TERMS AND CONDITIONS OF SALE
COOPER CONTROLS LIMITED

Part A: CONDITIONS APPLICABLE TO ALL PURCHASERS

1. **Definitions and Interpretation**

1.1 In these Conditions, the following terms shall have the following meanings:
"**Account Customer**" means a Purchaser who has been approved (entirely within the Seller's discretion) by the Seller to hold a credit account;
"**Conditions**" means these terms and conditions of sale;
"**Consumer**" means any natural person who is acting for purposes which are outside his trade, business or profession;
"**Contract**" means the contract with the Seller which incorporates these Conditions;
"**Goods**" means all goods, including Software, works, labour materials or other things which the Seller is to supply to the Purchaser under the Contract, or which the Seller proposes to supply under any Quotation;
"**Intellectual Property Rights**" means all or any registered or unregistered intellectual property rights in any part of the world including trademarks, patents, design rights, copyrights, database rights, topography rights, know-how, rights in inventions and ideas and rights to confidence, together with any right to apply for any such intellectual property rights and the benefit of any applications for any such intellectual property rights;
"**Order**" means any order or offer from the Purchaser to purchase any Goods which is accepted by the Seller;
"**Price**" means the price for the Goods due under the Contract;
"**Purchaser**" means the person, firm or company designated on the Order;
"**Quotation**" means any quotation, estimate, or offer for the supply of any Goods by the Seller which incorporates or is made subject to these Conditions;
"**Seller**" means Cooper Controls Limited trading as Lightfactor or Lightprocessor;
"**Software**" means any software installed on the Goods.

1.2 In these Conditions, unless otherwise stated, references to:
1.2.1 the "**parties**" are references to the parties in this Contract;
1.2.2 a third party are references a person who is not party to this Contract;
1.2.3 "**persons**" and "**parties**" shall include references to individuals, companies, corporations, partnerships, unincorporated associations;
1.2.4 the singular shall include the plural and vice versa;
1.2.5 the "**subsidiary**" of a company shall mean a subsidiary as defined in Section 736 of the Companies Act 1985 and any other company which is a subsidiary (as so defined) of a company which is itself a subsidiary of such holding company; and
1.2.6 a statute, statutory instrument, regulation order or licence is a reference to that statute, statutory instrument, regulation, order or licence as substituted, varied or re-enacted from time to time.

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

1.4 The words "**include**" and "**including**" shall be construed without limitation.

2. **Application of Terms**

2.1 All terms and conditions of the Purchaser are hereby excluded. If you are a Consumer Part A of these Conditions apply. If you are not a Consumer Parts A and B of these Conditions apply and, in the event of any inconsistency, Part B takes precedence over Part A.

2.2 Unless stated to the contrary, all Quotations are valid for a period of 30 days from the date of the Quotation and may be withdrawn at any time. Quotations are not offers and are subject to confirmation of availability and price of the Goods by the Seller.

2.3 Each order or acceptance of a Quotation by the Purchaser from the Seller shall be deemed to be an offer by the Purchaser to buy the Goods subject to these Conditions. No order placed by the Purchaser shall be deemed to be accepted by the Seller until a written acknowledgement of order is issued by the Seller or (if earlier) the Seller arranges delivery of the Goods.

2.4 The Contract is the entire agreement and cancels all previous or collateral agreements or understandings between the parties relating to the subject of the Contract. Except for the express written terms of the Contract, the Purchaser agrees that in entering into the Contract it has not relied on any oral or written statement or representation from the Seller or any of the Seller's employees. Any terms or conditions proffered at any time by the Purchaser are hereby excluded. Any person submitting an Order on behalf of the Purchaser or signing the Contract warrant that he has the authority to do so on the Purchaser's behalf.

2.5 No variation of these Conditions shall be binding upon the Seller unless and until the variation has been accepted in writing by a duly authorised person on behalf of the Seller and the Purchaser.

