

# Licensed Membership Rules

Including Customer Charter



ASSOCIATION OF PLUMBING  
& HEATING CONTRACTORS

## **INTRODUCTION**

APHC - Association of Plumbing and Heating Contractors - is the leading Trade Association for the Plumbing and Central Heating Industry in England and Wales.

In these rules APHC is defined as APHC Ltd. operating licensed membership.

Licensed membership provides a range of core trade association benefits and services to employer member companies and enables member firms to promote themselves as 'Licensed Member' firms to prospective customers. In order to be 'Licensed' with APHC the plumbing business (member firm) must meet the minimum operating rules laid down in this document.

### **1. REQUIREMENTS FOR APHC LICENSED MEMBERSHIP**

#### **1.1 General Points at Application**

The firm must:

- 1.1.1 if it is an applicant firm that holds, has held or has been expelled from membership or membership with a similar building services trade body or other business certification scheme, declare that fact to APHC at the point of initial application; and
- 1.1.2 present key business details including business name, business address, contact telephone number on all business stationery used to communicate with customers; and
- 1.1.3 carry out its trading activities to meet the minimum standards laid down in the APHC Customer Charter; and
- 1.1.4 maintain membership with the current gas registration provider where gas work is undertaken; and
- 1.1.5 make an application under the scheme for each trading title and each trading address (branch or depot) associated with the firm.

#### **1.2 Business Standards**

The firm must:

##### **1.2.1 Performance Standards**

Directly engage, and continue to be directly engaged in plumbing, heating and mechanical services related work which must at all times be designed, installed commissioned and maintained to agreed industry standards e.g. Building Regulations, Water Regulations and appropriate supporting British Standards. Feedback on current key regulations and standards can be obtained from the APHC Technical Services Department.

Notify (self certify) all plumbing, heating and mechanical services work where required by statute law.

Accept that whilst APHC uses all reasonable care to assess the technical standard of the firm's work, it is not responsible for, or liable for the technical standard of the firm's work.

### **1.2.2 Standards Documentation, Tools and Equipment**

Have access to current copies of relevant regulations/standards reference documents e.g. Building Regulations Approved Documents in order to satisfactorily carry out the range of work activities that the firm normally undertakes.

Ensure that a maintenance and calibration programme for commissioning instruments (requiring calibration) is in place and maintain a log of all commissioning instruments detailing maintenance/calibration activities.

### **1.2.3 Business Insurance**

Have a minimum level of current public liability insurance cover commensurate with the range and scope of plumbing, heating and mechanical services related work undertaken by the firm. Minimum cover should be no less than £2M.

Have employer's liability insurance where plumbing operatives are employed in the firm. Have professional indemnity insurance where design only type work is undertaken.

### **1.2.4 Health & Safety**

Have a written health and safety policy statement and carry out risk assessments (where required by statute law).

### **1.2.5 Staff Competence**

An APHC Licensed Member firm must employ operatives to carry out plumbing, heating and mechanical services related work who are competent and/or adequately supervised to ensure the safety of personnel (customers, the public & co-workers) during and on completion of the work. The recommended minimum qualification level for working principals or their lead supervisors is an NVQ Level 2 (or pre-1995 basic craft certificate) in plumbing, heating & ventilating or gas fitting.

Alternatively APHC Licensed Membership operates an on-site assessment entry route which involves an assessment of current skills, knowledge and experience as well as reviewing a sample of work completed as part of the initial application process.

Note: The qualifications of all working principals/ experience (making the application for membership) will be checked on initial application.

## **1.3 Additional Requirements of Ongoing Membership**

The member firm must at all times continue to meet the requirements for membership as detailed in items 1.1 & 1.2 and in addition must:

- 1.3.1 notify APHC of any changes to membership details within 25 days of the change occurring. APHC will decide if a new application or any additional assessment will be necessary, and
- 1.3.2 carry out remedial action in order to maintain membership as required by APHC for items which do not comply with these Rules.

