by the Company;

"Claims" mean all demands, claims, proceedings, penalties, fines and liabilities (in contract, tort or otherwise);

"Contract" means a contract for the supply of Goods and/or Services (as the case may be) formed in accordance with Condition 2(a); **"Contract Price"** means the payment to be made for Goods and/or Services;

"Delivery Point" means (unless otherwise agreed in writing between the Company and the Buyer) the place specified in the Acknowledgement of Order where delivery of the Goods and/or Services (as the case may be) is to take place;

"Design" means designs, drawings, descriptions, technical specifications and/or calculations provided by the Company (following an Order or a request by the Buyer for a quotation) and submitted to the Buyer for approval in accordance with Condition 7, together with all amendments thereto made by the Company, and **"Designs"** shall be construed accordingly;

"Design Services" means the detailed design and design development services to be undertaken and provided by the Company, its agents, subcontractors, consultants or employees and as described in the Project Plan, including any modifications or additions as agreed between the Company and Buyer;

"Document" means, without limitation, in addition to any document in writing, any drawing, specification, instruction, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form, and **"Documents"** shall be construed accordingly;

"Goods" means any goods, replacements therefor, or materials supplied or to be supplied to the Buyer under the Contract; **"Intellectual Property Rights"** means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in Designs (or any other designs), rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

"Losses" shall mean all losses including without limitation financial losses, damages, legal costs and other expenses of any nature whatsoever;

"Order" means the purchase order placed by the Buyer for the supply of Goods and/or Services (as the case may be) on and subject to these Conditions and includes (if applicable) the Specification and/or Project Plan and any other provisions specified in or attached thereto or issued pursuant thereto or incorporated therein by reference;

"permitted margin" means [20]% of the total volume of the Goods in question to be delivered at a set point in time under the terms of the Contract;

"Premises" has the meaning given to it in Condition 5(d);

"Project Plan" means a detailed plan describing, amongst other things the timetable, responsibilities and any other necessary details relating to the provision of the Services incorporating where applicable any Designs;

"Services" means any services and/or workmanship (including without limitation Mechanical/Vehicle build Services

and/or Site Works) supplied or to be supplied under the Contract to the Buyer;

"Site" means the place where Goods are to be installed or Services performed including as much of the surrounding area as is necessary for unloading, storage and installation of the Goods or any equipment; **"Site Works"** means the on-site works and services (manual or otherwise) to be undertaken and provided by the Company, its agents, subcontractors, consultants or employees as described in the Project Plan including any modifications or additions as agreed between the Company and Buyer from time to time;

"Specification" means a specification for the Goods; and

"Vehicle" means a vehicle that we have worked on and/or sold with or without an electric powertrain conversion.

The headings are for convenience only and shall not affect construction of these Conditions.

2. FORMATION AND PARTIES

(a) The Buyer's Order to the Company is an offer to enter into a contract upon these Conditions. Acceptance occurs and the contract is formed only upon the Company despatching to the Buyer its Acknowledgement of Order. Any terms or conditions proffered at any time by the Buyer are hereby excluded.

(b) Any quotation provided by the Company shall constitute an invitation to tender and not an offer, and if the Buyer wishes to purchase the Goods and/or Services which are the subject of such quotation the Buyer must place an Order within the time period shown on such quotation to purchase the Goods and/or Services (as the case may be) on the terms set out in such quotation and these Conditions.

(c) The Buyer shall not assign or otherwise transfer the benefit of the Contract without the Company's prior written consent.

(d) The Contract is not cancellable by the Buyer without express written consent of an Authorised Person.

(e) If the Company agrees cancellation by the Buyer, the Buyer shall indemnify the Company in full against all costs and expenses incurred up to the time of cancellation and the Company's loss of profit.

(f) The Company and the Buyer do not intend that any term of the Contract shall be enforceable, by virtue of The Contracts (Rights of Third Parties) Act 1999 or otherwise, by any third party.

3. PRICE AND PAYMENT

(a) The price for Goods and/or Services (as the case may be) is the price shown for such Goods and/or Services in the Company's standard price list current at the date of the Company's Acknowledgement of Order or, where the Company has provided a quotation and the Order is received by the Company within the time period shown on such quotation, the price set out in such quotation.