3. **Description**

The Goods will be supplied as described in the Seller's product guides. Where the Seller is the manufacturer the right is reserved to make design changes provided that such design changes will not lower the performance of the Goods, affect their mechanical interchangeability or increase the Price. Where the Seller is not the manufacturer, goods will be those supplied to the manufacturer's current standard specification and finish.

4. **Delivery**

4.1 Unless otherwise agreed in writing, the Seller will arrange delivery of the Goods to the delivery address specified by the Purchaser on the Order and the cost of such delivery, including but not limited to any insurance and transit costs and taxes, shall be paid to the Seller by the Purchaser in addition to the Price.

4.2 The Seller will endeavour to comply with any dates specified for delivery of the Goods but the Purchaser expressly acknowledges that any dates specified by the Seller for delivery of the Goods are intended to be an estimate only and time for delivery shall not be made of the essence by notice. If no dates are specified, time for delivery shall be within a reasonable time.

4.3 Any delay in delivery shall not entitle the Purchaser to terminate or rescind the Contract.

4.4 If for any reason the Purchaser fails to accept delivery of any of the Goods when they are ready for delivery:
4.4.1 risk in the Goods shall pass to the Purchaser;
4.4.2 the Goods shall be deemed to have been delivered; and
4.4.3 the Seller may store the Goods until delivery whereupon the Purchaser shall be liable for all related costs and expenses (including storage and insurance).

4.5 The Seller shall not be liable for any non-delivery of Goods (even if caused by the Seller's negligence) unless the Purchaser gives written notice to the Seller of the non-delivery within 10 days of the date of, in the case of an Account Customer, the date of the invoice in relation to the Goods and, in the case of all other Purchasers, the date on which the Goods would in the ordinary course of events have been received. Any notification shall, in the case of an Account Customer, include the invoice number and, in the case of all other Purchasers, include any Quotation and/or Order number.

4.6 The Seller may deliver the Goods by separate consignments. Each separate consignment shall be invoiced and paid for in accordance with the provisions of the Contract.

4.7 Each consignment shall be a separate contract and no cancellation or termination of any one contract relating to a consignment shall entitle the Purchaser to cancel or repudiate any other contract or consignment.

5. **Software Licence**

5.1 The Seller hereby grants to the Purchaser a perpetual, non-exclusive licence to use the Software in conjunction with the use of the Goods only.

5.2 The Purchaser shall not (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole or in part.

5.3 For the avoidance of doubt, the Purchaser acknowledges that all title, ownership, rights and interests in the Software belong and shall belong to the Seller, and the Purchaser shall have no rights in or to the Software other than the right to use it in accordance with the terms of this licence.

6. **Price and Payment**

6.1 The Purchaser shall pay the Price together with any additional sums due to the Seller, in accordance with the terms of the Contract. Where there are no express payment terms stated in the Contract, the terms of this Condition 6 shall apply.

6.2 The Price and any additional sums due to the Seller shall be exclusive of any value added tax which the Seller may charge in addition to the Price at the applicable rate.

6.3 The Seller may invoice for the Price or any part of the Price on making the Goods ready for delivery or, where delivery is to occur in more than one batch, at any time prior to delivery.

6.4 Unless Condition 6.5 applies, the Price and any additional sums due to the Seller (together with any VAT) shall be payable in cash or cleared funds when the Goods are made ready for delivery.

6.5 If the Purchaser is an Account Customer, the Purchaser may be permitted to pay the Price (together with any VAT and other sums due) within 30 days (unless otherwise agreed in writing by the Seller) of the date of the invoice submitted by the Seller to the Purchaser. The Seller shall be entitled at any time and for any reason entirely within its discretion to require an Account Customer to make payment in accordance with the provisions of Condition 6.4

6.6 If any amount payable by the Purchaser under the Contract becomes overdue, then:
6.6.1 interest shall accrue daily from (and including) the date on which the amount fell due up to (but excluding) the date on which the amount is paid in cash or cleared funds (both before and after judgment) at a rate of 4% per annum above the base rate of the Bank of England from time to time in force; and
6.6.2 the Seller shall have the right to suspend all deliveries until payment of all outstanding amounts has been made in full.

