

Cantium Electronics Limited Terms and Conditions of Sales

1. Definitions and Interpretations in These Conditions

1.1 "**Cantium**" means Cantium Electronics Ltd, its employees or agent, registered office 1 Central Parade, Sittingbourne, Kent, ME10 4AE;

1.2 "**Buyer**" means the person, customer, firm or company so described in the Order and who accepts Cantium's quotation for the sale of Goods or whose written order for the Goods is accepted by Cantium;

1.3 "**Conditions**" means the standard terms and conditions of purchase set out in this document and (unless the context otherwise requires) includes any varied or special terms and conditions agreed in writing between Cantium and the Buyer;

1.4 "**Contract**" means any contract between Cantium and the buyer for the sale and purchase of Goods and/or the supply and performance of the Services subject to these Conditions;

1.5 "**Goods**" means the Goods, parts, product (including any instalment of the Goods or any part of them), performance of service, described in the Order which Cantium is to supply or has supplied in accordance with these Terms;

1.6 "**Order**" means any quotation of Cantium which is accepted by the Buyer, or any written order of the Buyer which is accepted by Cantium for the supply of Goods or performance of Services;

1.7 "**Price**" means the Price of the Goods and/or the charge for the Services;

1.8 "**Specification**" includes any plans, drawings, data, part number, process or other technical requirements or information including Cantium's web site relating to the Goods or Services agreed between the parties;

1.9 "**Written**" and any similar expression include all electronic communication.

1.10 "**Original Delivery Date**" means the date agreed between Cantium and the buyer for the delivery of Goods notwithstanding that actual delivery of the Goods may take place on an alternative date.

1.11 "**Terms**" means the standard conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms agreed in Writing between the Buyer and Cantium.

1.12 "**Formal Order Confirmation**" means the communication sent by Cantium to the Buyer accepting the Buyer's order.

1.13 **“Account Customer”** means a Buyer which is so designated by Cantium and, subject to these terms and conditions, which Cantium may have authorised to purchase Goods on credit terms and **“Company Account”** shall be construed accordingly.

1.14 In these Conditions references to any statute or statutory provision shall, unless these Conditions otherwise requires, be construed as a preference to that statute or provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

1.16 Any typographical, clerical or other error or omission in any literature, quotation, price list, technical data, acceptance of offer, invoice or other document or information issued by Cantium shall be subject to correction without any liability on the part of Cantium.

1.17 In these Conditions the headings will not affect the construction of these Conditions. Headings are inserted for the sake of convenience.

2. APPLICATION OF CONDITIONS

2.1 These Conditions may be amended from time to time and shall take effect from the date that the notification of any changes is made on Cantium’s website. Advanced notification of such changes will not necessarily be given.

2.2 These Conditions apply to all Contracts for the sale of Goods entered into by Cantium, which, for the avoidance of doubt, shall not be made, save as follows:

2.2.1 In the case of a Buyer with a Company Account, the Contract shall be deemed made upon Cantium’s Order Confirmation to the Buyer; and

2.2.2 In all other case, the Contract shall be deemed made upon and only upon Cantium having received payment in full, in cleared funds, following Order Confirmation to the Buyer

2.3 By placing an order with Cantium the Buyer agrees to deal with Cantium on these Conditions to the exclusion of all other terms, conditions or warranties contained in or referred to in the Buyer’s order or correspondence or elsewhere or implied by trade, custom, practice or course of dealing. Cantium’s failure to object to conflicting or additional terms will not change or add to these Conditions.

2.4 Any Goods displayed at a price by Cantium does not constitute an offer. Cantium reserves the right to withdraw or revise a price at any time prior to the conclusion of a Contract.

- 2.5 The Buyer shall comply with Cantium's Website Terms of Use.
- 2.6 For the purposes of these Conditions and any Contract, Cantium is entitled to treat as conclusive any representation from a person who is or appears to be an employee, representative or agent of the Buyer who in Cantium's reasonable opinion appears to have the requisite authority.
- 2.7 Cantium reserves the right to refuse to make any Contract with any Account Customer or to refuse to make or complete delivery of any Goods if it has reason to believe that there is a reasonable prospect that the Account Customer will not be in a position to pay for the Goods in question.
- 2.8 Cantium reserves the right to charge a minimum order fee in relation to any Contract.
- 2.9 Any typographical, clerical or other error or omission in any literature, quotation, price list, technical data, acceptance of offer, invoice or other document or information issued by Cantium shall be subject to correction without any liability on the part of Cantium.

3. GENERAL BASIS OF SALES

- 3.1 All Goods are supplied by Cantium subject to these conditions, which supersede any earlier sets of conditions and which shall override any terms or conditions stipulated or referred to by the Buyer whether in an order or in any negotiations.
- 3.2 The placing of an order by the Buyer shall be deemed conclusive proof that the Buyer has accepted these Conditions.
- 3.3 The relaxation or waiver by Cantium of any of these Conditions on any occasion shall act merely as a waiver on that occasion and shall not affect Cantium's right to enforce any of these Conditions on any subsequent occasion.
- 3.4 Any variation of these Conditions must be confirmed in writing by a director of Cantium and signed by him or will not otherwise be valid.
- 3.5 Any description given by Cantium of the Goods is given by way of identification only, and is not guaranteed or represented to be accurate, and the use of such description shall not constitute a contract of sale by description.
- 3.6 Cantium is not authorized to make any representations concerning the Goods (including but not limited to performance figures, tolerances or

characteristics) unless confirmed by Cantium in Writing. In entering into the contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.