(b) The Company reserves the right to vary the price of Goods and/or Services (as the case may be) by any amount attributable to a change in or insufficiency of the Buyer's instructions or to any variation in the cost of materials, labour, transport, duties, taxes exchange rates or any costs of whatsoever nature between the date of formation of the Contract and the date of delivery of the Goods and/or Services or completion of payment.

(c) Subject to satisfactory trade, banker's and other requisite references, and where no other terms of payment have been specifically agreed in writing between the Buyer and the Company, payment for export orders shall be by irrevocable letter of credit confirmed by a London Clearing Bank then in force and in all other cases the Company's terms are cash payment in full to be made in pounds sterling within 28 days from the date of the invoice. No discount or allowance will be made unless specifically stated by the Company in writing. Interest will be charged on all overdue sums at the statutory rate in force pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 at the time interest becomes chargeable and shall be calculated and accrue on a day to day basis from the date on which payment fell due until payment in full (whether made before or after judgement).

(d) Time for making payment shall be of the essence of the Contract.

(e) In the event that the Company has reasonable doubts about the Buyer's ability or willingness to pay on the due date the Company shall be entitled to cancel the Contract or to postpone any delivery of the Goods and/or not provide any further Services (as the case may be) until payment has been received.

(f) The Company reserves the right at any time at its discretion to demand security for payment before continuing with an Order or delivering the Goods or any instalment and/or providing the Services (as the case may be).

(g) The Company may assign any debt owed to it by the Buyer under the Contract or any other contract.

(h) If you decide not to purchase the Services/Vehicle or the Contract is cancelled for any reason and where you have paid a Deposit, this deposit may be retained by us to cover our administration costs and any Additional Charges we may have incurred. Where you purchase the Services/Vehicle the Deposit will form part of the Price. Any bespoke accessories and alterations to the vehicle requested by you must be paid for in full in addition to the forfeited deposit

4. TIME OF PERFORMANCE

(a) Delivery dates (whether specified in the Contract, the Project Plan or elsewhere) are estimates only.

(b) Time of delivery of the Goods and/or Services and/or the performance of any of the Company's obligations under the Contract (as the case may be) is not of the essence of the Contract. Unless otherwise stated, delivery periods commence from date of the Company's Acknowledgement of Order. The Company shall use its reasonable endeavours to deliver the Goods and/or Services (as the case may be) by the stated delivery date, but may suspend or delay delivery and subject to the other provisions of these Conditions the Company shall not be liable for any loss whatsoever (even if caused by the Company's negligence) in the event of late delivery or non-delivery of Goods and/or Services (as the case may be). The Buyer shall not be entitled to refuse to accept late delivery or treat late delivery as a breach of Contract.

5. BUYER'S OBLIGATIONS

The Buyer shall:

(a) co-operate with the Company in all matters relating to the Goods and/or Services (as the case may be);

(b) provide the Company, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Buyer's premises, sites, office accommodation, data and other facilities as reasonably required by the Company;

(c) provide to the Company, in a timely manner, such information as the Company may reasonably require in order to properly fulfil its obligations under the Contract and ensure that it is accurate in all material respects;

(d) be responsible (at its own cost) for preparing and maintaining the relevant premises for the supply and provision of the Goods and/or Services including identifying, monitoring, removing and disposing of any hazardous materials from its premises in accordance with all applicable laws governing the importation of the Goods and/or the provision of the Services in the country of destination and for the payment of any duties or similar charges on them, before and during the supply of the Goods and/or Services at those premises (the "**Premises**"), and informing the Company of all of the Buyer's obligations and actions under this Condition 5(d);

(e) inform the Company of all health and safety rules and regulations and any other reasonable security requirements that apply at the Premises;

(f) ensure that all Buyer's equipment is in good working order and suitable for the purposes for which it is used in relation to the Goods and/or Services (as the case may be) and conforms to all relevant United Kingdom standards or standards of the country the Goods and/or Services are used at or otherwise provided;

(g) obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Goods and/or Services (as the case may be), the installation of the Goods, and the use of the Buyer's equipment in relation to the Goods and/or Services (as the case may be), in all cases before the date on which the Goods are delivered or where Services are provided the date on which the Services are to start;

