**Terms and Conditions for West, CAL and PMA products**

**1. GENERAL**

1.1 These Terms and Conditions apply to Goods supplied by the Seller to the exclusion of any other terms and conditions that the Buyer may seek to impose even though such other terms or conditions inconsistent with them or may be contained in any offer acceptance or counter-offer made by the Buyer.

1.2 No addition to or modification or waiver of these Terms or Conditions shall be deemed to be accepted by the Seller or to form part of any agreement between the parties unless made in writing signed by a Director of the Seller.

**2. ACCEPTANCE OF ORDERS**

2.1 The Seller’s quotations are valid for a period of 30 days.

2.2 Contracts made by the Seller’s agents or representatives are only valid when accepted in writing signed by an authorised representative of the Seller.

2.3 All orders are subject to credit approval before acceptance and periodical review of credit limits.

2.4 An order is subject to written confirmation by a duly authorised representative of the Seller. An accepted order may only be cancelled with the Seller’s written consent signed by an authorised representative of the Seller which will not in any way prejudice the Seller’s right to recover from the Buyer full compensation for any loss or expense arising from such cancellation. Minimum compensation will be:

Cancellation 7 days or less before 50% of the UK published list price before shipment date discount at the time of the cancellation

Cancellation 8 days or more before 25% of the UK published list price before shipment date discount at the time of cancellation

Clause 3.1 applies to cancellation charges

2.5 All specifications drawings artwork tools and other information documents and materials provided by the Buyer shall be complete, accurate and satisfactory in all respects and the Buyer shall have no claim against the Seller and shall fully indemnify the Seller against any claim howsoever made in relation to any loss damage injury or expense arising from the Buyer’s break of this condition.

2.6 Save as expressly agreed in writing signed by the Seller’s duly authorised representative or as provided herein:

2.6.1 If any matter supplied by or on behalf of the Buyer is insufficient incorrect inaccurate or misleading or if the Buyer notifies the Seller of any change of requirements in relation to any order after acceptance thereof by the Seller the Seller shall be entitled to amend the Price the terms of payment and the delivery date or delivery schedule as in the circumstances the Seller shall consider fair and reasonable. The Seller shall as soon as practicable notify the Buyer in writing of such amendments. In particular all wasted journeys undertaken by the Seller as a consequence of such information or notification shall be charged to the Buyer at net cost of labour and transport.

2.6.2 Any variation or amendment requested by the Buyer will only be valid and binding on the Seller when subject to a change order duly placed upon and accepted by the Seller in writing signed by a duly authorised representative and subject to appropriate adjustment in Price delivery dates and other matters.

2.7 The Price delivery dates or other terms relating to Goods are based upon the Seller’s assessment of materials and labour and buy-in prices from manufacturers and design and research cost and are subject to revision in respect of any increased cost to the Seller in respect thereof or the necessity of any additional design research or refinement. Provided that the Seller shall give notice of any such intended revision and the Buyer may within 30 days of receiving notice cancel the order if the Price or delivery time would increase by more than 10% in which case neither party shall be liable to the other except that the Seller shall be entitled to payment for the work it has done on a time and materials basis at its usual rates.

2.8 Goods will be carefully inspected and where practical submitted to the Seller’s standard tests before despatch. If tests other than those specified in the accepted or confirmed order or if tests in the presence of the Buyer or the Buyer’s representatives are required these may be charged for in addition to the Price.

2.9 The Seller’s policy is one of continuous updating and improvement. If between the date of acceptance of the order and the date of delivery the Seller or its suppliers adopts any changes in construction or design of any Goods the Buyer will accept the Goods as modified.

2.10 The Buyer shall forthwith notify the Seller of any infringement of any intellectual property right enjoyed by the Seller.

2.11 The Buyer warrants that any design or instruction furnished or given by it does not infringe any third party rights.