- 3.7 Any advice or recommendation given by Cantium to the Buyer or its employees or its agents as to the storage, application or use of the Goods which is not confirmed in Writing by Cantium is followed or acted upon entirely at the Buyer's own risk, and accordingly Cantium shall not be liable for any such advice or recommendation which is not so confirmed.

4. QUOTES, PRICES AND ORDERS

- 4.1 Cantium's quotation is merely an invitation for an order subject to these Conditions. No Contract will result until Cantium has confirmed the Buyer's order by its authorised representative. Such Contract will incorporate and be subject to these Conditions.
- 4.2 Prices are quoted ex-works and are for Goods only and do not include packing, delivery, insurance and VAT which are all charged separately on the invoice and the Buyer shall be additionally liable to pay Cantium.
- 4.3 No Order submitted by the Buyer shall be deemed to be accepted by Cantium unless and until confirmed by Cantium's authorised representative.
- 4.4 All Orders are subject to acceptance by Cantium
- 4.5 Orders received from the Buyer for Goods specifically sourced will be identified by Cantium as non-standard and will be deemed as non-cancellable and non-returnable ("NCNR"). The Buyer may not cancel or reschedule Orders for standard Goods without Cantium's consent, which shall not be unreasonably withheld.
- 4.6 The Buyer is responsible at his own expense for obtaining any necessary import licences required in the country of destination for any Goods purchased for delivery outside UK he is also responsible at his own expense for all freight costs and any relevant import duties and taxes.
- 4.7 Any price quoted by Cantium for the Goods is subject to revision by Cantium without notice to take account inter alia of any increase in the cost of the Goods to Cantium or any other costs and expenses of Cantium occurring between the dates of the Cantium's acceptance of the Buyer's order or (as the case may be) of the Buyer's acceptance of the Company's quotation and the date of delivery of the Goods or provision of services to the Buyer.
- 4.8 All Goods are quoted Subject to Availability and all prices are subject to alteration.

5. **DELIVERY**

- 5.1 Any time or period for delivery given by Cantium shall be given in good faith but shall be an estimate only and not a term of the Contract between the Buyer and Cantium. Cantium shall not be liable for any delay in delivery or any consequential or other loss arising there from howsoever such delay may be caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by Cantium in Writing. The Goods may be delivered by Cantium in advance of the quoted delivery date on giving reasonable notice to the Buyer.
- 5.2 Domestic Delivery within the United Kingdom - Cantium shall deliver the Goods to the Buyer either by post or by other carrier. The risk of loss of or damage to the Goods shall pass to the Buyer at the time the same are placed in a post box or (as the case may be) delivered to or collected by the postal authorities or other carrier. Overseas Delivery - Delivery of all Goods shall be ex-works Cantium. All actions carried out by Cantium to affect delivery beyond ex-works shall be done as the Buyer's agent and at the Buyer's cost.
- 5.3 The risk of loss or damage to the Goods shall pass 7 days after notification to the Buyer that the Goods are ready for collection or, if delivery is to be arranged by Cantium, upon posting or delivery to a carrier. Section 32(3) of the Sale of Goods Act 1979 shall not apply.
- 5.4 In all cases of delivery (whether domestic or overseas) any carrier or freight forwarder engaged by Cantium to deliver or collect Goods will be regarded as acting as the Buyer's agent.
- 5.5 The Buyer shall pay the cost of delivering the Goods and costs of packaging the same in addition to the purchase price of the Goods and shall be responsible for all import or export duties, charges or levies. All of these charges will be subject to an additional charge of VAT.
- 5.6 If the Buyer fails to accept delivery of the Goods Cantium shall be entitled without prejudice to any other rights it may have to store the Goods at the cost and risk of the Buyer.
- 5.7 Cantium shall take reasonable care to ensure that the Goods are delivered to or collected by the postal authorities or other carriers in a condition suitable for delivery but subject thereto it accepts no liability for damage to or loss or shortage of any Goods occurring during the course of delivery or for any loss or damage (including loss of profits (direct and indirect) and any indirect, special or consequential loss) arising directly or indirectly there from.

- 5.8 Any claim in respect of any loss or theft of or damage to the Goods in the course of delivery shall be made by the Buyer to the carrier within two days of the receipt of the Goods by the Buyer and (without prejudice to the foregoing provisions of this paragraph) Cantium shall provide the Buyer with all reasonable assistance in connection with such claim.
- 5.9 Any shortages of Goods delivered to the Buyer must be notified to Cantium in writing within three days of delivery to the Buyer and the Goods held for inspection. In this case time will be of the essence.
- 5.10 Cantium reserves the right to deliver the Goods in more than one instalment and invoice each instalment separately. Delivery of a smaller quantity than the quantity specified shall not relieve the Buyer of the obligation to accept delivery and pay for Goods delivered. Delay in delivery of one instalment shall not entitle the Buyer to cancel other instalments.
- 5.11 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by Cantium to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole repudiated.
- 5.12 If Cantium fails to deliver the Goods (or any instalments) for any reason other than any cause beyond Cantium's reasonable control or the Buyer's fault, and Cantium is accordingly liable to the Buyer, Cantium's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar Goods to replace those not delivered over the price of the Goods.
- 5.13 Where the Goods are delivered to the Buyer by instalments or over a period and the Buyer has failed to pay on its due date any invoice for Goods already delivered Cantium shall be entitled (without prejudice to any other rights it may have) to suspend delivery of further instalments or Goods until all amounts outstanding to Cantium from the Buyer shall have been paid or to terminate the contract in relation to Goods to the Buyer.