6.7 If the Seller has agreed to any discount(s) on the Price, such discount(s) shall only apply where payment is made in accordance with Condition 6.4 or 6.5.

7. **Title and Risk**

7.1 Risk of damage to or loss of the Goods supplied under this Contract shall pass to the Purchaser immediately on the Goods being made ready for delivery to the Purchaser.

7.2 Property in the Goods will pass to the Purchaser only when the Goods have been paid for in full.

7.3 Until ownership of the Goods has passed to the Purchaser, the Seller shall be entitled to repossess the Goods.

8. **Warranty**

8.1 Where the Seller is not the manufacturer of the Goods, the Seller shall endeavour to transfer to the Purchaser the benefit of any warranty or guarantee given to the Seller.

8.2 The Seller warrants that (subject to the other provisions of these Conditions) upon delivery, and for a period of twelve months from the date of delivery, the Goods shall comply with all terms implied into the Contract by law as to the quality or condition of the Goods or the Purchaser's rights under the Sale of Goods Act 1979. In particular, the following terms are implied by law into this Contract under the Sale of Goods Act 1979: that the Goods will correspond with their description, be of satisfactory quality and correspond to any samples provided.

8.3 The Seller shall not be liable for a breach of the warranties in Condition 8.2 if:
8.3.1 the Purchaser makes any further use of such Goods after giving such notice; or
8.3.2 the defect arises because the Purchaser failed to follow the Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
8.3.3 the Purchaser modifies, alters or repairs such Goods without the written consent of the Seller.

8.4 Any Goods replaced shall belong to the Seller and any repaired or replacement Goods shall be guaranteed on the terms set out in this Condition 8 (or where applicable Condition 18) for the unexpired portion of the twelve month period.

8.5 In the event that the Purchaser wishes to return any Goods to the Seller under the terms of this Condition 8 it must comply with the procedure set out at Condition 10.4.

8.6 Following receipt of the Goods it shall be for the Seller to determine in its sole discretion whether the Goods should be repaired under the terms of this warranty.

8.7 In the event that the Seller determines that the defect in the Goods does not fall under the warranty provisions set out at this Condition 8 the Seller shall contact the Purchaser with an estimate of the cost of repairing the Goods. If the Purchaser does not confirm to the Seller whether or not any repairs to the Goods are to be carried within 3 months of receiving such estimate from the Seller, the Seller shall be entitled to deal with the Goods in any way it wishes and shall have no liability to the Purchaser in relation to such Goods or otherwise.

9. **Force Majeure**

9.1 The Seller shall have no liability in respect of failure to deliver or perform, or delay in delivery or performing any obligation under the Contract due to any cause outside the reasonable control of the Seller including acts of God, fire, floods, war and civil disturbances or riot, acts of Government, currency restriction, labour disputes, strikes, unavailability of materials or failure of supplier, carrier of sub contractor to deliver on time.

9.2 The Seller shall not be liable for failure to execute or for any delays in executing the Contract (including failures and delays affecting its hauliers) due directly or indirectly to war, terrorism, the threat of terrorism, industrial action, changes to legislation or official regulation, adverse weather, unavailability of power or other resources, fire, accident or theft, or any event outside the Seller's control. If any of such events has the effect of reducing the resources, aggregates, capacity or vehicles available to the Seller, the Seller may decide which of its contracts with the Purchaser and third parties to perform and when in its sole discretion.

10. **Cancellation or return by the Purchaser**

10.1 The Purchaser shall not be permitted to cancel any Order without the prior consent of the Seller, which shall be entirely within the Seller's discretion. The Seller shall not permit the Purchaser to cancel any Order for Goods which are not included within the Seller's product guides.

10.2 If the Seller permits the Purchaser to cancel an Order for Goods which are included within the Seller's product guides it shall be entitled to charge the Purchaser for all its out-of-pocket costs and expenses of whatever nature together with a reasonable administration fee.