## **2. SUBCONTRACTING**

- 2.1 A member firm that subcontracts domestic plumbing & heating related work to another firm must remain fully responsible for that work.
- 2.2 The member firm subcontracting the work must establish procedures to ensure that the subcontracted organisation is itself competent to carry out the work.

## **3. COMPLAINTS AGAINST MEMBER FIRMS**

### **3.1 Customer Complaints**

The firm must:

- 3.1.1 have a customer complaints procedure meeting the minimum requirements as laid down in the document APHC – minimum requirements for a customer complaints procedure – available on request or downloadable from the website.
- 3.1.2 maintain a log of all customer complaints received, relevant paperwork associated with the complaint and the resolution action taken by the member firm.

### **3.2 Complaint Handling**

- 3.2.1 The member firm is required to investigate complaints of a technical nature related to breaches of regulation/standard requirements and is also required to investigate complaints related to poor standards of customer service under the requirements of the APHC Customer Charter.
- 3.2.2 When a member firm receives a complaint then the complaint must be dealt with using procedures designed to meet the minimum requirements laid down in the document APHC – minimum requirements for a customer complaints procedure. In the event that the member firm cannot resolve the complaint then the member firm should refer the complainant to APHC who operate a complaint conciliation service.
- 3.2.3 When APHC receives a complaint alleging that plumbing, heating & mechanical services work carried out by a member firm does not meet with scheme requirements or demonstrates poor levels of customer service, the member firm must co-operate with APHC in resolving the complaint.
- 3.2.4 If the member firm fails to co-operate with APHC, the member firm will face disciplinary action under scheme disciplinary arrangements.

### **3.3 Complaint Investigations**

- 3.3.1 APHC personnel will investigate any complaint alleging that plumbing, heating & mechanical services work carried out by a member firm does not comply with scheme technical requirements or demonstrates poor levels of customer service. The member firm shall respond promptly to queries from APHC (within a 14 day period) relating to a complaint. An investigation may require submission of documentation and/or a site inspection to be carried out, the site investigation will be met at APHC's expense, and the member firm will ensure that an appointed person is present during any site investigation.

- 3.3.2 If a complaint (including possible site) investigation and subsequent report shows that a member firm's domestic plumbing & heating work does not comply with scheme requirements, the member firm will, at its own expense, complete remedial action as required by APHC. Arrangements must be made with the customer within a 14 day period to undertake the remedial work or an appeal against the decision must be made to the APHC Board of Directors.
- 3.3.3 In the event that arrangements to progress the remedial work are not established during the 14 day period or are not progressed within a 30 day period following an appeal hearing during which the APHC Board of Directors uphold the schedule of remedial works to be carried out, the member firm will have their membership terminated.
- 3.3.4 In the event that the complainant does not agree with the findings of an investigation conducted by APHC personnel into a complaint raised over work carried out by a member company, then he/she will have the right of appeal which should be made directly to the APHC Board of Directors. The appeal must clearly state the grounds for the appeal and the reasons why the appeal has been made. The decision of the APHC Board of Directors will be final.

#### **4. DISCIPLINARY ACTION BY APHC**

4.1 APHC may take disciplinary action against member firms in the event that the firm:

- fails to comply with these rules; or
- makes a willful or negligent misrepresentation on its initial application or annual monitoring documentation; or
- designs, installs or commissions plumbing & heating systems components and equipment in breach of regulation and standards requirements; or
- has performed an act which is contrary or prejudicial to the objects of APHC including issues related to customer care; or
- is unable to pay its debts or becomes insolvent.

4.2 In circumstances where it becomes apparent that there may have been a breach of scheme requirements. APHC officials may implement disciplinary action against the member firm, disciplinary action based on a three tier (or action level) approach.

Examples of disciplinary action –

a. Insufficient detail or case unfounded

On reviewing a disciplinary case APHC concludes the case is unfounded or there is insufficient information to make a decision.

Outcome – no disciplinary action taken.

b. 1st action (advisory) level – verbal notice

On reviewing a disciplinary case APHC conclude that minor infringements have taken place, examples include –

- Minor technical issues related to work carried out.
- Minor issues related to poor customer service standards.
- Work has been undertaken under the Building Regulations that has not been notified.