6. TERMS OF PAYMENT AND INTEREST

- 6.1 The Goods (and any instalment in the case of delivery by instalments) and Services shall be paid in the currency invoiced strictly net cash with order unless a Customer Account has been established with Cantium. Where a Customer Account has been established with Cantium the Goods (and any instalment in the case of delivery by instalments) and services shall be paid within thirty days of the date of the relevant invoice or delivery of Goods or provision of Services whichever is earlier.

- 6.2 Time for payment shall be of the essence. In all cases payment on the due date shall be a condition precedent to further performance by Cantium, and without prejudice to any other rights, Cantium may suspend performance under the Contract or any other Contract Cantium has entered into with the Buyer until full payment for Goods or Services supplied has been received by Cantium.
- 6.3 Without prejudice to Cantium's other rights Cantium shall be entitled to charge interest (accruing from day to day) at the rate of 2% per month for the time being on all sums overdue for payment by the Buyer hereunder plus reasonable attorney fees and collection costs and all such interest so charged shall be payable by the Buyer to Cantium on demand.
- 6.4 Under the Late Payment Commercial Debts Regulations 2002 Cantium reserve the right to exercise its statutory right to charge interest and an administration charge on all invoices overdue from the Buyer.
- 6.5 Notwithstanding any statement to the contrary by the Buyer, Cantium shall be entitled in Cantium's absolute discretion to appropriate any payment received by Cantium from the Buyer with to or towards any indebtedness of the Buyer with Cantium, whether under this or under any other Contract.
- 6.6 All payments due to Cantium shall be made in full without any form of set-off or other deduction unless the set-off or deduction is the subject of a court judgment in the Buyer's favour.
- 6.7 Cantium reserve the right at Cantium's discretion to refuse to establish credit account facilities, and/or to terminate any such Credit Account facilities already in existence.

7. QUALITY

- 7.1 The Buyer acknowledges that Cantium is not the manufacturer of the Goods. The Buyer acknowledges that as an intermediate supplier of the Goods Cantium may have no option to check the Goods for obvious signs of damage and does not in any way inspect the quality or condition of the Goods themselves.
- 7.2 The Buyer acknowledges that the manufacturer of the Goods typically provides warranty assurances directly for the benefit of end users of the Goods.
- 7.3 The Buyer acknowledges that Cantium does not hold itself out as having any particular expertise in relation to the actual Goods and that any information provided by Cantium in relation to the Goods is merely

passed on where possible by Cantium from the manufacturer of the Goods.

- 7.4 Cantium does not sell Goods on a "trial basis" and the Buyer agrees that it relies entirely on its own skill and judgement in evaluating the suitability and fitness of the Goods for its purpose.
- 7.5 The Buyer acknowledges that the prices charged by Cantium for the Goods are based strictly on the acknowledgements set out in Clauses 7.1 to 7.4 and based on those acknowledgements:
 - 7.5.1. use its reasonable endeavours to transfer to the Buyer the benefit of any warranty or guarantee given to Cantium;
and
 - 7.5.2. comply with its returns policy as set out in Clause 8;
- 7.6 Cantium may change the specification of Goods, prior to delivery, where there is no material adverse effect on quality or performance or to comply with applicable safety or other statutory requirements.
- 7.7 The Buyer agrees that Cantium will not (subject to Clauses 7.5) be responsible for or give any warranties in relation to the quality or suitability of the Goods and that provided Cantium complies with the provisions of Clause 7.5 Cantium will have no further liability (in contract, tort, including but not limited to negligence, or otherwise) to the Buyer for any quality or suitability claims in relation to the Goods.
- 7.8 When the Buyer examine the Goods before delivery is effected he shall have no further right to inspect on arrival other than to notify Cantium of any loss or damage in transit. When the Goods are delivered to the Buyer without any previous examination by him, he shall inspect them immediately on arrival and shall within 10 days of such inspection give Written notice to Cantium of any matter or thing by reason of which the Buyer may allege that the Goods are not in accordance with the Contract. If the Buyer shall fail to give such notice the Goods shall be deemed to be in all respects in accordance with the Contract and the Buyer shall be bound to accept and pay for them accordingly.

8. RESCHEDULING, CANCELLATION AND RETURNS POLICY

- 8.1 The Buyer may not reschedule or cancel Order for non-standard Goods
- 8.2 The Goods may not be returned to Cantium without first obtaining Cantium's consent in writing and a return material authorisation ("RMA") number. No return of Goods shall be accepted by Cantium without a RMA number, which may be issued by Cantium in its sole discretion.