(h) if the Company's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Buyer, its agents, subcontractors, consultants or employees, the Company shall not be liable for any costs, charges or losses sustained or incurred by the Buyer arising directly or indirectly from such prevention or delay;

(i) the Buyer shall be liable to pay to the Company, on demand, all reasonable costs, charges or losses sustained or incurred by the Company (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from

injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Buyer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Company confirming such costs, charges and losses to the Buyer in writing; and

(j) all materials, Documents, equipment, tools and data supplied by the Company to the Buyer (including the Company's equipment) shall, at all times, be and remain as between the Company and the Buyer the exclusive property of the Company, but shall be held by the Buyer in safe custody at its own risk and maintained and kept in good condition by the Buyer until returned to the Company, and shall not be disposed of or used other than in accordance with the Company's written instructions or authorisation.

6. ITEMS SUPPLIED BY BUYER

The Buyer shall be liable for all Documents issued to the Company with Orders or pursuant to the Contract and shall indemnify and keep indemnified the Company against all Losses and Claims directly or indirectly arising out of any error in or omission from such Documents, and against all Losses and Claims in respect of the infringement or potential infringement of any Intellectual Property Rights or other third party right arising out of the Company's use of such Documents whether in producing and/or delivering the Designs, the Goods and/or Services or any of them.

7. APPROVAL OF DESIGNS

(a) All Designs are submitted to the Buyer for its approval, consideration and evaluation and it is the responsibility of the Buyer to satisfy itself that the Designs are suitable for their purpose.

(b) Where a quotation and/or an Order requires design input by the Company, the Company shall not commence manufacture of the Goods and/or commence provision of the Services until approval has been received from the Buyer (except after a limited period under Condition 7(f) below).

(c) Upon receipt of written comments in connection with the Design, the Company shall make such revisions as are reasonable and acceptable within the scope of the Design and the revised documents shall be submitted to the Buyer for approval within a reasonable time.

(d) The Design or the revised Design (as the case may be) shall be deemed to be approved by the Buyer unless the Buyer notifies the Company with any detrimental written comments before the expiry of 14 days after dispatch of the Design or the revised Design for approval.

(e) Whilst the Company shall make every effort to deliver Goods manufactured in accordance with the Specification and/or complete the Services in accordance with the Project Plan (as the case may be) within the time period requested by the Buyer, the Company shall accept no liability for delays incurred as a result of the implementation of this approval procedure.

(f) Where the Buyer's delivery requirements are such that manufacture of the Goods and/or the provision of the Services must necessarily commence prior to the receipt of the Company of approval of the Design then such manufacture of Goods and/or commencement of the Services (as the case may be) shall be preceded by authorisation in writing from the Buyer and the Buyer shall be deemed to accept responsibility for the cost of all Goods manufactured and/or performance of the Services prior to approval of the Design and the cost of any subsequent alterations to the Design and the consequent alteration of any Goods and/or Services.

(g) The Buyer shall be liable for the cost of any alterations to the Design requested after the commencement of the manufacture of the Goods and/or performance of the Services and for any costs which may result from revisions of the Design requested by the Buyer. The Company shall notify the Buyer of such alterations or such revisions that additional costs may be incurred and shall give the Buyer an estimate of such costs. The Buyer shall provide the Company with written acceptance of those costs.

8. INTELLECTUAL PROPERTY

(a) All Intellectual Property Rights together with any other similar rights of whatsoever nature in or relating to the Goods (including without limitation arising from or pursuant to any Services provided) or the Designs or any of them are and shall remain the absolute property of the Company.

(b) The Buyer shall upon request by the Company and in any event immediately upon the Buyer deciding not to submit an order for Goods and/or Services or to cancel a Contract in accordance with Condition 1 (d) above destroy or return to the

Company (as the case may be) all Designs and any copies thereof in its possession, custody or control.

9. INDEMNITY

(a) The Buyer shall indemnify and keep indemnified the Company against all Claims and Losses arising out of:

(i) a defect in the Goods (including, without limitation, all liabilities incurred under the Consumer Protection Act 1987) to the extent occasioned or contributed to by any act or omission of the Buyer, its agents, subcontractors, consultants and employees under its control;

(ii) any claim by any third party of infringement of any Intellectual Property Rights of such third party arising from the use, modification or adaptation of the Goods into any other products by the Buyer; and/or

(iii) any information (including, without limitation, information contained in any Documents) supplied to the Buyer by the Company, its employees or suppliers, or supplied to the Company by the Buyer within or outside the scope of the Contract.

