1. TERMS AND CONDITIONS OF SALE 2 DEFINITIONS

1.1 In these conditions (unless the context otherwise requires):
Buyer means the person, firm or company with whom the Contract is made
Company means JR Whitehead 2000 Ltd
Company's Premises means the premises mentioned in the Company's quotation or other contractual document in respect of the Goods or if not so mentioned means the Company's premises at Britannia Way Industrial Park, Britannia Way, Union Road, Bolton, BL2 2HG
Contract means the contract between the Buyer and the company for the sale and purchase of the Goods
Goods means the goods (or any instalment or part of them) to be supplied pursuant to the Contract

1.2 Words in the singular shall include the plural and vice versa, references to any gender shall include the others and references to legal persons shall include natural persons and vice versa

1.3 The headings in these conditions are intended for reference only and shall not affect their construction

2. General

2.1 These conditions shall apply to the Contract to the exclusion of any other terms and conditions contained or referred to in any order, letter, form of contract or other communication sent by the Buyer to the Company and the provisions of these conditions shall prevail unless expressly varied in writing and signed by a director on the Company's behalf.

2.2 Any concession made or latitude allowed by the Company to the Buyer shall not affect the strict rights of the Company under the Contract.

2.3 If in any particular case any of these conditions shall be or be held to be invalid or shall not apply to the Contract the other conditions shall continue in full force and effect.

3. Orders

Notwithstanding that the Company may have given a detailed quotation no order shall be binding on the Company unless and until it has been accepted in writing by the Company.

4. Prices

4.1 Unless otherwise agreed by the Company in writing:
(a) all prices quoted by the Company shall be ex-works;
(b) the price payable for Goods shall be the list price of the Company current at the date of despatch;
(c) in the case of an order for delivery by instalments the price payable for each instalment shall be the list price of the Company current at the date of despatch of such instalment;
(d) the Company's prices are subject to adjustment to take account of any variation in the Company's costs including (but not limited to) variations in wages, the cost of materials, exchange rate fluctuations, alteration of duties and other costs since the date of the Company's quotation or (if no quotation is issued) the Buyer's order. The Company accordingly reserves the right to adjust the invoice price by the amount of any increase or decrease in such costs after the price is quoted and the invoice so adjusted shall be payable as if the price set out therein were the original contract price.

4.2 All prices are exclusive of value added tax and this will be charged by the Company and will be payable by the Buyer at the appropriate rate.

5. Additional Costs

The Buyer shall indemnify the Company in respect of any loss, cost or expense incurred by the Company as a result, directly or indirectly, of the Buyer's instructions or lack of instructions or through any failure or delay whatsoever in taking delivery or through any other act, neglect or default on the part of the Buyer, its servants, agents or employees.

6. Terms of Payment

6.1 The Buyer shall indemnify the Company within 30 days or written agreed credit period of the date on which the Goods are delivered, such payment to be paid on or before the first day of the relevant month save that payment shall become due in the event forthwith upon the occurrence of any events referred to in condition 15.

6.2 Should the Buyer have any bona fide queries or bona fide complaints regarding any invoices received from the Company, the Buyer shall present such queries or complaints to the Company in writing within 7 days of receipt of the invoice.

6.3 In the event that a credit is due from the Company to the Buyer's account, the Company shall credit such sum to the Buyer's account as soon as is reasonably practicable. The parties acknowledge and agree that, in any event, the Company shall not be required to make any credit to the Buyer's account unless and until the Buyer has paid to the Company in full the amount of the invoice to which the credit relates.

6.4 Without prejudice to any other rights it may have, the Company may suspend delivery or terminate the Contract forthwith if any sums owing to the Company by the Buyer remain past due for any period exceeding 30 days.

6.5 If the Gods are delivered in instalments the Company shall be entitled to invoice each instalment as and when delivery thereof has been made and payment shall be due in respect of each instalment whereof delivery has been made notwithstanding non-delivery of other instalments or other default on the Company's part.

6.6 If upon the terms of the Contract the price shall be payable by instalments or if the Buyer has agreed to take specified quantities of Goods at specified times a default by the Buyer in the payment of any due instalment or the failure to give delivery instructions in respect of any quantity of Goods outstanding shall cause the whole of the balance of the price to become due forthwith.

6.7 The price of the goods shall be due in full to the Company in accordance with the terms of the Contract and the Buyer shall not be entitled to exercise any set-off, lien or any other similar right or claim.

6.8 The time of payment shall be the essence of the Contract.

6.9 Without prejudice to any other rights it may have, the Company is entitled (both before and after any judgment) to charge interest at the rate of 3% above the base rate from time to time of Bank of England on overdue payments of the price of the Goods or the price of any instalments thereof.

6.10 Without prejudice to any other rights it may have, the Company reserves the right to pass all details of the Contract and any outstanding debt of the Buyer to a third party collection agency whereby all fees and charges accrued will be added to the outstanding debt.

7. Delivery

7.1 All times, dates or periods given for delivery of the Goods are given in good faith but without any liability or guarantee on the Company's part.