- 8.3 Returned Goods must be packaged in a manner that the Goods cannot be damaged in any way and this is the sole responsibility of the Buyer, they must also be in original manufacturer's shipping cartons or equivalent. The Buyer must return all Goods freight prepaid, as specified in the RMA and pay, any restocking charge. Only complete pack quantities will be accepted.
- 8.4 At Cantium's discretion, Cantium will return all Goods not eligible for return to the Buyer, freight collect, or hold the Goods for Buyer's account at Buyer's expense.
- 8.5 If returned Goods are claimed to be defective, a complete description of the nature of the defect and an engineers report must be included with the returned Goods.
- 8.6 Where a valid claim in respect of any of the Goods which is based on a defect in the quality or condition of the Goods or their failure to meet specification is notified to Cantium in accordance with these Conditions, Cantium may replace the Goods (or the part in question) free of charge or, at Cantium's sole discretion, refund the Buyer the price of the Goods (or a proportionate part of the price), in which case the Buyer shall have no further liability to Cantium.
- 8.7 In the event of the cancellation of an order Cantium reserve the right to charge the Buyer up to 100% for Goods held or pending shipment, up to 100% for Goods where Cantium cannot cancel delivery from Cantium's supplier and up to 50% for the remaining balance. In particular (but without limitation), in the event of cancellation by the Buyer of part only of an Order, Cantium shall be entitled to recalculate the price for the uncancelled part of the Order as if it constituted the whole order and re-invoice the Buyer accordingly.
- 8.8 Cantium shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of Cantium or otherwise) which arise out of or in connection with the supply of Goods (including (but not limited to) any delay in supplying or any failure to supply the Goods in accordance with the Contract or at all) or their use or resale by the Buyer.

9. RISK AND TITLE

- 9.1 The Goods are at the Customer's risk from the time of delivery.

- 9.2 Title to the Goods will pass to the Customer once payment has been received, in full, by Cantium. In the event that Goods are passed or sold to a third party by the Buyer, Cantium's title rights remain protected, until such time full payment has been received by Cantium. This condition merely reserves the title on such Goods for the benefit of Cantium; it does not impose a charge on the Goods.
- 9.3 Payment referred to in Clause 9.2 includes payment of the Goods as well as all other sums which are or which become due to Cantium from the Buyer, on any account.
- 9.4 Cantium shall be entitled to recover payment for the Goods even though title of any of the Goods has not passed from Cantium.
- 9.5 Until title has passed to the Buyer, the Buyer must:
- 9.5.1 store the Goods (at no cost to the Company) separately from all other goods and Goods of any third party in such a way that they are readily identifiable as the Cantium's property.
- 9.5.2 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods, maintain the Goods in satisfactory condition and where the Buyer is an Account Customer, they shall keep them insured on Cantium's behalf for their full price against all risks to the reasonable satisfaction of Cantium. At Cantium's request, the Buyer agrees to produce the relevant policy of insurance to Cantium.
- 9.5.3 the Buyer shall hold the proceeds of the insurance referred to in Clause 9.5.2 on trust for Cantium and not mix them with any other money, nor pay the proceeds into a bank account that is overdrawn
- 9.6 The Buyer's right to possession of the Goods will terminate if: -
- 9.6.1 the Buyer has a bankruptcy order made against them or makes an arrangement or composition with their creditors or otherwise take the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convene a meeting of creditors (whether formal or informal) or enter into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or have a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for their winding up or for the granting of an administration order in respect of them, or any proceedings are commenced relating to their insolvency or possible insolvency; or

9.6.2 The Buyer suffers or allows any execution, whether legal or equitable, to be levied on their property or obtained against them or they are unable to pay their debts within the meaning of Section 123 of the Insolvency Act 1986 or they cease to trade; or

9.6.3 The Buyer encumbers in any way charges of the Goods which are the subject of these Conditions.

9.7 Legal and Equitable ownership of the Goods remain with Cantium, notwithstanding delivery thereof to the Buyer, until Cantium has received in cash or cleared funds payment in full of the price of Goods and all amounts due from the Buyer to Cantium. Until such time, the Buyer shall have possession of the Goods as Cantium's Bailee.

9.8 Notwithstanding that ownership of the same may remain with Cantium, as from the time of shipment of the Goods to the Buyer the risk of any loss or damage of the Goods from whatever cause arising shall be borne by the Buyer.

9.9 The Company's rights and remedies set out in this Condition 9 are in addition to and shall not in any way prejudice, limit or restrict any of Cantium's other rights or remedies under the Contract or in law or equity.

10. WARRANTIES AS TO QUALITY AND LIMITATIONS OF LIABILITY

10.1 Save as set out in these Conditions all guarantees representations conditions and warranties as to quality, condition, workmanship, fitness for any purpose or otherwise, whether express or implied by statute or common law, are hereby expressly excluded from the Contract to the fullest extent permitted by law, PROVIDED THAT the provisions of this paragraph shall not apply so as to exclude or purport to exclude the liability conferred on a seller by the provisions section 12 Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982.

