Conditions of Sale

1. GENERAL
(a) In these General Conditions of Sale (the "Conditions"), the "Company" means Orbik Electronics Limited, the "goods" means any item of whatsoever nature which is to be supplied to the Purchaser by the Company in accordance with these Conditions, including any instalment or parts of the goods and the "Purchaser" means the person, firm or company who purchases or agrees to purchase the goods from the Company.
(b) These Conditions shall apply to and form part of every contract of sale entered into by the Company. The Company shall sell and the Purchaser shall purchase the goods in accordance with the Company's written quotation (if accepted by the Purchaser) or the Purchaser's written order (if accepted by the Company), subject in either case to these Conditions, which shall govern the contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made by the Purchaser.
(c) No variation of these Conditions shall be binding unless agreed in writing between the authorised representatives of the Purchaser and the Company.

2. LIMITS OF CONTRACT
(a) No order submitted by the Purchaser shall be deemed to be accepted by the Company until a written acknowledgment of order is issued by the Company or (if earlier) the Company delivers the goods to the Purchaser.
(b) Any quotation is given by the Company on the basis that no contract will come into existence until the Company dispatches an acknowledgement of order to the Purchaser.
(c) The Purchaser shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Purchaser, and for giving the Company any necessary information relating to the goods within a sufficient time to enable the Company to perform the contract in accordance with its terms.
(d) The quantity, quality and description of the goods and any specification for them shall be as set out in the Company's quotation (if accepted by the Purchaser) or the Purchaser's order (if accepted by the Company).

3. PRICES
(a) The price payable for goods shall unless otherwise stated by the Company in writing be the Company's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the list price of the Company current at the date of delivery or deemed delivery and in the case of an order for delivery by instalments the price payable for each instalment shall be the Company's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the list price of the Company current at the date of delivery of such instalment. Any prices quoted by the Company are valid for a period of 30 days only from the date of the quotation or until earlier acceptance by the Purchaser, provided that such prices have not previously been withdrawn by the Company, after which time they may be altered by the Company without giving notice to the Purchaser.
(b) Unless otherwise expressly stated to be firm for a period the Company's prices are subject to variation to take account of any increase in the cost to the Company which is due to any factor beyond the reasonable control of the Company (such as, without limitation, significant increases in the costs of labour, materials and other costs of manufacture) calculated by using the British Electrotechnical & Allied Manufacturers Association ("BEAMA") contract price adjustment clause and formulae. The Company reserves the right, by giving written notice to the Purchaser at any time before delivery, to increase the price of the goods accordingly.
(c) The Company also reserves the right, by giving written notice to the Purchaser at any time before delivery, to increase the price of the goods to reflect any increase in costs to the Company arising from any delay caused by any instructions of the Purchaser or any failure of the Purchaser to give the Company adequate information or instructions.
(d) The price for the goods shall be exclusive of value added tax and this will be charged at the applicable rate and recoverable by the Company in addition to the price.
(e) All invoiced price discrepancies must be notified by the Purchaser to the Company within 7 days of the date of invoice.

4. PAYMENT
(a) Unless otherwise agreed in writing between the Purchaser and the Company, the Company may invoice the Purchaser for the price of goods on or at any time after delivery of the goods, unless the goods are to be collected by the Purchaser or the Purchaser wrongfully fails to take delivery of the goods, in which event the Company shall be entitled to invoice the Purchaser for the price at any time after the Company has notified the Purchaser that the goods are ready for collection or (as the case may be) the Company has tendered delivery of the goods.
Unless otherwise agreed in writing, payment of the full price for the goods is due on or before the last working day of the month following the date of the invoice.
(c) Time for payment of the price shall be of the essence of the contract. Receipts for payment will only be issued on request.
(d) All payments payable to the Company under the contract shall become due immediately upon termination of the contract, despite any other provision of these Conditions.
(e) Without prejudice to any other rights it may have, if the Purchaser fails to make any payment when due in accordance with these Conditions, the Purchaser will be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 2% above the base rate of HSBC Bank PLC from time to time, accruing on a daily basis until payment is made, whether before or after any judgment. The Company also reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
(f) Additionally and without prejudice to its other rights the Company shall be entitled to recover all direct expenses reasonably incurred by the Company in collecting or attempting to collect amounts of the price outstanding.
(g) If the Purchaser fails to make any payment when due in accordance with these Conditions, the Company reserves the right in its absolute discretion and without prejudice to any of its other rights or remedies to suspend all further deliveries until such payment has been made in full together with any other amounts owing to the Company whether the due date for payment has been reached or not, if so requested by the Company or, at the Company's option, to cancel the balance of the order. In either case the Company shall hold the Purchaser liable for costs incurred in respect of goods in course of manufacture or ready for dispatch.
(h) The Company shall be entitled to bring an action for the price or part thereof whether or not delivery or deemed delivery has taken place and whether or not the property in the goods has passed.