7.2 Time of delivery shall not be of the essence of the Contract.

7.3 Any period for delivery shall be calculated from the time of the Company's acceptance of the Buyer's order or from the Company's receipt of all information necessary to enable the company to manufacture or procure the manufacture of the Goods (whichever shall be the later).

7.4 Where the Goods are handed to a carrier for carriage to the Buyer or to United Kingdom port for export, any such carrier shall be deemed to be an agent of the Company and not of the Buyer for the purposes of sections 44, 45 and 46 of the Sale of Goods Act 1979.

7.5 The Buyer agrees that section 32(3) of the Sale of Goods Act 1979 shall not apply to Goods sent by the company.

7.6 No liability (whether in contract or for negligence or otherwise howsoever) for loss of or damage to the Goods occurring prior to delivery or for any claim that any item delivered pursuant to the Contract is defective or is otherwise not in accordance with the Contract (being a defect or loss, damage or non compliance which would be obvious upon a reasonable inspection of the Goods) or for non-delivery will attach to the Company unless claims to that effect are notified in writing by the Buyer of the Company (and in the case of claims for loss, damage or non-delivery with a copy to the carrier if the Company's own vehicles have not been used to deliver the Goods):
(a) within 3 days of delivery for loss, damage, defect or non-compliance with the Contract; or
(b) within 7 days of the date of the invoice for non-delivery.

7.7 In the event of a valid claim for defect, loss, damage or non-compliance with the Contract or non delivery, the Company undertakes at its option either to reprocess or replace the items concerned at its expense but shall not be under any further or other liability in connection with such non-delivery, loss, damage or non-compliance.

7.8 If the Buyer shall fail to give notice in accordance with condition 7.6 above, the items delivered shall be deemed to be in all respects in accordance with the Contract and without prejudice to earlier acceptance by the Buyer it shall be bound to accept and pay for the same accordingly and all claims in respect of non-delivery, loss, damage, defect or non-compliance shall (save as set out in condition 12 below) thereafter be wholly barred.

7.9 If for any reason the Buyer is unable to accept delivery of the Goods at the time when the Goods are due and ready for delivery, the Company may at its sole discretion without prejudice to its other rights and for such period as the Company may determine store the Goods at the Buyer's risk and take all reasonable steps to safeguard and insure them at the Buyer's cost, provided that the Buyer shall be immediately informed thereof.

7.10 The Company shall have the right to make delivery by instalments of such quantities and at such intervals as it may decide, and any express provision as to instalments in the Contract shall be in addition to and not in derogation of this right.

8. Returns

Goods supplied in accordance with the Contract cannot be returned without the Company's prior written authorisation. Duly authorised returns shall be sent to the Company's Premises at the Buyer's expense.

9. Carriage

9.1 Unless otherwise agreed by the Company in writing, the Goods will be delivered ex the Company's Premises and the price of the Goods is exclusive of carriage, packing and insurance to the Buyer's premises.

9.2 Where the Buyer requests delivery in a manner other than that selected by the Company in condition 9.1 above, any difference in price shall be charged to the Buyer's account.

10. Passing of Title and Risk

10.1 From the time of delivery the Goods shall be at the Buyer's risk who shall be solely responsible for their custody and maintenance. Notwithstanding delivery and the passing of risk, property in and title to the Goods shall remain with the Company until the Company has received payment of the full price of all Goods, and all other goods or services supplied by the Company to the Buyer under any contract whatsoever. Payment of the full price shall include, without limitation, the amount of any interest or other sum payable under the terms of this Contract and all other contracts between the Company and the Buyer. Whilst the Company's ownership continues, the Buyer shall keep the Goods labelled as belonging to the Company and separate and identifiable from all other goods in its possession as bailee for the Company.

10.2 The Buyer may only re-sell the Goods to the Buyer's customers in the ordinary course of the Buyer's business as a fiduciary and trustee for the Company. In the event of any resale by the Buyer of the Goods, the Company's beneficial entitlement shall attach to the proceeds of sale or other disposition thereof so that such proceeds or any claim therefore shall be assigned to the Company and until such assignment shall be held on trust in a separate identified account for the Company by the Buyer and such proceeds shall not be mingled with other moneys or paid into any overdrawn bank account and shall at all times be identifiable as the Company's moneys.

10.3 Without prejudice to the equitable rules as to tracing, in the event of failure to pay the price in accordance with the Contract, the Company shall have power to re-sell the Goods, such power being additional to (and not in substitution for) any other power of sale arising by operation of law or implication or otherwise and for such purpose the Company and its servants and agents may forthwith enter upon any premises or land occupied or owned by the Buyer to remove the Goods.

10.4 Pending payment of the full purchase price of the Goods, the Buyer shall at all times keep the Goods comprehensively insured against loss or damage by accident, fire, theft and other risks usually covered by insurance in the type of business carried on by the Buyer in an amount at least equal to the balance of the price for the same from time to time remaining outstanding. The policy shall bear an endorsement recording the Company's interest.