**3. PRICE AND PAYMENT**

3.1 Unless otherwise specified Prices and other payments are exclusive of VAT and all other taxes, levies, duties, licences, export and import duties and other governmental charges which may be imposed on the production sale delivery or carriage of the Goods and any such items shall be paid by the Buyer.

3.2 Packing and carriage and the cost of any insurance cover arranged by the Seller will be charged extra at time of invoicing.

3.3 The Buyer will make payment in full within 30 days of the date of invoice without any deductions. Payment at due date is a condition precedent to further deliveries and time of payment is of the essence of the contract. The Seller reserves the right to make delivery of all or any part of an order subject to prior cash payment or security.

3.4 If the Buyer shall make any default in or commit any breach of any of its obligations under any contract with the Seller or if any distress or execution shall be levied upon the Buyer’s property or assets or if the Buyer shall make or offer any arrangement or composition with creditors or if the Buyer becomes bankrupt or if the Buyer being a limited company any resolution or petition to wind up its business shall be passed or presented or if a receiver or administrator of its undertaking property or assets or any part thereof shall be appointed the Seller shall have the right forthwith to determine any contract with the Buyer and to cancel any outstanding delivery or deliveries and to stop any goods in transit and notwithstanding any other provision hereof payment in respect of any delivery then before made shall be immediately due; but all without prejudice to any remedy which the Seller may have in respect of the consequential non-completion of the contract. The Buyer will notify the Seller immediately on the occurrence of any of the above events.

3.5 Bills of exchange banker’s drafts and letters of credit will be accepted only by prior agreement in writing signed by a Director of the Credit Controller of the Seller and the Buyer will be liable for any discounting or bank charges incurred.

3.6 A clerical mistake or a mistake arising from any accidental slip or omission in a letter of credit will not discharge the Buyer from his obligation to pay for the goods and the Buyer will ensure that payment to the Seller is made.

3.7 The Seller reserves the right to charge interest at the rate of 2% per annum above HSBC Bank plc’s base rate calculated on a daily basis on all overdue amounts.

3.8 The Buyer will be liable for all costs incurred in the collection of the amounts outstanding after the due date of payment on a full indemnity basis.

**4. DEMONSTRATION ITEMS**

Demonstration items and samples submitted to the Buyer and not returned to the Seller carriage paid and properly packed within 60 days of receipt shall be deemed to be purchased by the Buyer on the Terms and Conditions of Sale herein at then current list prices unless otherwise agreed in writing by a Director of the Seller. Returned samples must be clearly marked as such and addressed for the attention of the appropriate individual.

**5. WARRANTY**

5.1 The Seller will free of charge make good by repair or at its option by replacement on an exchange basis under which replaced parts become the property of the Seller any defects which appear in any item comprised in the Goods (including services) and which are due to faulty materials or workmanship (or at the Seller’s option may in lieu issue either a partial or full refund for the appropriate part of the Price) provided that:

5.1.1 Such Goods must be returned, as detailed in paragraph 16, carriage paid and at the Buyer’s risk to the Seller’s factory within the warranty period for particular products as specified in the acknowledgement of order or if not so specified asset out in the Seller’s catalogue current at the date of invoice. The warranty period runs from the invoice date.

5.1.2 The warranty period for services is 3 months from the invoice date.

5.1.3 such repair or parts replacements is not required because of accident, neglect, misuse failure of electrical power, failure to provide or maintain proper environmental conditions or causes other than ordinary use.

5.1.4 Components of an expendable nature whether mechanical or electrical are excluded from the benefits of this warranty save that the Seller shall hold for the Buyer the benefit of any warranties given on the sale of such items to the Seller by any third party.

5.1.5 The Buyer makes no further use of the Goods that are alleged to be defective after the time at which the Buyer discovers or ought to have discovered that they are defective.

5.1.6 The Seller will not be responsible for defects caused:

5.1.6.1 due to compliance by the Seller with the Buyer’s own instructions.