10.2 Nothing in this Condition 10 or elsewhere in these Conditions shall not operate to exclude or restrict Cantium's liability for death or personal injury resulting from negligence (as defined in section 1 (1) of the Unfair Contract Terms Act 1977) or Cantium's liability for fraudulent misrepresentation.

10.3 THE BUYER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF CLAUSES 10.4 to 10.8

10.4 Subject to Clause 10.1 and 10.2, Cantium will not be liable to the Buyer in contract, tort (including but not limited to negligence) misrepresentation or otherwise for any:

- 10.4.1 economic loss of any kind (including but not limited to loss of use, profit, anticipated profit, business, contracts, overhead recovery, machining costs, revenue or anticipated savings);
 - 10.4.2 any damage to the Buyer's reputation or goodwill;
 - 10.4.3 any product recall or business interruption costs;
 - 10.4.4 any loss arising from any downtime of the Cantium's information technology systems; or
 - 10.4.5 any other special, indirect or consequential loss or damage (even if Cantium has been advised of such loss or damage) arising out of or in connection with the Contract.
- 10.5 Subject to the provisions of Clauses 10.1, 10.2 and 10.4, Cantium's total liability in contract, tort (including but not limited to negligence), misrepresentation or otherwise arising out of or in connection with this Contract will be limited to the Contract price.
- 10.6 If any Goods are or become faulty or defective by reason only of use of defective materials or faulty workmanship within a period of 90 days from the date of delivery, Cantium will (at Cantium's option) either refund the price of such Goods or replace or repair such Goods provided that the Buyer shall have notified Cantium in Writing of the fault or defect in the Goods and shall have returned the faulty or defective Goods to Cantium for inspection within a period of 90 days from the date of delivery.
- 10.6.1 Such liability is in place of any other conditions or warranties, express or implied as to the quality or fitness for any purpose of the Goods, and all such conditions and warranties are, to the extent permitted by law, hereby expressly excluded to the intent that save as provided above, Cantium shall not have any liability to the Buyer or to any third party in respect of any loss of or defect in the Goods supplied or in respect of any personal injury or damage or loss of any kind directly or indirectly attributable to faults or defects in such Goods, and the Buyer will indemnify Cantium against any such claim.
 - 10.6.2 Under no circumstances will Cantium be liable for any consequential, indirect, incidental or special loss or damage including, but not limited to loss of profit, goodwill or opportunity suffered by the Buyer.
 - 10.6.3 In the event that Cantium is under any liability to the Buyer in respect of Goods, the same shall form a separate cause of action and shall not entitle the Buyer to any setting off and

the full amount of all sums payable to Cantium from the Buyer hereunder shall remain due and owing.

- 10.6.4 All semi-conductors are covered by their respective manufacturers' warranty and the Buyer shall subject these to a batch check before use or installation into equipment.
 - 10.6.5 So far as it is able, but without assuming any liability itself, Cantium will transfer to the Buyer the benefits of all warranties or guarantees in relation to the Goods which Cantium receives from their suppliers to Cantium.
 - 10.6.6 Goods returned under this guarantee shall be delivered to Cantium's premises at the Buyer's expense and if found not to be defective (or when defect is attributable to the Buyer's design or materials) will be returned to the Buyer at the Buyer's expense and subject to a testing charge of 15% of the invoice price together with VAT thereon if applicable.
- 10.7 Notwithstanding Conditions 10.1 to 10.6 (inclusive) Cantium's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the greater of 1.5 times the price of the Goods and/or Services in respect of which the Customer suffered or incurred such loss or damage or £1000 subject always to a maximum liability of £1500.
- 10.8 The provisions of this Clause 10 shall survive the termination or expiry (for whatever reason) of this Contract.
- 10.9 LIMITAION OF LIABILITY. CANTIUM IS NOT LIABLE FOR AND THE BUYER IS NOT ENTITLED TO ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR (INCLUDING BUT NOT LIMITED TO) LOSS OF PROFITS OR REVENUE, LOSS OF DATA, LOSS OF USE, REWORK, MANUFACTURING EXPENSE, INJURY TO REPUTATION, OR LOSS OF CUSTOMERS. THE BUYER'S RECOVERY FROM CANTIUM FOR ANY DIRECT DAMAGES WILL NOT EXCEED THE PRICE OF THE GOODS AT ISSUE (WHETHER SUCH LIABILITY ARISES FROM A CLAIM BASED ON CONTRACT, WARRANTY, TORT – INCLUDING NEGLIGENCE ON THE PART OF CANTIUM – OR OTHERWISE). BUYER WILL INDEMNIFY, DEFEND AND HOLD CANTIUM HARMLESS FROM ANY CLAIMS BASED ON;
- 10.9.1 CANTIUM'S COMPLIANCE WITH CUSTOMER'S DESIGNS, SPECIFICATIONS OR INSTRUCTIONS,
 - 10.9.2 MODIFICATION OF ANY PRODUCTS BY ANYONE OTHER THAN CANTIUM, OR
 - 10.9.3 USE IN COMBINATION WITH OTHER PRODUCTS

10.10 The price of the Goods and/or Services has been calculated on the basis that Cantium will exclude or limit its liability as set out in the Contract and the Buyer by placing an order agrees and warrants that the Buyer shall insure against or bear itself any loss for which Cantium has excluded or limited its liability in the Contract and Cantium shall have no further liability to the Buyer. The Buyer expressly agrees that the cost of the Goods or Services would inevitably be greater if a higher liability was accepted. SHOULD THE CUSTOMER REQUIRE CANTIUM TO ACCEPT ADDITIONAL LIABILITY THIS MAY BE DISCUSSED BETWEEN THE PARTIES AGREED IN WRITING AND THE PRICE INCREASED ACCORDINGLY.