10.5 The Company is hereby licensed to enter upon any premises in the ownership, possession or control of the Buyer at any time to recover the Goods.

11. Conditions and Warranties

11.1 The Contract shall not constitute a sale by description or sample.

11.2 Any conditions or warranties (whether express or implied by statute or common law or arising from conduct or a previous course of dealing or trade custom or usage or otherwise howsoever) as to the quality of the Goods or their fitness for any particular purpose (even if that purpose is made known expressly or by implication to the Company) or as to the correspondence of the Goods with any description or sample are hereby expressly negative.

12. Defective Goods

12.1 In substitution for all rights which the Buyer would or might have but for these conditions the Company undertakes in the case of Goods manufactured by the Company that if within 2 months of delivery of any item of the Goods a defect in materials or workmanship appears therein being a defect which would not be obvious on reasonable inspection thereof (whether such an inspection was carried out or not) it will at its own discretion either credit to the Buyer the full price paid by the Buyer to the Company for such item or repair it or supply a replacement thereof free of charge at the place of delivery specified by the Buyer for the original Goods provided that in any case the original Goods have been accepted and paid for.

12.2 In the case of Goods not manufactured by the Company, the Company will pass on to the Buyer to the extent that it is able any benefits obtainable under any warranty given by the Company's supplier provided that the Goods have been accepted and paid for.

12.3 In order to exercise its rights under this condition the Buyer shall inform the Company within 7 days of the date when such defect appeared or ought reasonably to have been discoverable and shall at the Company's written request return the defective Goods carriage paid to the Company's Premises.

12.4 Nothing herein shall impose any liability upon the Company in respect of any defect in the Goods arising out of the acts, omissions, negligence or default of the Buyer, its servants or agents including in particular (but without prejudice to the generality of the foregoing) any failure by the Buyer to comply with any recommendations of the Company as to storage and handling of the Goods.

12.5 Where the Goods are for delivery by instalments any defect in any instalment shall not be a ground for cancellation of the remainder of the instalments and the Buyer shall be bound to accept delivery thereof.

12.6 Nothing herein shall have the effect of excluding or restricting the liability of the Company for death or personal injury resulting from its negligence in so far as the same is prohibited by United Kingdom statute.

13. Buyer's Specification

The Company shall not be liable for imperfect work caused by any inaccuracies in any drawing, bill of quantities or specification supplied by the Buyer.

14. Consequential Loss

The Company shall not be liable for any costs, claims, damages or expenses arising out of any tortious act or omission or any breach of contract or statutory duty calculated by reference to profits, income, production or accruals of loss of such profits, income, production or accruals or by reference to accrual of such costs, claims, damages or expenses on a time basis.

15. Default or Insolvency of Buyer

If the Buyer shall be in breach of any of its obligations under the Contract or if any distress or execution shall be levied on the Buyer's property or assets or if the Buyer shall make or offer to make any arrangement or composition with his creditors or commit any act of bankruptcy or if any bankruptcy petition be presented against him or (if the Buyer is a company) if any resolution or petition to wind up such company shall be passed or presented or if a receiver, administrative receiver or administrator of the whole or any part of such company's undertaking property or assets shall be appointed the Company in its discretion and without prejudice to any other right or claim may be notice in writing determine wholly or in part any and every contract between the Company and the Buyer or may (without prejudice to the Company's right subsequently to determine the Contract for the same cause should it so decide) by notice in writing suspend delivery or any further deliveries (as the case may be) of Goods until any default by the Buyer be remedied.

16. Limitation of Liability

The aggregate liability of the Company (whether in contract or for negligence or breach of statutory duty or otherwise howsoever) to the Buyer for any loss or damage of whatsoever nature and howsoever caused shall be limited to and in no circumstances shall exceed the price of the Goods.

17. Representations

No statement, description, information, warranty, condition or recommendation contained in any catalogue, price list, advertisement or communication or made verbally by any of the Company's agents or employees shall be construed to enlarge, vary or override in any way any of these conditions.

18. Force Majeure

The Company shall be entitled to delay or cancel delivery or to reduce the amount of Goods delivered if and to the extent that it is prevented from or hindered in or delayed in manufacturing, obtaining or delivering the Goods by normal route or means of delivery through any circumstances beyond its control including (but not limited to) strikes, lock-outs, accidents, war, fire, reduction in or unavailability of power at manufacturing plant, breakdown of plant or machinery or shortage or unavailability of raw materials from normal sources of supply.

19. Termination

Save as provided in conditions 6.4, 15 and 18 hereof Contracts may not be terminated except by agreement in writing of both parties and upon the payment to the Company of such amount as may be necessary to indemnify the Company against all loss resulting from the said termination.

20. Sub-Contracting

The Company may assign the Contract with the Buyer or sub-contract the whole or any part thereof to any person, firm or company.

21. Proper Law

The Contract shall in all respects be governed by and construed in accordance with English law and shall be deemed to have been made in England and the Buyer and the Company agree to submit to the exclusive jurisdiction of the English Courts.