Outcome – verbal instruction of business improvement actions to be made by the member firm, confirmed in writing to the member.

c. 2nd action level – serious warning notice

On reviewing a disciplinary case APHC conclude that major infringements of the scheme requirements have taken place or a number of 1st action notices have been issued. Examples include –

- Major technical issues related to work carried out.
- Major issues related to poor customer service standards.
- The issue of two or more first action level notices.
- Failure to provide required information to confirm the firm’s ability to comply with the APHC Membership Scheme Rules.

Outcome – formal written notice of urgent business improvement actions to be taken emphasising the need to take remedial action, the result of a re-occurrence/non-provision of information being expulsion.

d. 3rd action level – expulsion from membership

On reviewing a disciplinary case APHC conclude that very serious infringements of scheme requirements have taken place or more than one second action level notice has been issued.

Examples include

- Very serious technical issues such as those posing a threat to life.
- Very serious customer service issues – insolvency in which there is a failure to communicate with the customer, criminal conviction relating to the firm’s business activities e.g. fraud.
- Failure to meet the requirements of a second action level notice.
- Failure under the complaints procedure (and following the issue of standard correspondence) by the member firm to undertake remedial action as outlined under the scheme requirements.

Outcome – expulsion from membership.

Note: In certain 3rd action level cases APHC reserves the right to place the firm’s membership in suspense during the period in which disciplinary action is being considered, this course of action will be progressed by the Chief Executive Officer.

## **5. CANCELLATION OF MEMBERSHIP BY A MEMBER FIRM**

Any resignation of a member firm must be made to APHC in writing by the member firm and any outstanding fees for the annual membership period must be paid in full.

## **6. APPEALS AGAINST APHC DECISIONS**

- 6.1 A firm may make written representation to APHC against any decision made by APHC to refuse the firm’s application for membership or to cancel the firm’s membership under the schemes. The written representation must include full reasons (or grounds) for such representation and must be sent to APHC, by recorded delivery, within 14 days of the date of notification of the APHC decision. APHC will make a ruling on the representation submitted.
- 6.2 If the firm does not accept the ruling, it may make a written appeal which shall be heard by the APHC Board of Directors. The grounds for appeal including all supporting documentation must be sent to the Board of Directors of APHC, by recorded delivery, within 20 days of the date of notification of the ruling.

- 6.3 An appeal against disciplinary action taken by APHC may be made directly to the APHC Board of Directors. The grounds for appeal including all supporting documentation must be sent to the Board of Directors of APHC, by recorded delivery, within 10 days of the disciplinary action being taken.

## **7. USE OF APHC TRADE MARKS**

- 7.1 APHC Ltd. is the owner of the 'Licensed Membership' Trade Marks. All rights, title and interest in the scheme Trade Marks is reserved and belongs absolutely to APHC.
- 7.2 Each member firm is granted a non-exclusive, non-transferable, license to use the Trade Marks only whilst in licensed membership to which the member firm is approved and as designated in the leaflet use of APHC Ltd. Trade Marks. When a firm terminates or has its license cancelled, its license to use the Trade Marks ceases with immediate effect. The firm must immediately cease all use of the Trade Marks including their complete removal from all stationery materials and the firm's equipment such as company vehicles.
- 7.3 Member firms must not use the Trade Marks in conjunction with any other trading title or trading address other than those listed with APHC.

## **8. OBLIGATIONS OF APHC**

### **8.1 Changes to Licensed Membership**

APHC shall:

- 8.1.1 determine and publish fees and charges, informing member firms at least 21 days prior to any change occurring, and
- 8.1.2 have the authority to revise these Rules, and also inform member firms at least 30 days prior to any change occurring, and
- 8.1.3 inform member firms at least 30 days prior to any change occurring to identified scheme requirements, such as training and experience requirements, and
- 8.1.4 inform member firms of changes to supporting scheme documentation.