(c) The Buyer shall indemnify the Company in respect of all Claims and Losses incurred by the Company or its agents (including without limitation any costs incurred in the collection of monies due to the Company) as a result of any failure by the Buyer to pay in accordance with Condition 3.

(d) The Buyer agrees to indemnify and keep the Company fully indemnified from and against any Claims and Losses incurred or suffered by the Company as a result of negligence or any default by the Buyer, its agents, subcontractors, consultants or employees of its obligations however arising in connection with the Goods and/or Services and/or the Contract generally.

10. LIMITS OF LIABILITY

(a) The Goods and/or Services are supplied strictly on the terms that the Buyer has satisfied itself of their suitability for their purposes.

(b) The Buyer acknowledges that all specifications, samples, drawings, descriptive matter, and advertising issued by the Company and any details, descriptions or illustrations contained in the Company's catalogues, quotations, Acknowledgements of Order, brochures or similar documents or by word of mouth and all forecasts of performances, howsoever given, are approximate only and do not form part of the Contract and that in respect of such specifications details and forecasts the Company shall be under no liability nor shall the Buyer be entitled to any remedy under the provisions of the Misrepresentation Act 1967 (other than in the event of fraud or fraudulent misrepresentation on the part of the Company). This is not a sale by sample.

(c) The Company's liability under Conditions 21, 23 and 31 shall be accepted by the Buyer in lieu of any warranty or condition, whether express or implied by law, including any implied warranty of merchantability or fitness for a particular purpose, with respect to the Goods and/or performance of Services under the Contract and these Conditions. To the extent permissible by law and save as otherwise provided for in these Conditions, the Company shall not be under any liability to the Buyer (whether in contract, tort or otherwise) for any Claims or Losses in respect of the Goods, materials supplied or workmanship performed or Services provided by the Company and the Buyer shall indemnify the Company against any Losses and Claims in respect thereof. For the purposes of this Condition 10 the Company contracts on its own behalf and on behalf of and as trustee for its sub-contractors, servants and agents.

(d) The Company shall not be liable whether by way of indemnity or by reason of breach of contract, tort or breach of statutory duty or in any other manner for consequential or indirect loss of whatever nature (and howsoever caused and which includes without limitation loss of business, pure economic loss, loss of profit, depletion of goodwill and any similar loss) suffered by the Buyer, even if the loss is reasonably foreseeable or the Company was advised of the possibility of the Buyer incurring it and whether directly or indirectly from:

(i) delay in delivery of or failure to deliver any Goods and/or Services;

(ii) defect or alleged defect in any of the Goods and/or Services and/or Site Works or from their use or performance;

(iii) inadequacy of any, of the Goods and/or Services for any purpose;

(iv) repairs or servicing to any of the Goods and/or Site Works; or

(v) an interruption in the use of any of the Goods and/or Services.

(e) Nothing in this Condition 10 shall be construed as limiting or excluding the Company's liability under Part I of the Consumer Protection Act 1987, for death or personal injury resulting from its negligence (as defined in Section 1 of the Unfair Contract Terms Act 1977), for fraud or fraudulent misrepresentation or for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability.

(f) The Company shall have no liability to the Buyer for any Claims and/or Losses or other claims for compensation arising from the unapproved Designs, Project Plan, the Specification, the Documents or other material and/or instructions supplied or otherwise approved by the Buyer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form or any other fault of the Buyer.

(g) The Company's total maximum aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract or otherwise in connection with the sale or supply of Goods and/or Services (as the case may be) will be either:

(i) £1,000,000; or

(ii) if Condition 10(g)(i) is deemed unreasonable by a court of law, such higher figure as is deemed reasonable by a court of law but which shall not in any event exceed the liability or indemnity limit of the Company's insurance cover for public liability/product liability and/or professional indemnity (as the case may be).

(h) The Buyer agrees and acknowledges that the allocation of risk in this Condition 10 is fair and reasonable in the circumstances having been taken into account by the Company in setting the Contract Price and agreeing the extent of the Services.