10.3 The Seller shall not be obliged to accept any returns of any Goods, save as otherwise provided for in Condition 8.2. In the event that the Seller permits the Purchaser to return any or all of the Goods it shall only accept such Goods where the Purchaser follows the returns procedure set out in Condition 10.4. The Seller shall refund the Price to the Purchaser, less a reasonable administrative charge in dealing with the return and refund of the Goods, which shall be no more than 15% of the Price plus VAT.

10.4 If the Purchaser wishes to return any Goods to the Seller it shall:
10.4.1 telephone the Seller to request a Returns Material Authorisation number ("**RMA Number**"); and
10.4.2 following receipt of the RMA Number, return the Goods in their original state and in an unused condition quoting the RMA Number.

11. **Termination**

11.1 The Seller shall have the right to terminate the Contract immediately if any of the following events occur, each of which shall be deemed to be a repudiatory breach by the Purchaser:
11.1.1 the Price or any other amounts payable by the Purchaser become overdue;
11.1.2 the Purchaser is in any other breach of the Contract (however minor), where such breach is either not capable of remedy, or if capable of remedy is not remedied within 30 days' notice of the breach being given by the Seller to the Purchaser;
11.1.3 where the Purchaser is an individual (or any partner, if the Purchaser is a partnership), shall become unable to pay its debts (within the meaning of Section 268 of the Insolvency Act 1986), or commits any act of bankruptcy, or makes a voluntary arrangement with its creditors or if any equivalent or analogous event happens to the Purchaser under the laws any relevant jurisdiction; or
11.1.4 where the Purchaser becomes unable to pay its debts (within the meaning of Section 123 of the Insolvency Act 1986), or is liquidated, wound up or has a petition for winding up presented against it, or has a petition for the appointment of an administrator presented against it, or has an administrator or administrative receiver appointed in respect of all or any of its undertaking or assets, or is subject to an interim order or makes any arrangement or otherwise compounds or compromises with its creditors or if any equivalent or analogous event happens to the Purchaser under the laws any relevant jurisdiction.

11.2 The Seller shall be entitled to suspend further performance of the Contract for such period of time as it may determine if the Seller has at any time any right to terminate the Contract under Condition 11.1. Such suspension and any lifting of such suspension shall not prejudice any rights of the Seller under Condition 11.1 or otherwise.

12. **Intellectual Property**

The Purchaser acknowledges that all Intellectual Property Rights in connection with the Goods shall at all times vest in the Seller as between the Purchaser and the Seller. To the extent that it is legally able to do so, the Seller hereby grants to the Purchaser a non-exclusive, non-transferable, royalty-free licence to use the Goods solely for the purpose of and to the extent that such licence is necessary for using the Goods.

13. **General**

13.1 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

13.2 The Purchaser shall not assign, transfer, charge, or declare a trust over the Contract or any rights under the Contract without the written consent of the Seller.

13.3 Failure or delay by the Seller in enforcing or partially enforcing any provision of the Contract against the Purchaser shall not be construed as a waiver of any of its rights under the Contract. Any waiver by the Seller of any breach of, or any default under, any provision of the Contract by the Purchaser shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

13.4 Each right or remedy of the Seller under the Contract is without prejudice to any other right or remedy of the Seller whether under the Contract or not.

13.5 Each of the terms of the Contract is separate and severable. If any term is held to be void or invalid by any court, it shall be severed from the Contract, and the remaining terms of the Contract shall continue in full force and effect.

13.6 Notices under the Contract shall be in writing and sent by hand, recorded delivery, first class post or fax to the other party at its address stated in the Contract, or such other address as that party may notify to the other party to be its address for notices from time to time, or addressed to the managing director or company secretary at the registered office of a party. Notices shall be deemed to be received: if sent by hand, or recorded delivery, on delivery; if sent by first class post, on the 2nd day following the day of posting; if sent by facsimile, on completion of uninterrupted transmission.

14. **Law**

The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties hereby submit to the non-exclusive jurisdiction of the English courts.