5. PAYMENT DISPUTES AND DEBIT NOTES
(a) If the Purchaser operates a debit note system, debit notes will only be accepted by the Company if raised in respect of the following matters and otherwise in accordance with the provisions of this Condition 5:
(i) incorrect goods supplied, subject to the provisions of Condition 2;
(ii) pricing discrepancies, subject to the provisions of Condition 3;
(iii) delivery shortages, subject to the provisions of Condition 6;
(iv) non-delivery, subject to the provisions of Condition 8;
(v) damaged goods, subject to the provisions of Conditions 8 and 13;
(vi) faulty goods, subject to the provisions of Condition 13, and provided that if goods returned by the Purchaser have not been opened by the Purchaser, they will be returned to the Purchaser and no credit note will be issued by the Company; or
(vii) cancellation, subject to the provision of Condition 15, and provided that in each case, written evidence of the Company's consent to such cancellation is attached to the relevant debit note.
(b) All requests to return goods to the Company must be agreed in writing by the Company before any debit note is raised by the Purchaser.
(c) Debit notes will only be accepted by the Company if:
(i) they include details of the Company's invoice to which they relate;
(ii) they are received by the Company within 7 days of the date on which the invoice is due for payment by the Purchaser;
(iii) they are notified to the Company on the day that they are raised; and
(iv) they relate to the value of goods in dispute and not the value of the whole invoice (except where the value of the whole invoice is in dispute).
(d) In no circumstances will debit notes be accepted by the Company in relation to invoices which have either been subject to a prompt payment discount or which are the subject of a dispute raised by the Purchaser more than 5 days after the date on which the invoice is due for payment by the Purchaser.

6. DELIVERY
(a) Delivery of the goods shall be made by the Purchaser collecting the goods at the Company's premises within 14 days of the Company giving notice to the Purchaser that the goods are ready for collection or, if some other place for delivery is agreed by the Company, by the Company delivering goods to that place.
(b) Unless accepted by the Company in writing, all times or dates quoted for delivery of the goods are given in good faith but are approximate only and time for delivery shall not be of the essence of the contract. If no dates are so specified, delivery will be within a reasonable time. The goods may be delivered by the Company in advance of the quoted delivery date on giving reasonable notice to the Purchaser.
(c) All times or dates for delivery shall be calculated from the date of acceptance by the Company of the order of the Purchaser, or from the date of receipt by the Company from the Purchaser of all information, instructions and drawings as shall be necessary to enable the Company to carry out the order, whichever shall be the later.
(d) If the Company delivers to the Purchaser a quantity of goods of up to 5% more or less than the quantity ordered, the Purchaser shall not be entitled to object to or reject the goods or any of them by reason of the surplus or shortfall and shall pay for such goods at the pro rata contract rate.
(e) Unless otherwise stated in writing, the Company shall be entitled to make partial deliveries of the goods (delivery by instalments), provided that where goods are delivered in instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Purchaser in respect of any one or more instalments shall not entitle the Purchaser to treat the contract as a whole as repudiated.
(f) Any contract shall be subject to the Company being satisfied as to the Purchaser's credit references, and without prejudice to the generality of the foregoing, the Company may (in its absolute discretion), having informed the Purchaser that the goods are ready for dispatch, and notwithstanding any other provision of these Conditions, refrain from delivering the goods until such time as the Purchaser tenders the purchase money to the Company together with any outstanding amounts which may be due to the Company on any account whatsoever.

7. PACKING AND CARRIAGE
(a) The costs of crates, cases, pallets, stillages, skids or other such returnable packing will be charged to the Purchaser in addition to the price of the goods. Unless otherwise specified, full credit will be given to the Purchaser provided such packaging is returned, undamaged, to the Company (carriage paid), before the Purchaser's due payment date. No charge will be made by the Company by any other form of packaging and no credit will be allowed for its return.
(b) Where the value of any order exceeds £500.00 the cost of delivery of the goods to the Purchaser's premises on the mainland of Great Britain shall be included in the contract price. In all other cases, contract prices are exclusive of carriage and insurance to the Purchaser's premises.