11. CONFIDENTIALITY

(a) The Buyer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Buyer by the Company, its employees, agents, consultants or subcontractors and any other confidential information concerning the Company's business or its goods, products and services which the Buyer may obtain.

(b) The Buyer may disclose such information:

(i) to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out the Buyer's obligations under the Contract; and

(ii) as may be required by law, court order or any governmental or regulatory authority.

(c) The Buyer shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this Condition 11.

(d) The Buyer shall not use any such information for any purpose other than to perform its obligations under the Contract.

12. CHANGE TO SPECIFICATION/PROJECT PLAN

Should any materials, parts or labour required to manufacture the Goods (or any of them) and/or to provide the Services be unavailable or should the Company be required by any regulatory authority to alter the Design, the Specification and/or the Project Plan, the Company reserves the right to amend the Design, the Specification and/or Project Plan as the Company in its absolute discretion sees fit without prior notice to the Buyer.

13. FORCE MAJEURE

(a) The Company shall not be liable to the Buyer if unable to carry out any provision of the Contract for any reason beyond its control including (but without limitation) Act of God, legislation, war, civil commotion, fire, flood, drought, failure of power supply, lock out, strike, stoppage or other action by employees or third parties in contemplation or furtherance of any dispute or owing to any inability to procure parts or materials required for the performance of the Contract.

(b) The Company shall notify the Buyer as soon as reasonably practicable after circumstances preventing performance arise. During the continuance of such a contingency the Company may, at its absolute discretion, withhold, reduce or suspend performance of its contractual obligations, so far as prevented or hindered by such contingency, without liability to the Buyer for any loss or damage whatsoever suffered directly or indirectly by reason of the same.

(c) Should such contingency continue for more than three months either party may (subject to the Company repaying to the Buyer any advance payments made for

undelivered Goods and/or Services to be performed and the Buyer paying for the Goods delivered and the Services performed) cancel the Contract without further liability to the other.

14. NO WAIVER

No waiver of any of the Company's rights under the Contract shall be effective unless in writing signed by an Authorised Person on behalf of the Company. A waiver shall apply only to the specific circumstances in which it is given and shall be without prejudice to the enforcement of a Company's rights in relation to different circumstances or the recurrence of similar circumstances.

15. NOTICES

Any notice under these Conditions shall be properly given if in writing and sent by first class post or email to the address of the intended recipient as stated in the Contract or to such address as the Company and the Buyer from time to time notify to each other as their respective addresses for service and shall be deemed served in the case of postal notice, on the expiry of 48 hours from time of posting, and in the case of facsimile, on the expiry of 15 minutes from completion of transmission by the sender.

16. CONSTRUCTION AND JURISDICTION

English Law shall govern construction and operation of the Contract and the Buyer agrees to submit to the exclusive jurisdiction of the English Courts.

17. VALIDITY

Each of these Conditions shall be construed as a separate condition. Should any provision hereof be found to be invalid or unenforceable or an unreasonable restriction of the Company's liability then such provision shall apply with such modification as may be necessary to make it valid and effective.

PART 2 – SUPPLY OF GOODS

18. DELIVERY OF GOODS

(a) Unless otherwise stated in the Acknowledgement of Order, all Goods must be collected by the Buyer and delivery shall take place at the Company's premises.

(b) Where the Acknowledgement of Order specifies delivery at the Delivery Point, the cost of any packaging insurance and delivery of all Goods and/or Services (as the case may be) for inland orders will be payable by the Buyer in addition to the price.

(c) The Company may at its option deliver by instalments; each instalment shall constitute a separate contract on these Conditions. Failure or defect in delivery of any one such instalment shall not entitle the Buyer to repudiate the Contract nor cancel subsequent instalments.

(d) Delivery shall take place and risk shall pass to the Buyer upon the earliest of the Company handing the Goods to the Buyer or its agent at the Company's premises; or the Goods leaving the Company's premises; or on the eighth day following notification by the Company to the Buyer that the goods are available for despatch.

(e) Deviations in quantity of Goods delivered of 10% or less by value from that set out in the Contract shall not entitle the Buyer to reject Goods delivered or to claim damages and the Buyer shall be obliged to accept and pay for at the Contract rate the goods delivered.