Part B: ADDITIONAL CONDITIONS APPLICABLE TO NON-CONSUMERS

15. **Description**

15.1 The Goods will be supplied substantially as described in the Seller's product guides or in accordance with an agreed specification. Where the Seller is the manufacturer the right is reserved to make design changes provided that such design changes will not lower the performance of the Goods, affect their mechanical interchangeability or increase the Price. Where the Seller is not the manufacturer, goods will be those supplied to the manufacturer's current standard specification and finish.

15.2 The Seller shall make every reasonable effort to ensure the accuracy of technical data or literature relating to the Goods, but the Seller's liability shall be limited as set out in Condition 19.

16. **Price and Payment**

16.1 Any release documentation and Certificates of Conformity for items supplied from bonded stock will normally be provided free of charge, but the Seller reserves the right to charge the Purchaser for such documentation.

16.2 If any amount payable by the Purchaser under the Contract becomes overdue, then:
16.2.1 Interest shall accrue daily from (and including) the date on which the amount fell due up to (but excluding) the date on which the amount is paid in cash or cleared funds (both before and after judgment) at a per-annum rate equal to the rate of statutory interest from time to time under the Late Payment of Commercial Debts (Interest) Act 1998;
16.2.2 the Seller shall have the right to suspend all deliveries until payment of all outstanding amounts has been made in full; and
16.2.3 All sums owed by the Purchaser to the Seller whether under this Contract or any other contract shall immediately become due and payable in full.

16.3 The Purchaser shall pay the Price in full without any set-off, counterclaim, deduction or withholding.

16.4 The Purchaser shall pay the Seller's costs and expenses (including legal costs) in enforcing payment of the Price and repossessing any Goods where it is entitled to do so.

17. **Title**

17.1 Property in the Goods will pass to the Purchaser only when:
17.1.1 the Goods the subject of this Contract; and
all other goods the subject of any other contract between the Seller and the Purchaser which, at the time for payment of the Price, have been delivered to the Purchaser but not paid in full, have been paid for in full.

17.2 Until ownership of the Goods has passed to the Purchaser, the Purchaser shall:
17.2.1 hold the Goods on a fiduciary basis as the Seller's bailee; and
17.2.2 maintain the Goods in a satisfactory condition, keep them insured on the Seller's behalf for their full value and store the Goods (at no cost to the Seller) separately from all other goods of the Purchaser or any third party in such a way that they remain readily identifiable as the Seller's property.

17.3 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:
17.3.1 any sale shall be effected in the ordinary course of the Purchaser's business at full market value; and
17.3.2 any such sale shall be a sale of the Seller's property on the Purchaser's own behalf and the Purchaser shall deal as principal when making such a sale.

17.4 The Purchaser's right to possession of the Goods shall terminate immediately on notice from the Seller or automatically:
17.4.1 on the presentation of a petition for the winding up of the Purchaser or for the appointment of an Administrator of its undertaking or if the Purchaser has an Administrator, Receiver, or Administrative Receiver appointed over any of its assets or undertaking or it goes into voluntary liquidation (other than for the purposes of a bona fide reconstruction or amalgamation of a solvent supplier) or if the Purchaser ceases to carry on business or if any equivalent or analogous event happens to the Purchaser under the laws any relevant jurisdiction;
17.4.2 if the Purchaser suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Seller and the Purchaser, or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or the Purchaser ceases to trade; or
17.4.3 if the Purchaser encumbers or in any way charges any of the Goods.

17.5 The Seller shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Seller.

17.6 The Purchaser grants the Seller, its agents and employees an irrevocable licence at any time to enter any vehicles or 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.

18. **Warranty**

18.1 In the case of Goods not manufactured by the Seller, the Seller's liability to the Purchaser shall in no circumstances extend beyond the liability to the Seller of the manufacturer of such Goods.

18.2 The Seller warrants that (subject to the other provisions of these Conditions) upon delivery, and for a period of twelve months from the date of delivery, the Goods shall:
18.2.1 be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
18.2.2 be reasonably fit for their purpose.