### **8.2 Confidentiality**

- 8.2.1 APHC will hold in confidence all information obtained and held about a currently approved member firm and prospective member firm, other than that published via the listing offirms in APHC publications or via its website. Confidential information will not be disclosed to any third party without the prior written agreement of the member firm concerned except as required by an accreditation or monitoring body, or by law.
- 8.2.2 APHC's policies and procedures shall be administered in a non-discriminatory manner in line with statutory requirements.

## **9. COMPLAINTS ABOUT APHC**

APHC will undertake to investigate any expression of dissatisfaction about the organisation received from a member firm or a firm applying for membership. The expression of dissatisfaction must be in writing.

APHC will advise the complainant of the outcome of an investigation into their complaint. If appropriate, APHC will take corrective action.

## **10. FEES AND CHARGES**

### **10.1 Payment and Automatic Renewal**

- 10.1.1 Member firms shall pay fees for any initial application and annual ongoing renewal, and additional charges by any of the methods of payment permitted from time to time by APHC. APHC will keep member firm's payment details secure on file so that a member firm may elect to take advantage of the process for automatic renewal described in paragraphs 10.1.3 below.
- 10.1.2 On initial application the member firm agrees via the terms and conditions of sale to a membership period of at least 12 months, the renewal of membership will occur on the 12 month anniversary of membership, and annually thereafter.
- 10.1.3 APHC will advise member firms in writing at least 21 days prior to the date on which the member firm's membership under the scheme will expire (the "membership date") that renewal is due, and of the fee payable by the member firm on renewal. APHC will also advise the member firm of how payment of the renewal fee will be taken or should be made if that member firm is renewed automatically.

## **11. DATA PROTECTION**

APHC may -

- 11.1 Keep and use personal data about personnel of member firms for all purposes that APHC requires to maintain properly a listing of membership records and to ensure compliance with the Rules. Including disclosure to third parties for the purposes of operation of the scheme.
- 11.2 Share personal data provided by member firms with APHC for the purposes detailed above.
- 11.3 Unless the firm requests otherwise, authorise the distribution to member firm's personnel of communications of sales and marketing materials that APHC believes would be of interest to them. These distributions may be made by APHC or by other persons authorised by it. If a member firm does not wish to have its information used in this way, then at any time it may inform APHC in writing and APHC will cease to use the information for marketing purposes in this way.



# APHC Customer Charter

## INTRODUCTION

The APHC Customer Charter is required to be operated by all member firms. The Charter lays down a minimum trading standard requirement which should be operated by member firms in their dealings with customers.

### 1. GOOD PRACTICE

- Members and their customers should agree the detail of the task involved before work starts. The estimate will be provided in writing and signed and dated by the contractor. The customer's acceptance should preferably be obtained in writing prior to the commencement of the work. Members should advise customers of any standard charges for labour, transport and call-out prior to the work starting or at the time of request in an emergency.
- Members must draw attention to the terms and conditions that apply to the contract in their offer to the customer.
- Jobbing work, whether repair or new work occurs when no price is agreed beforehand, the member being merely instructed to carry out the work, the work is charged to the customer on a labour and materials basis.
- On acceptance of the contract, the member is under obligation to carry out the work as stated in the offer. On satisfactory completion, the customer is under contract to pay the agreed amount in line with the contract, subject to any agreement for payment to account.
- Members will use their knowledge to do the work efficiently and economically. Members will inform the customer if they become aware that the amount of repair work is likely to exceed the reasonable expectations of the customer.
- Members will ensure that personnel can provide evidence of identification and that they treat customers with courtesy and respect.
- Members will give a clear indication of appointments and inform customers as soon as possible of any delays or changes; these will form part of a standard set of fair and reasonable conditions between firms and customers.

### 2. PRICE

- The member's tender will give details of the work to be done, parts and/or goods to be supplied and the estimated cost. It will not cover work done by other trades or statutory fees, unless stated otherwise.
- Any requested or necessary additional work will either be the subject of a separate tender and will be charged either on a fixed price or on a labour and materials basis, as agreed in writing with the customer.
- The member will take every care during the work but the tender does not include renewing flooring, coverings or incidental redecoration following proper execution of the work.