5.1.6.2 by the incorrect operation or handling by the Buyer of the Goods. -

5.1.6.3 By the Buyer using the Goods outside their specification or outside any published performance data.

5.1.7 The cost of returning to the Buyer Goods proved not to be covered by the warranty must be borne by the Buyer.

5.1.8 Any Goods returned by the Buyer to the Seller must be returned in their original or other adequate packing. Any damage to the Goods in transit considered to be caused by inadequate packing will be borne solely by the Buyer.

5.2 This warranty is in lieu of all other warranties and conditions express or implied statutory or otherwise in connection with the Goods or their operation and constitutes the Seller’s total liability to the Buyer the Buyer’s employees representatives and agents and all third parties whether in contact tort (including negligence) or otherwise in respect of defects in the Goods or for any injury damage loss costs or expenses resulting from such defects or from any work done under this warranty. Nothing in these terms limits a party’s liability for death or personal injury arising from its negligence. The Buyer shall indemnify the Seller against any liability costs and expenses in respect of any claim over and above the obligations of the Seller under this warranty and in particular but without limitation any liability which may arise for death or personal injury caused by the Buyer’s negligence.

5.3 In the absence of specific written agreement signed by a Director of the Seller:

5.3.1 The Buyer accepts that he is not relying upon the Seller’s judgment auto the fitness of the Goods for any specific purpose of the Buyer.

5.3.2 The Buyer accepts that he is not placing an order in reliance upon any promise representation or inducement on the part of the Seller.

5.3.3 the Seller shall not be liable for any indirect or consequential loss, loss of profit, loss of business, loss of anticipated savings loss of data or other such loss howsoever arising (including by negligence) to the Buyer the Buyer’s employees agents or representatives or any third party and the Buyer will indemnify the Seller in respect of any such claims by the employees agents representatives or third parties and all costs and expenses related thereto. The proviso in 5.2 above applies.

5.3.4 The Seller shall not be liable for any loss expense or damage howsoever arising (including by negligence) to any property of or furnished by the Buyer and the Buyer must insure it.

5.3.5 Save in respect of death or injury arising from negligence (but without prejudice to 5.2 above) the liability of the Seller shall in no case exceed the Price of the relevant Goods.

5.4 The Seller shall not be liable for and the Buyer shall indemnify and hold the Seller harmless against any claim by or any loss or damage to any person or property occasioned directly or indirectly by or arising from the use of operation (otherwise than by the Seller) or possession of any part of the Goods and from negligence (including the use of any part of the Goods otherwise than in accordance with the Seller’s operating instructions and manuals) or default (including any non-compliance with any obligation imposed by these Terms and Conditions or any delay, wrong information or lack of required information) or misuse by or on the part of the Buyer or any person or persons other than the Seller and this indemnity shall extend to any costs and expenses incurred by the Seller and shall continue in force notwithstanding the termination of any contract between the Buyer and the Seller The proviso in 5.2 above applies.

5.5 The Buyer shall on request enter into the Seller’s standard form of Health and Safety Undertaking.

5.6 The Buyer shall conform and shall procure that its customers shall conform to all instructions and labelling prescribed by the Seller in relation to the Consumer Protection Act 1987 or other health and safety legislation. Where the Seller incurs any liability whether by court proceedings or by a bona fide out-of-court settlement as a result of a claim against the Seller in respect of an alleged defect in the Goods then the Buyer shall indemnify the Seller against all liability and all related costs and expenses (except to the extent of the Seller’s liability under these Terms and Conditions).

5.7 No person other than the Seller and Buyer shall have any rights under any contract between the Seller and the Buyer, under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

5.8 Each exclusion or limitation of liability in this clause 5 or any sub-clause or paragraph thereof shall be construed as separate distinct and severable.

**6. MISCELLANEOUS**

6.1 All advice and recommendations given by or on behalf of the Seller to the Buyer as to the method of storing applying or using the Goods the purpose for which the Goods may be applied and the suitability of using the Goods in any manufacturing process or in conjunction with any other materials are given without the liability on the part of the Seller its employees representatives or agents.