11. ERRORS & OMISSIONS

11.1 Whilst Cantium makes every effort to ensure all prices and descriptions quoted by it are precise and accurate, on occasions where an error may occur, Cantium is entitled to rescind any Contract, notwithstanding that it may have already accepted the Buyer's order. Cantium's liability will then be limited to the return of any money the Buyer has paid relating to that order.

12. DATA PROTECTION AND PRIVACY AND SECURITY POLICY

12.1 Cantium will take all reasonable precautions to keep the details of Orders and payments secure. Cantium will adhere to the principles of the Data Protection Act 1988 to uphold Cantium's Buyer's privacy and protect the personal data provided by the Buyer.

12.2 The Buyer accepts and acknowledges that it has read Cantium's Privacy and Security Policy, which shall apply to all dealings between Cantium and the Buyer.

13. FORCE MAJEURE

13.1 Cantium shall not be liable to the Buyer or incur any penalties for the failure to perform or for the delay in the performance of any of its obligations hereunder where such failure or delay is due wholly or in part directly or indirectly to causes beyond its reasonable control including but not limited to fire storm flood or earthquake explosion accident war acts of the enemy riots civil disorders sabotage strikes lockouts industrial disputes labour shortages work delays custom and excise or stoppages power utility or energy failures or shortages of appropriate materials or unavailability of supplies or machinery breakdown in machinery or equipment transportation embargoes or delays inclement weather delay on the part of third parties (including other trades) acts or omissions of the Customer Acts of God acts or regulations or priorities of the government or agents thereof or for any indirect, specified or

consequential loss or loss of profits (direct or indirect) arising there from. For the avoidance of doubt, non-payment of money shall not be capable of being excused by force majeure unless the same is directly prevented by operation of law or government action.

- 13.2 If the failure to perform or delay in performance of the Contract continues for a continuous period in excess of 3 months then either party shall be entitled to give notice in writing to the other to terminate the Contract.

14. Use of Goods and RoHS Compliancy

- 14.1 Goods are not authorised for use in critical safety or other applications where a failure may reasonably be expected to result in personal injury, loss of life, or catastrophic property damage. If the Buyer uses or sells the Goods for use in any such applications, the Buyer acknowledges that such use or sale is at the Buyer's sole risk.
- 14.2 Customer will indemnify, defend and hold Cantium and the Goods manufacturer harmless from and against any and all liabilities and costs arising out of in connection with such use of sales.
- 14.3 The Buyer acknowledges that he is exclusively responsible for detailing the specification for all Goods ordered from Cantium, for ascertaining the use to which they will be put, and for determining their ability to function for that purpose. Accordingly (and without limiting the generality of the previous condition) Cantium has no liability arising out of any advice given by Cantium to the Buyer relating to his requirements in respect of any Goods.
- 14.4 It is Company policy to identify and offer goods to a Buyer as RoHS compliant or lead free, only after specific requirements have been met. Cantium performs no testing of goods and relies solely on the manufacturer of the goods for identification of RoHS compliance and for absence of lead, and makes no warranty, certification or declaration of compliance concerning the Goods. Goods are advertised or offered as RoHS compliant or lead free only after sufficient evidence is received from the component manufacturer. Any relevant evidence will be retained by Cantium.

15. GENERAL

- 15.1 The Buyer shall not be entitled to assign, charge, subcontract or transfer the Contract or any part of it without the prior written consent of Cantium.
- 15.2 Cantium may assign, charge, subcontract or transfer the Contract or any part of it to any person.

- 15.3 A person who is not a party to the Contract (including without limitation any employee, officer, agent, representative or sub contractor of either party) shall not have the right to enforce any term of the Contract which expressly or by implication confers a benefit on that person without the express prior agreement in writing of both Cantium and the Buyer and the Contracts (Rights of Third Parties) Act 1999 shall not apply for the benefit of any third party save that the benefit of these Conditions shall apply equally to any company which is Cantium's ultimate holding company or subsidiary company or subsidiary of Cantium's ultimate holding company which may be involved in the provision of the Goods and/or Services.
- 15.4 Each right or remedy of Cantium under these Conditions is without prejudice to any other right or remedy which Cantium may have under these Conditions or otherwise.
- 15.5 Cantium reserves the right to set-off for the Buyer, so that monies owed to Cantium by the Buyer can be off-set against any monies owed by Cantium to the Buyer.
- 15.6 Any notice or other document to be served under the Contract must be in writing and may be delivered or sent by prepaid first class post or by any form of electronic transmission. Any notice or document shall be deemed served, if delivered at the time of delivery, if posted, 48 hours after posting and if sent by facsimile transmission or Electronic Mail, at the time of transmission (provided that a valid transmission report can be produced).
- 15.7 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, unenforceable or unreasonable it will, to the extent of such illegality, invalidity, voidness, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 15.8 Failure or delay by either party in exercising any right or remedy provided by the Contract or by law will not be construed as a waiver of such right or remedy or a waiver of any other right or remedy.
- 15.9 Any waiver by either party of any breach of, or any default under, any provision of the Contract by the other party will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.
- 15.10A person who is not a party to the Contract will have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the

Contract. This clause 13.8 does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that act.