### **3. RIGHTS OF CANCELLATION**

- Members must give notice of the customer's statutory rights of cancellation to the customer in writing including the provision of the appropriate form of notice.
- Members must not commence work for the customer until expiry of the statutory period for cancellation (if applicable) unless the customer requests in writing the commencement of the work prior to the expiry of the cancellation period.
- Members shall supply the customer with a written form of consent to permit (if the customer elects) the member to commence the work before the expiry of the cancellation period.

### **4. TERMS OF PAYMENT**

- Payment, as set out in the contract, is due on completion of the work and shall be made within the terms of payment as set out on the contract or invoice.
- An agreement on progress payments may be part of the contract.
- Interest of 8% per month of any outstanding sums may be charged on overdue accounts.

### **5. DRAWINGS**

- Unless otherwise stated, drawings are for demonstration purposes only.

### **6. COMPLETION**

- Every effort will be made to complete the work on time, but the contractor will not be responsible for any delay caused by factors outside his control.
- Where the originally specified material is not available, an agreement may be reached to provide a suitable alternative. A price adjustment may be made to the original contract.
- Until paid in full all materials, appliances and fitments are the property of the member whether installed or not.

### **7. RISKS**

- The member shall be responsible for equipment, materials and labour supplied during the course of the work, but shall not be liable to replace equipment or re-do work which is destroyed, damaged or stolen in circumstances where they are not at fault.
- The customer shall be responsible for the safekeeping of goods left at the customer's premises.

# TERMS & CONDITIONS OF BUSINESS

## 1. DEFINITIONS

In these conditions the following words shall have the following meanings:

"Contract" means any contract between You and Us incorporating these conditions for the sale of Products and/or the provision of Services;

"Liability" means liability for any and all damages, claims, proceedings, actions, awards, expenses, costs and any other losses and/or liabilities;

"Membership Services" means the range of membership services provided by the Association of Plumbing & Heating Contractors Limited (registration number 05302003) and the Association of Plumbing & Heating Contractors (Certification) Limited (registration number 02876277);

"Products" means any products and/or goods ordered from Us by You or to be supplied by Us to You;

"Services" means the services and/or work to be performed by Us for You;

"We, Us, Our, Ourselves" means the organisation or company known as the Association of Plumbing and Heating Contractors including the Association of Plumbing & Heating Contractors Limited (registration number 05302003), the Association of Plumbing & Heating Contractors (Certification) Limited (registration number 02876277) and the Association of Plumbing & Heating Contractors (Holdings) Limited (registration number 05302014)

"You, Your, Yourself" means the person whose order for Products and/or Services is accepted by Us.

## 2. BASIS OF CONTRACT

2.1 These conditions shall govern the agreement between You and Us to the exclusion of any other terms or conditions and these conditions shall supersede any terms and conditions previously notified to You.

2.2 No variation to these conditions shall be binding on Us unless contained in Our quotation or agreed in writing between You and one of Our authorised representatives.

2.3 Our employees, sub-contractors and/or agents are not authorised to make any representations or warranties concerning the Products and/or Services unless confirmed by Us in writing. You acknowledge that You do not rely on any representation and/or warranty that has not been made in accordance with these conditions.

2.4 Quotations are not binding or capable of acceptance and are estimates only. We shall have the right to refuse to accept any orders placed for Products and/or Services. The Contract between You and Us shall come into effect on our acceptance in writing of Your order.

## 3. YOUR STATUS

3.1 By placing an order for products and/or services you warrant that:

3.1.1 You are legally capable of entering into binding contracts;

3.1.2 You are at least 18 years old;

3.1.3 You are resident in the United Kingdom

## 4. MEMBERSHIP SERVICES

4.1 By making an application for Membership Services with Us:

4.1.1 You agree to abide by the rules of membership as prescribed by Us.

4.1.2 You undertake to enter into membership with Us for a period of no less than 12 months from the date of acceptance by Us unless You exercise Your right to cancellation as detailed in clause 8.1;

4.1.3 You shall be required to pay Us for all membership payments in full for the complete 12 month period should You decide to cancel the Membership Services outside the cancellation period outlined in clause 8.1 and before the 12 month period has expired.