(f) If the Buyer has failed to collect or make itself available to receive delivery of the Goods by the expiry of the eighth day following notification of availability for despatch the Company may, at its option, either store the Goods itself or have them stored by third parties on such terms as it in its absolute discretion thinks fit. The costs and expenses of storage, insurance and any additional transportation will be payable by the Buyer in addition to the price.

19. LOSS OR DAMAGE TO GOODS IN TRANSIT

(a) The Company shall not be liable for loss or damage to Goods in transit unless:

(i) the Company has agreed to effect delivery to a place other than the Company's premises; and

(ii) the loss or damage occurs prior to arrival at Delivery Point; and

(iii) damage or shortage is reported to the Company and the carrier within 7 days of arrival at the Delivery Point or, in the case of total loss, non-arrival is notified to the Company within 14 days after despatch of advice note.

20. UNLOADING AND LOADING

The Buyer shall be responsible for the unobstructed access and, unless otherwise agreed in writing, for unloading and loading of the Goods at the Site, including personnel, should it be agreed in writing that personnel will be supplied by the Company for such unloading and/or loading shall be deemed

to be under the direction and control of the Buyer. Such personnel shall for all purposes in connection with their employment in the unloading and/or loading of the goods be regarded as the servants or agents of the Buyer (but without prejudice to any of the provisions of Condition 21) who alone shall be responsible for all claims arising in connection with unloading and or loading of the Goods by, or with the assistance of such, personnel.

21. INSPECTION

(a) The Buyer shall inspect the Goods immediately upon receipt and shall (unless such inspection cannot be carried out and the delivery note is marked "not examined") subject to Condition 21(b) below be deemed to have accepted the Goods as delivered.

(b) The Company shall not be liable for defects, shortages discoverable on reasonable inspection unless the Buyer notifies the Company before the expiry of 5 days after receipt, of any alleged defect or lack of conformity with the Contract.

(c) The Company shall make good shortages notified to it under Condition 21(b) in excess of the permitted margin as soon as reasonably practicable but shall not be liable for any other loss whatsoever arising from such shortage.

(d) The Company's liability for Goods lost or damaged in transit shall in all circumstances be limited to (at the Company's option) the repair or replacement or crediting the Buyer with the invoice value of the Goods in question.

22. RETENTION OF TITLE

(a) Until such time as the Company shall have received payment in full of all sums owed to it on any account by the Buyer (whether arising under this or any other contract) legal title in all Goods shall remain in the Company.

(b) The Buyer shall at its risk and expense insure all Goods from the date of delivery for their full replacement value against all the usual risks and keep all Goods safe and in good condition stored separately and clearly identifiable as the Company's property with all identifying marks intact and legible.

(c) The Buyer may use or sell the Goods or any of them in the ordinary course of its business.

(d) The Buyer's rights under Condition 22(c) shall terminate immediately on notice from the Company or automatically on the presentation of a petition for the winding-up of the Buyer or for the appointment of an administrator of its undertaking or if the Buyer has an administrator, receiver or administrative receiver appointed over any of its assets or undertaking or it goes into voluntary liquidation (other than for the purposes of a bona fide reconstruction or amalgamation of a solvent company) or if the Buyer ceases to carry on business.

(e) The Company may at any time enter the Buyer's premises for the purpose of inspecting the Goods and/or the Designs and identifying them as the Company's property and the Buyer irrevocably authorises the Company to enter upon its premises for that purpose.

(f) Upon the termination of the Buyer's powers of use and sale under Condition 22(c) above the Company shall be entitled at its option (i) to cancel all or any part of any orders for Goods placed with it by the Buyer and not yet delivered (whether or not accepted or whether or not under the Contract or any other contract) and/or (ii) to deal direct with any customers of the Buyer in which case any proceeds of any sale to such customers shall belong to the Company absolutely.

23. WARRANTY

(a) If within 14 days after delivery a material defect in the Goods shall be discovered and:

(i) the Buyer notifies the Company within fourteen days after discovery giving particulars and either at its own expense and risk returns the Goods to the Company; or (at the Company's sole option) permits the Company to inspect the same; and

(ii) such defect has arisen from faulty materials employed or workmanship carried out by the Company existing but not discoverable upon inspection at time of receipt the Company shall supply replacements or, at its option, credit the Buyer's account with the Company or refund to the Buyer the purchase price paid for the defective Goods provided that in the case of replacement the Company shall be entitled to collect all the defective Goods in question whereupon the same shall become the absolute property of the Company.