15.11 The Buyer agrees that it will have no remedy in respect of any untrue statement innocently or negligently made by or on behalf of Cantium prior to the Contract upon which the Buyer relied in entering into the Contract whether such statement was made orally or in writing.

15.12 The Contract will be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

16. COMPUTER SOFTWARE

16.1 Where any Goods supplied by Cantium embody, include or contain computer program(s) and/or related documentation the copyright in which is owned by a third party, all rights and liabilities associated with the use and/or reproduction thereof will be subject to the terms applicable end user licence to the exclusion of all liabilities and obligations on Cantium's part.

17. INTELLECTUAL PROPERTY

17.1 The Buyer will indemnify Cantium against all liabilities for infringement of third party intellectual property right arising from our compliance with the Buyer's specific requirements regarding design or specification for the Goods or arising from the use of the Goods in combination with other products except as aforesaid.

17.2 Cantium agrees to defend any action or proceedings brought against the Buyer insofar as the same are based on a claim that any Goods supplied hereunder infringe any United Kingdom intellectual property rights, provided we are notified immediately and in Writing of such claim and are given all such authority, information and assistance as is necessary for proper defence of the same.

17.3 Furthermore, Cantium will indemnify the Buyer against all damages and costs awarded against the Buyer in respect of any such claim provided that the same does not arise solely by reason of the use of the Goods in conjunction with other products or elements.

17.4 In the event that the Goods or the use thereof (subject as aforesaid) are held to constitute an infringement of any United Kingdom intellectual property rights and the use is thereby prevented, Cantium will at Cantium's own expense and at Cantium's option either procure for the Buyer the right to continue using the Goods, or replace the same with a non-infringing product, or modify the Goods so that they become non-infringing, or retake possession of the Goods and refund the purchase price there for.

17.5 Subject to the foregoing, Cantium shall be under no liability to the Buyer for any loss, damage or injury, whether direct or indirect, resulting from any intellectual property right infringements by the Goods.

18. DESCRIPTIVE MATTER AND ILLUSTRATIONS

18.1 All statements descriptions representations specifications performance figures drawings particulars weights and dimensions in any quotation catalogue advertisement price list leaflet or other publication or document issued by Cantium are approximate only and shall not be construed as enlarging varying or overriding these Conditions or of forming part of any contract between the Buyer and Cantium.

18.2 The property and copyright in all drawings specifications descriptions and other documents supplied by Cantium in relation to the Goods shall remain vested in Cantium.

18.3 Cantium reserves the right to update any specification of Goods (including any spare parts supplied) without notice to the Customer provided that the specification shall not be reduced nor changed from any specifically agreed specification.

19. PATENTS, TRADE MARKS ETC

19.1 The Buyer shall not claim ownership of any patents trade marks trade names copyrights know-how or designs (registered or unregistered) in relation to or as created pursuant to the Goods or Services and shall not take any action which might infringe any patent trade mark trade name copyright design or other form of protection for any invention discovery improvement design mark or logo in relation to the Goods and the Buyer shall indemnify Cantium and keep it indemnified from and against all costs claims liabilities proceedings damages and expenses arising directly or indirectly as a result of any breach of the foregoing obligation by the Buyer.

19.2 The Buyer shall notify Cantium immediately of any infringement or apparent or threatened infringement of or any actions claims or demands in relation to any patent trade mark trade name copyright design or other form of protection for any invention discovery improvement design mark or logo in relation to the Goods or Services and the Buyer shall provide Cantium at Cantium's expense with all assistance which Cantium may reasonably require in connection therewith including but not limited to the prosecution of any actions which Cantium may deem necessary for the protection of any rights in relation to the Goods and if so requested by Cantium in relation to any claim or action brought against the Buyer shall

authorise the conduct of the same and all negotiations for the settlement of the same by Cantium at the Cantium's expense.

20. EXPORT CONTROL

- 20.1 Cantium shall in no circumstances be liable for any damage, loss or claim occasioned by any act or omission on the part of the Buyer in contravention of any regulations issued by the United States Government concerning the export of Goods, services or technology.
- 20.2 Any Goods supplied by us whose export from the United Kingdom is restricted by any Government regulations shall not be exported by the Buyer without the prior approval of the relevant authorities concerned with the administration of such regulations.

21. BUYER'S ITEMS

- 21.1 Items supplied by the Buyer for the Contract shall be of suitable quality and shall be provided free of charge in sufficient quantities and at the times required by Cantium. Any defect in items provided by the Buyer shall not entitle the Buyer to rescind the Contract, reject the Goods, make deductions from the Contract price or claim damages in respect of such effect and the Buyer shall indemnify and keep Cantium indemnified from and against all action, demands, claims, losses or costs arising from the supply of defective items by the Buyer.