8. NON-DELIVERY OR DAMAGE IN TRANSIT
(a) The quantity of any consignment of goods as recorded by the Company upon dispatch from the Company's place of business shall be conclusive evidence of the quantity received by the Purchaser on delivery unless the Purchaser can provide conclusive proof to the contrary.
(b) The Company shall not be liable for any non-delivery of goods unless written notice is given to the Company within 7 days of the date when the goods would in the ordinary course of events have been received.
(c) Any liability of the Company for non-delivery of the goods shall be limited to replacing the goods within a reasonable time or issuing a credit note at the pro-rata contract rate against any invoice raised for such goods.
(d) If the Purchaser fails to take delivery of the goods when they are ready for collection or the Company is unable to deliver the goods on time because the Purchaser has not provided appropriate delivery instructions, licences or authorisations, then, without limiting any other right or remedy available to the Company, the goods will be deemed to have been delivered and the Company may:
(i) store the goods at the Company's own premises or elsewhere on the Purchaser's behalf until actual delivery and charge the Purchaser for the reasonable costs (including insurance) of storage; or
(ii) sell the goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Purchaser for the excess over the price under the contract or charge the Purchaser for any shortfall below the price under the contract.
(e) When the price quoted includes delivery, the Company shall repair or replace free of charge goods damaged in transit provided that the Company is given written notification of such damage within 7 days of the date when the goods would in the ordinary course of events have been received.
(f) Subject to the provisions of Conditions 6 and 8, the Company will only consider claims for alleged shortage if they are received within 7 days of the receipt of the goods by the Purchaser together with sufficient information to enable the Company properly to identify the shortage including the Purchaser's Advice Note number, case number and condition of case. Where goods are collected by the Purchaser, no claim for shortage or damage will be considered.

9. SAMPLES
The Company shall provide samples of goods to the Purchaser on request. Samples will be charged for under the Company's normal terms. With the prior written agreement of the Company, samples may be returned to the Company and provided they are returned in good condition (in the reasonable opinion of the Company), the Purchaser will be credited in full for such samples.

10. VARIATIONS
(a) The Company shall be under no obligation to alter or vary any part of the contract or any work connected therewith. Any alteration to or addition to or amendment or other variation of the specification, including any increase or decrease in the quantity of the goods or any alteration to any drawings or to the quality, performance, weight or measurements of any goods or any alteration or variation of advised delivery schedules, shall, if requested by the Purchaser, be subject to the agreement of the Company, with such alteration or addition to the price and to delivery dates or schedules as may be required by the Company, and shall not be binding upon the Company unless and until accepted by the Company in writing.
(b) In the event of any variation or suspension of the work by the Purchaser's instructions or lack of instructions the Company shall be entitled to adjust the contract price to reflect any additional costs incurred, and to adjust delivery dates or schedules.

11. PERFORMANCE, INSPECTION AND TESTS
(a) Any data, technical information or performance figures provided by the Company are based on tests performed under standard conditions at the Company's premises. They are believed to be accurate but cannot be guaranteed under different conditions.
(b) The Company's products are carefully inspected, and, where practicable, submitted to its standard tests at the Company's place of business before dispatch. If tests other than those specified or tests in the presence of the Purchaser or its representatives are required, these will be charged for. In the event of any delay on the Purchaser's part in attending tests after the Purchaser has received 7 days' notice that the Company is ready to perform the tests, the tests will proceed in the Purchaser's absence and the Purchaser accordingly hereby agrees to accept and pay for such tests as if they had been performed in the Purchaser's presence.

12. DESCRIPTIVE MATTER AND ILLUSTRATIONS
(a) All descriptions and illustrations and particulars of weights and dimensions issued by the Company in catalogues, price lists, advertising matter and forwarding specifications are by way of general descriptions and approximate only, and shall not form part of any contract or give rise to any liability on the part of the Company.
(b) It is the policy of the Company to endeavour to develop and improve its products, and accordingly the Company reserves the right to change all specifications without prior notification or public announcement pursuant to such policy, provided that nothing in this Condition 12 shall oblige the Purchaser to accept goods that do not reasonably comply with the contract.

13. WARRANTY
(a) The Company will make good by repair, or at the Company's option by the supply of a replacement, defects which, under proper storage and use appear in the goods within the period of twelve calendar months after the goods have been delivered and arise solely from faulty design (other than design made or furnished by the Purchaser), materials or workmanship.
(b) The Warranty given in this clause is subject to the following provisos, namely:-
(i) that the Purchaser shall have followed all instructions issued by the Company in relation to the goods;
(ii) that in the case of defects which would have been reasonably apparent to the Purchaser on reasonable examination of the goods on delivery, the Purchaser shall notify the Company of the defects in writing within fourteen working days of delivery;
(iii) that in the case of any other defects, the Purchaser shall notify the Company of the defects in writing within seven working days of the date when the defect becomes apparent.