18.3 The Seller shall not be liable for a breach of the warranties in Condition 18.2 unless:
18.3.1 the Purchaser gives written notice of any defect to the Seller and, if the defect is as a result of damage in transit to the carrier, within 48 hours of the Goods being made ready for delivery; and
18.3.2 the Seller is given a reasonable opportunity after receiving the notice of examining such Goods and the Purchaser (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Purchaser's cost for the examination to take place there.

18.4 The Seller shall not be liable for a breach of the warranties in Condition 18.2 if:
18.4.1 the Purchaser makes any further use of such Goods after giving such notice; or
18.4.2 the defect arises because the Purchaser failed to follow the Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
18.4.3 the Purchaser modifies, alters or repairs such Goods without the written consent of the Seller.

18.5 Subject to Conditions 18.2 and 18.3, if any of the Goods do not conform with the warranties in Condition 18.2 the Seller shall at its sole option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Seller so requests, the Purchaser shall, at the Purchaser's expense, return the Goods or the part of such Goods which is defective to the Seller.

18.6 In the event that, on testing by the Seller, the Goods are found not to be defective, the Seller shall return such Goods to the Purchaser and the Purchaser shall be liable to pay the Seller forthwith on an indemnity basis the cost of all testing, transportation and other costs and expenses incurred by the Seller, together with a reasonable administration fee.

18.7 If the Seller complies with Condition 18.5 it shall have no further liability for a breach of any of the warranties in Condition 18.2 in respect of such Goods. All other representations warranties, conditions, terms and statements as regards the same express or implied statutory or otherwise are excluded. The Seller is under no further liability in contract or otherwise for any loss, damage or injury arising directly or indirectly from or in relation to the quality, fitness or description of the goods and their correspondence with sample.

19. **Limitation and Exclusion of Liability**

19.1 In this Condition 19 a "**Default Event**" means any breach of the Contract or any collateral agreement by the Seller, any non-conformity of the Goods with the requirements of the Contract, any negligence (including negligent misstatement) or breach of statutory duty by the Seller in performing or otherwise in connection with the Contract, the acts or omissions of the Seller's officers, employees, agents and contractors in the course of performance of or otherwise in connection with the Contract, and any accidental and negligent misrepresentation in connection with the Contract; and "**Default Liability**" means any liability of the Seller for or arising out of any Default Event, in each case whether such liability is in contract, tort, statute or otherwise howsoever.

19.2 Nothing in the Contract excludes or limits the Default Liability of the Seller:
19.2.1 to any individual for death or personal injury caused to that individual caused by the Seller's negligence, or breach of any duty under Part I of the Consumer Protection Act 1987; or
19.2.2 for fraud or fraudulent misrepresentation; or
19.2.3 to refund all or any part of the Price.

19.3 The Seller excludes any Default Liability to the Purchaser for any:
19.3.1 loss of profit (actual or anticipated), loss of use, loss of bargain, loss of anticipated savings, loss of data, loss of revenue, loss of production, loss of business, loss of goodwill or loss of contract;
19.3.2 increased, wasted or reliance costs or expenditure;
19.3.3 liability of the Purchaser to any third party, and any loss, damage or liability suffered by any third party; and
19.3.4 consequential, indirect or special loss.

19.4 Subject to Condition 19.3, the Seller's total Default Liability to the Purchaser shall be limited in aggregate for all Default Events giving rise to Default Liability to the Price to be paid under the Contract.

19.5 All warranties, conditions, and terms implied by statute, common law, custom, trade or otherwise with respect to the condition, standard, quality, performance, operation, fitness for purpose or suitability of the Goods are excluded to the fullest extent permitted by law.

20. **Indemnity**

The Purchaser shall full indemnify the Seller and keep the Seller fully indemnified on demand from and against any liability which the Seller may have to any third party for any loss or damage caused by the Goods or otherwise arising in relation to the Goods or their subsequent use by the Purchaser or any third party occurring following delivery of the Goods.