(b) The Company's liability for defective Goods is limited in all circumstances to (at the Company's option) delivery of replacements or crediting or refunding of the invoice value to the Buyer and the Buyer shall accept such of the aforementioned remedies as the Company shall proffer as

being fulfilment of the Company's obligations under the Contract.

(c) The Company's liability under this Condition applies only to defects appearing before the Buyer makes any modification or alteration to the Goods and whilst the Goods are being properly used or stored and in particular (but without limitation) the Company shall not be liable in the case of defects arising from normal deterioration or improper or faulty handling or processing by the Buyer.

(d) The above warranty does not extend to parts, materials or components forming part of the Goods, which are not of the Company's manufacture. In respect of such items the Buyer shall be entitled only to the benefit of any manufacturer's warranty or guarantee which the Company is able to obtain and pass to the Buyer.

PART 3 – SUPPLY OF SERVICES

24. WARRANTY

The Company warrants to the Buyer that the Services will be provided using reasonable skill and care.

25. PREPARATORY WORK AND WORKING CONDITIONS

(a) The Buyer shall in good time undertake preparatory work to ensure that the conditions necessary for performance of the Services and for the correct operation of the Site Works are fulfilled.

(b) The Buyer shall ensure that:

(i) the Company's personnel are able to start work in accordance with the Project Plan and to work during normal working hours and the Buyer shall reimburse the Company for the costs of any over time required to be worked by the Company's employees deemed necessary by the Company due to the Buyer's failure to comply with this Condition 25(b)(i);

(ii) it has made available to the Company free of charge at the proper time on the Site all necessary cranes, lifting personnel, lifting equipment and equipment for transport on the Site, auxiliary tools, machinery, materials and supplies (including fuel, oils, grease and other materials, gas, water, electricity, steam, compressed air, heating, lighting, etc.), as well as the measuring and testing instruments of the Buyer available on the Site;

(iii) it has made available to the Company free of charge necessary storage facilities, providing protection against theft and deterioration of the tools and equipment required for the Services and the personal effects of the Company's personnel;

(iv) the access routes to the Site are suitable for the required transport of the Company's equipment.

(c) Upon the Company's request in good time, the Buyer shall make available to the Company, free of charge, such labour and operators as may be specified in the Contract or as may reasonably be required for the purpose of the Contract. The persons made available by the Buyer under this Condition shall provide their own tools. The Company shall not be liable for such labour provided by the Buyer or for any acts or omissions of the persons concerned.

(d) If the Company so requires, the Buyer shall without charge give all necessary assistance required for the import and re-export of the Company's equipment and tools, including assistance with customs formalities.

26. BUYER'S DEFAULT

(a) If the Buyer anticipates that it will be unable to fulfil in time its obligations necessary for carrying out the Services, including complying with the conditions specified in Conditions 5(b), 5(d), 26(a) to 26(d), it shall forthwith notify the Company in writing, stating the reason and, if possible, the time when it will be able to carry out its obligations.

(b) If the Buyer fails to fulfil, correctly and in time, its obligations necessary for carrying out the Services, including to comply with the conditions specified in Conditions 5(b), 5(d), 26(a) to 26(d), the following shall apply:

(i) The Company may suspend in whole or in part its performance of the Contract. It shall forthwith notify the Buyer in writing of such suspension.

(ii) The Buyer shall pay any part of the Contract Price which, but for the default, would have become due.

(iii) The Buyer shall reimburse the Company for any costs, which are reasonably incurred by the Company as a result of measures under

a) or b) of this Condition or which otherwise arise as a result of the Buyer's failure to comply with its obligations under the Contract.

27. LOCAL LAWS AND REGULATIONS

(a) The Company shall ensure that the Services are carried out and are in accordance with any laws, regulations

and rules which are applicable to the Site Works. If required by the Company, the Buyer shall provide the relevant information on these laws, regulations and rules in writing.