## 5. DELIVERY

5.1 Dates for delivery and/or performance are estimates only and are not guaranteed. Time is not of the essence in relation to such dates. They are also subject to any matter beyond Our reasonable control. We will use Our reasonable endeavours to ensure delivery and/or performance on the dates specified.

5.2 Where Products and/or Services are to be delivered and/or performed in instalments and/or stages, each delivery and/or stage shall constitute a separate and distinct contract and failure by Us to deliver and/or perform, or any claim by You in respect of, any instalment and/or stage shall not entitle You to repudiate this Contract as a whole.

5.3 You shall have no right to reject Products and/or Services and shall have no right to rescind for late delivery and/or performance unless the due date for delivery and/or performance has passed and You have served on Us a written notice requiring the Contract to be performed and giving Us not less than 7 days in which to do so and the notice has not been complied with.

5.4 Delivery of Products will usually be made between 9.00am and 5.30pm on working days. You procure that we have a free right of access to the address for delivery for the purpose of delivering the Products. If You refuse to take delivery of any Products and/or to allow performance of the Services then We shall be entitled to withhold delivery and/or performance of any other Products and/or Services and to treat this Contract as repudiated by You and shall have the right to rescind this Contract.

## 6. PRICE AND PAYMENT

6.1 The price of the Products and/or the Services is as shown in Our price list current at the date of the acceptance of the order. Except as otherwise stated, prices are ex-works, and You are liable to pay Our charges (if any) for transport, packaging and insurance.

6.2 Our terms of payment are net cash within 30 days of invoice. Time for payment shall be of the essence. Our prices are exclusive of any applicable VAT (unless stated otherwise) for which You shall additionally be liable.

6.3 If You fail to make any payment in full on the due date We may charge You interest (both before and after judgment) on the amount unpaid at the rate implied by law under the Late Payment of Commercial Debts (Interest) Act 1998 or at the rate of 4% above the base rate from time to time of HSBC Bank Plc (whichever is the higher).

6.4 We shall be entitled to invoice each delivery of Products and/or stage of the Services separately. We shall be entitled to render an invoice to You any time after the Products and/or Services have been ordered.

6.5 You shall pay all sums due to Us under this Contract without any set-off, deduction, counterclaim and/or any other withholding of monies.

6.6 Payment shall not be deemed to be made until We have received either cash or cleared funds in respect of the full amount outstanding. If payment in full is not made to Us when due then We may withhold or suspend future or current deliveries of the Products and/or performance of the Services and delivery and/or performance under any other agreement with You.

## 7. CREDIT LIMIT

7.1 We may set a credit limit for You. We reserve the right to refuse to accept orders for Products and/or Services and/or to suspend or withhold delivery of Products and/or the performance of the Services if such Products and/or Services would result in You exceeding Your credit limit or the credit limit is already exceeded.

## 8. CANCELLATION OF SERVICES

8.1 You may cancel orders for Services if we receive Your notice of cancellation at any time up to 14 days before the due date for performance and You will receive a full refund of any fees paid by You subject to the deduction of any costs associated to termination of the order.

8.2 If You cancel an order for Services 14 days or less before the due date for performance You will not receive a refund but after the deduction of our standard administration charge from time to time in force the fees paid by You will be held by Us as a credit on account of any future orders for Products and/or Services placed by You.

## 9. SPECIFICATION

9.1 Any details and/or specifications supplied by Us to You in Our brochures and/or price lists are intended as a guide only and only give a general approximation of the Products and/or Services unless stated on Our quotation or agreed in writing.

9.2 We reserve the right to make changes to the specification of the Products and/or Services as required from time to time by law, applicable safety requirements or manufacturing requirements provided that they do not have a material adverse effect on the quality and/or performance of the Products and/or the Services.

## 10. INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

10.1 All intellectual property rights (including without limitation all patents, copyright, design rights (whether registered or unregistered), trade marks (whether registered or unregistered) skill and/or know-how and other similar rights wherever existing in the world together with the right to apply for protection of the same) in the Products and/or arising from the Services shall be owned by Us absolutely.