6.2 Specifications, drawings and other documents or information relating to the Goods and all copyrights and other intellectual property rights therein remain the property of the Seller and may not be transmitted to a third party without the Seller’s written consent. All such matters and all copies and records thereof must if so requested by the Seller be returned to the Seller if no order is placed with it or any order is not accepted by it.

6.3 The Seller may assign or sub-contract such part or parts of any order as it sees fit.

6.4 The Buyer shall fully indemnify the Seller its employees agents and representatives against any loss damage injury or liability howsoever (including from negligence) any expense incurred in connection therewith arising to any of the same or to any third party as a result directly or indirectly of the Seller carrying out any work at the Buyer’s premises or with equipment loaned by the Buyer.

**7. DELIVERY**

7.1 Every effort will be made to keep to any date specified for delivery but such dates are estimates only and not capable of being made of the essence of the contract and the Seller accepts no liability in case of failure to do so. The Seller will not be liable to make good any damage or loss arising directly or indirectly out of any delay in delivery whether or not such delay is caused by the fault of the Seller. The Seller will not be liable for delay in or failure of delivery caused by delay or failure of delivery by its suppliers.

7.2 Delivery will be at the Seller’s premises. Unless specific instructions are received from the Buyer the Seller will determine the method of carriage. The cost of this shall be paid by the Buyer unless otherwise agreed.

7.3 The Seller shall be under no obligation to insure items despatched or to place any valuations on despatches unless specifically requested to do so by the Buyer. Any insurance costs shall be paid by the Buyer and will be charged extra.

7.4 Delivery of the Goods to the Buyer or to a carrier will constitute delivery and the risk in the Goods shall pass to the Buyer at this point. The Seller will not be liable:

7.4.1 for any delay deviation damage loss or detention of the Goods in the course of transit or for mis-delivery.

7.4.2 for non-arrival of the whole or part of any consignment of the Goods.

7.5 The specification for packing the Goods will be entirely at the discretion of the Seller who may pack the Goods in such manner and with such materials and in such quantities as it in its absolute discretion thinks fit and will not be obliged to comply with the packaging instructions or requests of the Buyer but if it does so any extra cost will be payable by the Buyer.

7.6 If for any reason the Buyer fails to accept delivery of the Goods the Seller may store the Goods at the Buyer’s sole risk and cost (including insurance transport and administration costs). This provision is without prejudice to any other claim which the Seller may have in respect of the Buyer’s failure to take delivery at the appropriate date Payment for Goods stored will be due when the consignment was ready for delivery.

7.7 The Buyer must inspect the Goods on collection by the Buyer or delivery by the carrier. Claims for short delivery damage in transit or defects discoverable on examination must be received in writing by the Seller within 7 days. This is without prejudice to condition 7.4.

**8. RETENTION OF TITLE**

8.1 The title in Goods shall not pass from the Seller to the Buyer until the later of delivery of

The Goods and receipt by the Seller in full of all sums due or owing to the Seller from the Buyer on any account.

8.2 Before title has passed to the Buyer and without prejudice to any of its other rights the

Seller shall have the right to recover and re-sell the Goods or any of them and may enter upon the Buyer’s premises for that purpose.

8.3 Should the Buyer affix the Goods to another product the Goods shall remain the property of the Seller and may be removed or separated by the Seller and condition 8.2 will apply.

8.4 Until payment due under all accounts between the Buyer and the Seller has been made in full the Buyer shall hold the Goods upon trust for the Seller.

**9. SET-OFF AND COUNTERCLAIM**

The Seller will in respect of all unpaid debts due from the Buyer under the same or any other account have a general lieu over Goods and property of the Buyer in its possession, although such goods or some of them may have been paid for and will after the expiration of 14 days notice to the Buyer be entitled to dispose of such Goods and property as it deems fit and apply the proceeds towards such debts.