22. TERMINATION BY THE COMPANY

- 22.1 Cantium may, as it thinks fit, (without prejudice to any other rights or remedies it may have against the Buyer) immediately suspend further performance of the Contract or cancel any outstanding provision of the Services or delivery of the Goods or stop any Goods in transit or by notice in writing to the Buyer terminate the Contract without liability to Cantium if:
- 22.1.1 the Buyer commits a material breach of any of its obligations under the Contract which is incapable of remedy;
- 22.1.2 the Buyer fails to remedy a breach of its obligations under the Contract which is capable of remedy or persists in any breach of any of its obligations under the Contract after having been requested in writing by Cantium to remedy or desist from such breach within a period of 14 days;
- 22.1.3 any distress execution or diligence is levied upon any of the Buyer's goods or property and is not paid out within 7 days of its being levied;

- 22.1.4 the Buyer (being a partnership) or the Buyer's partner offers to make any arrangements with or for the benefit of the creditors of the Buyer or the Buyer's partner generally or there is presented in relation to the Buyer or the Buyer's partner a petition of bankruptcy;
- 22.1.5 the Buyer (being a limited company) is deemed to be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or the Customer calls a meeting for the purpose of passing a resolution to wind up its company, or such a resolution is passed (other than for a bona fide solvent amalgamation or reorganisation where the resulting company agrees to be bound by or to assume the obligations imposed on the Buyer under the Contract) or the Buyer has an administrative receiver or receiver or manager appointed to the whole or any part of the Buyer's business, undertaking, property or assets or if a notice of intention to appoint an administrator is given by the Buyer or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986) (as inserted by section 248 of the Enterprise Act 2002));
- 22.1.6 the Buyer ceases, or threatens to cease, to carry on business; or
- 22.1.7 Cantium reasonably believes that any of the events specified in Condition 22.1.1 to 22.1.6 above is about to occur in relation to the Buyer.

22.2 Notwithstanding any such termination or suspension in accordance with Conditions 10 or 22.1 above the Buyer shall pay Cantium at the Contract rate for all Goods delivered or Services provided up to and including the date of suspension or termination and the termination of the Contract or any contract for whatever reason shall not affect the rights or remedies of either party in respect of any antecedent breach or in respect of any sum owing or to become owing to the other.

23. DESCRIPTIVE MATTER AND ILLUSTRATIONS

23.1 All statements descriptions representations specifications performance figures drawings particulars weights and dimensions in any quotation catalogue advertisement price list leaflet or other publication or document issued by Cantium are approximate only and shall not be construed as enlarging varying or overriding these Conditions or of forming part of any contract between the Buyer and Cantium.

- 23.2 The property and copyright in all drawings specifications descriptions and other documents supplied by Cantium in relation to the Goods shall remain vested in Cantium.
- 23.3 Cantium reserves the right to update any specification of Goods (including any spare parts supplied) without notice to the Customer provided that the specification shall not be reduced nor changed from any specifically agreed specification.

24. PATENTS, TRADE MARKS ETC

- 24.1 The Buyer shall not claim ownership of any patents trade marks trade names copyrights know-how or designs (registered or unregistered) in relation to or as created pursuant to the Goods or Services and shall not take any action which might infringe any patent trade mark trade name copyright design or other form of protection for any invention discovery improvement design mark or logo in relation to the Goods and the Buyer shall indemnify Cantium and keep it indemnified from and against all costs claims liabilities proceedings damages and expenses arising directly or indirectly as a result of any breach of the foregoing obligation by the Buyer.
- 24.2 The Buyer shall notify Cantium immediately of any infringement or apparent or threatened infringement of or any actions claims or demands in relation to any patent trade mark trade name copyright design or other form of protection for any invention discovery improvement design mark or logo in relation to the Goods or Services and the Buyer shall provide Cantium at Cantium's expense with all assistance which Cantium may reasonably require in connection therewith including but not limited to the prosecution of any actions which Cantium may deem necessary for the protection of any rights in relation to the Goods and if so requested by Cantium in relation to any claim or action brought against the Buyer shall authorise the conduct of the same and all negotiations for the settlement of the same by Cantium at the Cantium's expense.

25. LIEN

- 25.1 In the event of the Buyer's insolvency Cantium shall be entitled (in addition to any lien arising by law) to a general lien on all the Buyer's Goods in Cantium's possession (although the same or some of them have been paid for) for any money due either in respect of such Goods or in respect of any general or particular balance or other money due from the Buyer to Cantium, whether under the same or any other order.

26. VALIDITY

26.1 In the event that any of these Conditions shall be held to be invalid, unlawful or unenforceable to any extent then such part of these Conditions shall be severed from the remaining Conditions which shall continue to be valid and enforceable to the fullest extent permitted by law.

27. LAW AND JURISDICTION

27.1 These Conditions and the Contract and all matters pertaining thereto shall be governed by English Law and the English courts shall have jurisdiction in relation thereto.

THESE CONDITIONS CONTAIN PROVISIONS EXCLUDING AND LIMITING LIABILITY. THE BUYER IS REFERRED IN PARTICULAR (BUT NOT EXCLUSIVELY) TO CLAUSES 2, 7, 8, **10** AND 13.

CONDITIONS OF SALE

Revised March 2008