(b) The Company shall carry out any variation work necessary to comply with changes in laws, regulations and rules, referred to in Condition 27(a), or in their generally accepted interpretation, occurring between the date of submission of the tender and practical completion. The Buyer shall bear the extra costs and other consequences resulting from such changes, including variation work.

(c) If the parties are unable to agree on the extra costs and other consequences of changes in laws, regulations and rules, referred to in Condition 27(a), the Company shall be compensated for any variation work on a time basis.

28. VARIATIONS

(a) Subject to the provisions of Condition 28(f), the Buyer is entitled to request variations to the scope, design and construction of the Site Works until the Site Works have been practically completed. The Company may suggest such variations in writing.

(b) Requests for variations shall be submitted to the Company in writing and shall contain an exact description of the variation.

(c) As soon as possible after receipt of a request for a variation or after having itself made a proposal for a variation, the Company shall notify the Buyer in writing whether and how the variation can be carried out, stating the resulting alteration to the scope of the Contract or the Contract Price.

(d) The Company shall also give such notice to the Buyer when variations are required as a result of changes in laws, regulations and rules referred to in Condition 28(a).

(e) If practical completion is delayed as a result of disagreement between the parties on the consequences of variations, the Buyer shall pay any part of the Contract Price which would have become due if practical completion had not been delayed.

(f) Save as provided in Condition 28(b), the Company shall not be obliged to carry out variations requested by the Buyer until the parties have agreed on how the variations will affect the Contract Price, the time for practical completion and other terms of the Contract.

29. PRACTICAL COMPLETION

(a) Practical completion of the Site Works shall be considered to take place:

(b) when the Site Works have been satisfactorily completed or are regarded as having been satisfactorily completed, or

(c) when the Buyer has received a Company's notice in writing that the Site Works have been completed, provided that the Site Works are as required for handing over according to the Contract.

(d) Minor deficiencies which do not affect the efficiency of the Site Works shall not prevent practical completion.

(e) As soon as the Site Works have been practically completed in accordance with Condition 29(a) or 29(b), the period referred to in Condition 31(e) shall start to run. The Buyer shall, at the Company's request in writing, issue a certificate stating when the Site Works have been practically completed. The Buyer's failure to issue a certificate shall not affect practical completion according to Conditions 30(a) and 30(b).

30. LIABILITY FOR DEFECTS

(a) Pursuant to the provisions of Conditions 30(a) to 30(i), the Company shall remedy any defect or nonconformity (hereinafter termed defect(s)) in the Site Works resulting from faulty design, materials or workmanship.

(b) The Company shall not be liable for defects arising out of materials provided or a design stipulated or specified by the Buyer.

(c) The Company shall only be liable for defects which appear under the conditions of operation provided for in the Contract and under proper use of the Site Works.

(d) The Company shall not be liable for defects caused by circumstances which arise after the risk has passed to the Buyer, defects due to faulty maintenance or faulty repair by the Buyer or to alterations carried out without the Company's consent in writing. The Company shall neither be liable for normal wear and tear nor for deterioration.

(e) The Company's liability shall be limited to defects in the Site Works which appear within a period of one year from practical completion of the Site Works. If the use of the Site Works exceeds that which is agreed, this period shall be

reduced proportionately. If practical completion has been delayed for reasons which are attributable to the Buyer, the Company's liability for defects shall not, except as stated in Condition 30(f), be extended beyond 18 months after delivery of the Goods.

(f) When a defect in a part of the Site Works has been remedied, the Company shall be liable for defects in the repaired or replaced part under the same terms and conditions as those applicable to the original Site Works for a period of one year. For the remaining parts of the Site Works the period mentioned in Condition 30(e) shall be extended only by a period equal to the period during which and to the extent that the Site Works could not be used as a result of the defect.

(g) The Buyer shall without undue delay notify the Company in writing of any defect which appears. Such notice shall under no circumstances be given later than two weeks after the expiry of the period given in Condition 30(e) or the extended period(s) under Condition 30(f), where applicable.

(h) If the Buyer fails to notify the Company in writing of a defect within the time limits set forth in the first paragraph of this Condition, it shall lose his right to have the defect remedied.

(i) On receipt of the notice under Condition 30(g) the Company shall at its own cost remedy the defect without undue delay. The time for remedial work shall be chosen in order not to interfere unnecessarily with the Buyer's activities.