10.2 You agree that, at Your cost, You will do all acts and execute all documents which are necessary or desirable to give effect to clause 10.1 above and/or to assist Us in the registration and/or protection of any such intellectual property rights.

## 11. PROPERTY AND RISK

11.1 Risk in the Products shall pass to You at the time of delivery. Delivery shall be deemed to occur:

11.1.1 at the time when the Products arrive at the place of delivery if We deliver the Products by Our own transport or We arrange transport in accordance with a specific contractual obligation; or

11.1.2 when the Products leave Our premises.

11.2 We shall retain title and ownership of the Products until We have received payment in full in cash or cleared funds

of all sums due for all Products and/or Services supplied to You by Us under this Contract and any other agreement between Us and You.

11.3 Until payment in full of the price for all Products supplied to You the Products shall be stored separately from any products or goods belonging to You or any third party and must be clearly marked and identified as being Our property. You agree that our employees and/or agents shall be entitled to enter Your premises to check compliance with this clause.

## 12. DEFAULT

12.1 If You-

12.1.1 fail to make any payment to Us when due;

12.1.2 breach the terms of this Contract (and where the breach is capable of remedy have not remedied the breach within 14 days of receiving notice requiring the breach to be remedied);

12.1.3 persistently breach the terms of this Contract;

12.1.4 pledge or charge any Products which remain Our property, or cease or threaten to cease to carry on business, or propose to compound with Your creditors, apply for an interim order under Section 252 Insolvency Act 1986 or have a Bankruptcy Petition presented against You, or being a company, enter into voluntary or compulsory liquidation, have a receiver, administrator or administrative receiver appointed over all or any of Your assets, or take or suffer any similar action in any jurisdiction;

12.1.5 appear to Us due to Your credit rating to be financially inadequate to meet Your obligations under the Contract; and/or

12.1.6 appear reasonably to Us to be about to suffer any of the above events;

12.1.7 then We shall have the right, without prejudice to any other remedies, to exercise any or all of the rights set out in clause 12.2 below.

12.2 If any of the events set out in clause 12.1 above occurs in relation to You then:

12.2.1 We may enter, without prior notice, any of Your premises (or premises of third parties with their consent) where Products owned by Us may be and repossess and dispose of or sell any Products found which are owned by Us so as to discharge any sums due to Us under this Contract or any other agreement with You;

12.2.2 We are automatically no longer entitled to re-sell, use or part with the possession of any Products owned by Us until You have paid in full all sums due to Us under this Contract or any other agreement with You unless We give Our express written agreement to such use and/or disposal of the products;

12.2.3 We may withhold delivery of any undelivered Products and stop any Products in transit;

12.2.4 We may withhold the performance of any Services and cease any Services in progress;

12.2.5 We may cancel, terminate and/or suspend without Liability to You any agreement with You; and/or

12.2.6 all monies owed by You to Us shall forthwith become due and payable.

## 13. GUARANTEE

13.1 We guarantee that the Products will be free from defects in materials and/or workmanship for a period of 6 months from the date of delivery of the Products to You ("the Guarantee").

13.2 The Guarantee does not apply in respect of any:

13.2.1 faults arising after risk in the Products has passed which is caused by any subsequent mechanical, chemical, electrolytic or other damage not due to a defect in the Products; and/or

13.2.2 faults or defects caused by wilful damage, abnormal working conditions, failure to follow Our instructions, misuse, alteration or repair of Products without Our approval, improper maintenance or negligence on Your part or on the part of a third party.

13.3 If any Products prove to be defective and are covered by the Guarantee then We shall at Our sole option either repair or replace such Products or refund the price for such Products. Provided We comply with this clause the repair and/or replacement shall be Your sole remedy in respect of claims under the Guarantee.

13.4 We shall have no Liability to You under the Guarantee unless any defect is notified to Us within 14 working days of the defect becoming apparent or suspected or when it should reasonably have become apparent to or suspected by You.

13.5 The Guarantee will not apply if You have not paid for the Product in full on the due date.

13.6 All warranties, terms, conditions and duties implied by law relating to fitness, quality or adequacy are excluded to the fullest extent permitted by law.