14. LIABILITY
(a) Subject as expressly provided in these Conditions, and except where the goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
(b) A claim by the Purchaser which is based on any defect in the quality or condition of the goods or their failure to correspond with specification shall (whether or not delivery is refused by the Purchaser) be notified to the Company within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Purchaser does not notify the Company accordingly, the Purchaser shall not be entitled to reject the goods and the Company shall have no liability for such defect or failure, and the Purchaser shall be bound to pay the price as if the goods had been delivered in accordance with the contract.
(c) 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 the Company in accordance with these Conditions, the Company may, at its option, repair or replace the goods (or the part in question) free of charge, or at the Company's sole discretion, refund to the Purchaser the price of the goods (or a proportionate part of the price), in which case the Company shall have no further liability to the Purchaser.
(d) Except in respect of death or personal injury caused by the Company's negligence, or liability for defective products under the Consumer Protection Act 1987, the Company shall not be liable whether in contract, tort or otherwise to the Purchaser by reason of any representation (unless fraudulent) or any warranty, condition or other term implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979), for any indirect, special, economic or consequential loss or damage (whether for loss of profit, loss of use, loss of production, loss of contract or otherwise) costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Company, its employees or agents or otherwise) which arise out of or in connection with supply of the goods or their use or resale by the Purchaser.

15. REJECTION
Unless otherwise agreed in writing, and subject to Condition 13 hereof, goods rejected as not complying with the contract must be rejected within 7 days of collection of the goods from the Company's premises or if some other place for delivery is agreed by the Company, delivery to that place.

16. CANCELLATION
(a) No order which has been accepted by the Company may be terminated by the Purchaser (whether by way of cancellation or otherwise) except with the prior written agreement of the Company (at the Company's sole discretion) and on terms that the Purchaser shall indemnify the Company in full against all loss (including loss of profit), costs, damages, charges and expenses incurred by the Company as a result of the cancellation.
(b) The provisions of Conditions 8(a) and 8(d) shall apply in relation to any goods which are the subject of a contract which is purportedly terminated by the Purchaser otherwise than in accordance with this Condition 15.

17. RETURN OF GOODS
(a) Subject to Conditions 8 and 13 hereof, in no circumstances may goods supplied in accordance with a binding contract for sale be returned without the Purchaser first having applied for and obtained the written consent of the Company, provided that:
(i) all goods returned must be in a resaleable condition, with undamaged cartons and must be in complete box quantities or minimum sales quantities;
(ii) goods that are specialised or that have been modified in any way from standard will not be eligible to be returned;
(iii) the Company will not collect goods from the Purchaser; and
(iv) a handling charge (to cover the Company's costs of restocking, transport and administration) will be deducted from any credit allowed by the Company; the handling charge will be calculated on the basis of 30% of the value of the returned goods, subject to a minimum handling charge in all cases of £100.
(v) luminaires that are sold within the UK when it reaches the end of its useful life, may be returned for recycling, subject to our Conditions of Sale.

18. INTELLECTUAL PROPERTY
(a) The Purchaser will indemnify the Company against all damages, penalties, costs, losses and expenses suffered by the Company, or for which it may become liable, in respect of the infringement of any intellectual property including (but without limitation) any patent, copyright, registered design, trade mark, trade name or knowhow arising out of the Company's manufacture of goods or the application of any process to the goods in accordance with any specification, design, drawings or other data supplied by the Purchaser or its servants or agents.
(b) All drawings descriptions and other information submitted by the Company, together with the copyright therein, shall remain the property of the Company.

19. FORCE MAJEURE
The Company shall be entitled without liability on its part and without prejudice to its other rights, to terminate the contract or any unfulfilled part thereof or at its option to suspend or make partial deliveries or extend the time or times for delivery, if the manufacture of the goods by the Company or the Company's suppliers, or the delivery of the goods or the performance by the Company of any of its obligations under the contract is hindered or delayed whether directly or indirectly by reason of the Purchaser failing to furnish necessary instructions or information, or by war or other hostilities, acts of terrorism, protests, riot, civil commotion, act of God, government action or legislation, interruption of transport, strike, fire, explosion, flood, epidemic lockout or other form of industrial action (including, without limitation, labour disputes with the Company's or any subcontractor's employees), accidents or stoppages to works, shortage of labour, materials, equipment, fuel or power, breakdown of machinery or any other cause whatsoever beyond the reasonable control of the Company or its subcontractors, whether or not such cause exists at the date of the order provided that if the event in question continues for a continuous period in excess of [90] days, the Purchaser shall be entitled to give notice in writing to the Company to terminate the contract.