**10. FORCE MAJEURE**

10.1 The due performance of any contract is subject to delay cancellation or variation by the Seller as a result of any act of God, war, riot or civil dispute, strike lock-out or other labour dispute, fire, flood, drought or accident or legislation, requisitioning or other act or order by any governmental department or other duly constituted authority or of any other cause whether of the foregoing classes or not beyond the Seller’s control. In such event no liability will attach to the Seller by reason of delay cancellation or variation of any contract and the Seller may apportion its available goods and services among its buyers as it thinks fit.

10.2 Completion of any contract may be wholly or partially suspended and the time of suspension added to the original contract as a result of any of the causes set out above or any causes whatsoever beyond the control of the Seller.

**11. SOFTWARE LICENCE**

Where software is supplied as part of the Goods or separately all copyright and intellectual property rights therein remain the property of the Seller and it is useable by the Buyer and its customers only for the purposes of using the Goods for the designed purposes of the Goods and not otherwise. This software may not be copied stored or replicated in any form. The Buyer will make such restrictions an express part of its contracts with its customers.

**12. OVERSEAS SALES**

In relation to any sale to or for delivery to a Buyer outside the United Kingdom these Terms and Conditions shall apply subject to the following provisions save as agreed in writing by a Director of the Seller.

12.1 Terms are either:

12.1.1 “FOB for UK exports” and the Seller will invoice upon delivery to the ship aircraft or other transport. The risk will pass as for such FOB contracts and clause 7.4 shall apply. The title is however retained pursuant to clause 8; or

12.1.2 “CIF for UK exports” and the Seller will invoice upon delivery to the ship aircraft or other transport. The risk for such CIF contracts and clause 7.4 shall apply. The title is however retained pursuant to clause B; or

12.1.3 “ex-works” and the Seller will invoice on delivery ex-works at the Seller’s premises. The risk and property will pass in accordance with clause 7.4 and clause 8.

12.1.4 “Packed ex-works” and the Seller will invoice on delivery ex-works at the Seller’s premises. The risk and property will pass in accordance with clause 7.4 and clause 8

PROVIDED THAT if the contract does not specify the Seller reserves the right to determine the basis on which the contract will be carried out as it considers appropriate for the Goods and their destination.

12.2 Prices are agreed and are payable in the United Kingdom in sterling unless otherwise agreed in writing by a Director of the Seller.

12.3 All bank charges associated with payment are to be for the Buyer’s or-opener’s account.

12.4 The contract is conditional upon provision by the Buyer of an irrevocable letter of credit accepted by a London clearing bank payable 30 days after invoice.

12.5 All export import or other governmental or other permits or licences howsoever of the United Kingdom or any other place are the responsibility of the Buyer.

12.6 All costs duties levies taxes or other sums other than as normally covered by “FOB for UK exports”, “CIF for UK exports”, “ex-works” or “packed ex-works” (as the case may be) are for the account of the Buyer.

**13. WAIVER**

The Seller’s rights and remedies will not be prejudiced by any indulgence or forbearance or continuous of delivery to the Buyer and no waiver by the Seller of any breach by the Buyer will operate as a waiver of any subsequent breach.

**14. EFFECT OF LEGISLATION**

The unenforceability or invalidity of any clause sub-clause or paragraph of these Terms and Conditions will not affect the enforceability or validity of the remainder and if any of these Terms and Conditions or any part of them is rendered void voidable or unenforceable by any legislation to which it is subject will be void voidable or unenforceable to that extent and no further.

**15. PROPER LAW**

The construction validity and performance of this Agreement will be governed by the law of England and the parties hereby submit to the non-exclusive jurisdiction of the English courts.

**16. RETURNS**

If the Buyer wishes to return any Goods, it must first send a completed Return Material Authorization (RMA) form (in the form issued by the Seller) to the Seller specifying the problem. The Seller will, if appropriate, issue an RMA number to the Buyer, against which the Goods must be returned. Any repair charges will be as stated in the RMA form. Returns, inclusive of warranty returns, received without an RMA number will be returned to the Buyer unprocessed.