## 14. REPAIRS AND REPLACEMENTS

14.1 We will at Our option either refund the price, repair, replace free of charge or re-perform any defective Products and/or Services where the defect is apparent on inspection or performance as appropriate provided that the defect is notified to Us within 14 working days of delivery of such Products or performance of the Services.

14.2 Any defective Products must be returned to Us for inspection if requested by Us before We will have any Liability for defective Products. If the Products prove to be defective then We may at our sole discretion reimburse You for the cost of returning the defective Products.

14.3 We may at Our sole discretion replace, repair free of charge, re-perform or refund the price of defective Products and/or Services which are not notified to Us within the specified time limit where in Our opinion the defect would not have been ascertainable on inspection and has been notified to Us as soon as reasonably practicable.

14.4 We will at Our option either refund the price of or replace free of charge any Products missing from a delivery of Products provided that the missing items are notified to Us within 5 working days of delivery or, in the event of total non-delivery, this fact is notified to Us within 5 working days of receipt of the invoice by You.

## 15. LIMITATIONS ON LIABILITY

15.1 We shall have no Liability for any defect in the Products caused or contributed to as a result of the Products being used for display or demonstration purposes or being handled by Your customers.

15.2 We shall have no Liability for defective Products and/or Services where the defect has been caused or contributed to by You.

15.3 We shall have no Liability to You if the price for the Products and/or the Services has not been paid in full by the due date for payment.

15.4 We shall have no Liability to You for defective Products and/or Services, Products not despatched or Products damaged or lost in transit unless the event is notified to Us within the appropriate time limit set out in this Contract.

15.5 We shall have no Liability for damage, loss, liability, claims, costs or expenses caused or contributed to by Your continued use of defective Products and/or Services after a defect has become apparent or suspected or should reasonably have become apparent to You.

15.6 We shall have no Liability to You to the extent that You are covered by any policy of insurance. You shall ensure that Your insurers waive any and all rights of subrogation they may have against Us.

15.7 We shall have no Liability to You for any:

15.7.1 consequential losses (including loss of profits and/or damage to goodwill);

15.7.2 economic and/or other similar losses;

15.7.3 special damages and indirect losses; and or

15.7.4 business interruption, loss of business, contracts and/or opportunity.

15.8 You shall give Us a reasonable opportunity to remedy any matter for which We are liable before You incur any costs and/or expenses in remedying the matter Yourself. If You do not do so We shall have no Liability to You for that matter.

15.9 Our total Liability to You in relation to any one claim shall not exceed £5,000.

15.10 Each of the limitations and/or exclusions in this Contract shall be deemed to be repeated and apply as a separate provision for each of:

15.10.1 Liability for breach of contract and/or under this Contract;

15.10.2 Liability in tort (including negligence); and

15.10.3 Liability for breach of statutory duty;

15.10.4 except clause [15.9] above which shall apply once only in respect of all the said types of Liability.

15.11 Nothing in this Contract shall exclude or limit Our Liability for death or personal injury due to Our negligence or any Liability which is due to Our fraud or any other Liability which it is not permitted to exclude or limit as a matter of law or any of Your statutory rights which may not be excluded or limited due to You acting as a consumer.

## 16. GENERAL

16.1 No waiver by Us of any breach of this Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision.

16.2 If any provision of this Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Contract and the remainder of the affected provision shall be unaffected and shall remain in full force and effect.

16.3 We shall not be liable to You for any delay in performance of this Contract to the extent that such delay is due to any events outside Our reasonable control including but not limited to acts of God, war, flood, fire, labour disputes, strikes, lock-outs, riots, civil commotion, malicious damage, explosion, governmental actions and any other similar events. If We are affected by any such event then time for performance shall be extended for a period equal to the period that such event or events delayed such performance.

16.4 This Contract is governed by and interpreted in accordance with English law and the parties agree to submit to the exclusive jurisdiction of the English courts.

16.5 All third party rights are excluded and no third parties shall have any rights to enforce a Contract. This shall not apply to members of Our group who shall maintain their third party rights.