20. PASSING OF PROPERTY AND RISK
(a) Risk of damage to or loss of the goods shall pass to the Purchaser:
(i) in the case of goods to be delivered at the Company's premises, at the time when the Company notifies the Purchaser that the goods are available for collection; or
(ii) in the case of goods to be delivered otherwise than at the Company's premises, at the time of delivery, or, if the Purchaser wrongfully fails to take delivery of the goods, the time when the Company has tendered delivery of the goods.
(b) Notwithstanding delivery and the passing of risk in the goods, or any other provision of these Conditions, the property in the goods shall not pass to the Purchaser until the Company has received in cash or cleared funds payment in full of the price of the goods and all other goods agreed to be sold by the Company to the Purchaser for which payment is then due.
(c) Until such time as the property in the goods passes to the Purchaser, the Purchaser shall hold the goods as the Company's fiduciary agent and bailee, and shall keep the goods separate from those of the Purchaser and third parties and properly stored, protected and insured and identified as the Company's property, but shall be entitled to resell or use the goods in the ordinary course of its business.
(d) Until such time as the property in the goods passes to the Purchaser (and provided the goods are still in existence and have not been resold), the Company shall be entitled at any time to require the Purchaser to deliver up the goods to the Company and, if the Purchaser fails to do so forthwith, to enter upon any premises of the Purchaser or any third party where the goods are stored and repossess the goods and the Purchaser grants to the Company and its agents and employees an irrevocable licence at any time to enter any premises where the goods are or may be stored in order to inspect them or, where the Purchaser's right to possession has terminated, to recover them.
(e) The Purchaser shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the goods which remain the property of the Company, but if the Purchaser does so all moneys owing by the Purchaser to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

21. INSOLVENCY OF PURCHASER
(a) This Condition applies if:
(i) the Purchaser becomes insolvent or makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
(ii) an encumbrancer takes possession, or a receiver or administrative receiver is appointed, of any of the property or assets of the Purchaser; or
(iii) the Purchaser ceases, or threatens to cease, to carry on business; or
(iv) the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Purchaser and notifies the Purchaser accordingly.
(b) If this Condition applies:
(i) without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the contract or suspend any further deliveries under the contract without any liability to the Purchaser, and if the goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary; and
(ii) the Purchaser shall have a duty to immediately bring to the notice of any receiver, administrator or any such person or persons appointed the existence and content of Condition 19 of these Conditions (Passing of Property and Risk) and the rights of the Purchaser to use or trade on the Company's goods shall immediately terminate and any such receiver, administrator or other person or persons appointed will not be entitled to use or to trade on the Company's goods unless so authorised in writing by the Company.

22. ARBITRATION
If at any time any question, dispute or difference whatsoever shall arise between the Purchaser and the Company upon or in relation to or in connection with the contract, either party may give the other notice in writing of the existence of such question, dispute or difference, and the same shall be referred to the arbitration of a person to be mutually agreed upon, or failing agreement within 30 days of receipt of such notice, of some person appointed by the President for the time being of the Chartered Institute of Arbitrators. A submission to arbitration under this Condition shall be deemed to be a submission to a sole arbitrator pursuant to the Arbitration Act 1996 or any statutory modification or re-enactment thereof. Any such arbitration shall be held in London, England.

23. GOVERNING LAW AND JURISDICTION
(a) All contracts to which these Conditions apply shall be governed by and construed in accordance with English Law.
(b) Subject to Condition 21 hereof, the Purchaser agrees to submit to the nonexclusive jurisdiction of the English courts.

24. MISCELLANEOUS
(a) Each right or remedy of the Company under the contract is without prejudice to any other right or remedy of the Company whether under the contract or not.
(b) A notice required or permitted to be given by either party to the other under these Conditions shall be in writing and addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Notices shall be deemed to have been received (i) if sent by prepaid first class post, 2 days after posting; (ii) if delivered by hand on a working day prior to 4:00pm, on the day of delivery and otherwise on the next working day; (iii) if sent by facsimile on a working day prior to 4:00pm, at the time of transmission and otherwise on the next working day.
(c) No waiver by the Company of any breach of the contract by the Purchaser shall be considered as a waiver of any subsequent breach of the same or any other provision.
(d) If any provision of these Conditions is held by a court or other competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the contract and the remainder of the provision in question shall not be affected.

April 2008