HEATING PRODUCTS LIMITED (TRADING AS HAMWORTHY HEATING) - CONDITIONS OF SALE AND SERVICES

Except where the Company has otherwise agreed in writing, these conditions govern all the Company's contracts for the sale of products and supply of services by the Company. The Company's quotations and estimates are not offers capable of acceptance by you (the "Customer"). Any order placed by the Customer is an offer to purchase products and/or services from the Company in accordance with these conditions and will only be accepted by the Company's written order acknowledgement. Upon the issue of the Company's written order acknowledgement a contract between the Company and the Customer for the sale of products and/or supply of services by the Company in accordance with these conditions will come into existence (the "Contract"). THE CUSTOMER'S ATTENTION IS DRAWN IN PARTICULAR TO CLAUSE 7 WHICH SETS OUT THE COMPANY'S LIABILITY TO THE CUSTOMER.

1. BASIS OF CONTRACT

(a) Heating Products Limited (Company No. 04233839) trading as Hamworthy Heating (Company No. 2223589). Registered office: Heating Products Limited, T/A Hamworthy Heating Limited, National Avenue, Hull, East Yorkshire, HU5 4JB
(the "Company") supplies and markets industrial and commercial heating and hot water products, including central heating boilers and boiler equipment, heat pumps, water heaters, flues, control systems and spare parts, and provides ancillary goods (the "Products"). The Company also provides commissioning, repairing, servicing, maintenance and ancillary services for the Products (the "Services").

(b) Subject to clause 1(c), these conditions form the entire agreement between the Company and the Customer with regard to the sale of Products and supply of Services to the Customer.

(c) Where the Company is supplying Services to the Customer, these conditions shall be read in conjunction with the Company's maintenance conditions of contract (where applicable). Where there is any discrepancy or difference between these conditions and the maintenance conditions of contract, the latter shall prevail.

(d) Any reference in these conditions to "in writing" or "written" shall include faxes and emails.

(e) Any of these conditions which may be unenforceable shall (to that extent) be severable.

(f) The Contract (Rights of Third Parties) Act 1999 shall not apply to contracts between the Company and the Customer.

(g) These conditions shall be construed in accordance with English Law and subject to the exclusive jurisdiction of the Courts of England and Wales, and the Company and the Customer consent to the enforcement of a judgment of a Court of England and Wales in any jurisdiction.

2. DELIVERY AND DELAY

(a) The Company shall deliver the Products to the address specified in the Company's written order acknowledgement
("Delivery Location") and completion of delivery and the transfer of risk shall take place:
(i) where the Company's carrier unloads the Products, upon the Products being placed on the ground at the delivery location; or
(ii) where the Customer is responsible for arranging unloading of the Products, immediately upon the Products
being made available to the Customer, its agents or representative for unloading at the Delivery Location.
(iii) In the case of Products collected by the Customer from the Company's premises, completion of delivery and the transfer of risk shall take place when the Products are made available by the Company for collection by the customer.

(b) Any times and/or dates given for delivery of Products or the supply of Services are indicative only and the time of delivery or supply is not of the essence. The Company shall not be liable for any loss or expense which may arise from any delay in delivery or supply.

(c) In the event that the Company is prevented from delivering the Products or supplying the Services for reasons attributable to or being the responsibility of the Customer (including where the Customer is not ready to accept delivery or supply of the Products or the Services), the Company will not be responsible for any delay in delivery or supply and will be entitled to compensation for waiting time and any costs, expenses and losses it suffers by reason of not being able to deliver or supply (including without limitation storage and transport costs).

(d) The Customer shall, as soon as practicable and within three days of delivery of the Products, check the Products and notify the Company of any damage to or shortage in the Products. Where delivery is included in the Contract Price ("Contract Price" means the total price payable by the Customer to the Company for the Products and/or Services as stated in the Company's written order acknowledgement excluding VAT and other taxes and duties) the Company shall (at its option) repair or replace free of charge Products that are damaged or lost in transit provided that the Customer sends to the Company and the carrier written notification within three days of delivery in the case of damage to or shortage in the Products or within 21 days of despatch in the case of non-delivery of the Products. Where the Contract Price does not include delivery, any damage to or loss of the Products whilst in transit shall be the sole responsibility of the Customer.

(e) Should the customer defer delivery (or collection if applicable) of the goods from the agreed final delivery date by more than 3 days, then the customer will become liable for storage charges at a rate of £110 per day from that date, up to the date of actual delivery.

3. CUSTOMER'S RESPONSIBILITIES

The Products are sophisticated engineering products; accordingly, the Customer:-

(a) undertakes that it has provided all the information reasonably necessary to enable the Company to establish the
general scope of the Products and/or the Services, and that all such information is full and accurate;

(b) acknowledges that, notwithstanding clause 3(a) above, it is the Customer's responsibility to ensure that the Products meets the Customer's specifications, needs and requirements;

(c) undertakes that all premises, plant, engineering supports and inputs that are reasonably required to provide for the Products and/or for delivery of the Services will be provided and are fit for their purpose and of good engineering quality and that all such premises and plant provide a safe working environment and do not contain any hazardous materials or components;

(d) undertakes to arrange for access to its site (including to its boiler house) and for craneage where a crane is required either to lift the Products from the delivery vehicle or to move the Products from the point of delivery, or lift the products from the delivering vehicle (by mutual agreement), to the Customer's site;

(e) undertakes to employ good engineering practice in the use of the Products including compliance with all manuals, instructions and directions as to use;
and agrees that the Customer will be liable for any costs, expenses and losses suffered by the Customer or the
Company by reason of any breach of these undertakings or acknowledgement

(f) Following a successful commission, the installer must register the boilers with the relevant bodies.

4. SPECIFICATIONS, DRAWINGS AND CONFIDENTIALITY

(a) All of the Company's specifications, designs, drawings, illustrations and indications of technical, physical, chemical and electronic properties (the "Specifications") are approximate indications only and are not binding in detail, and the Company shall be entitled to vary or modify the same without notice to the Customer and/or to correct errors and omissions provided the Products and/or the Services remain in substantial conformity with the contractual requirements.

(b) The Specifications (including all copyright, design right and other intellectual property in them) shall be the property of the Company; and the Customer is not entitled to make any use of the Specifications other than for the purpose of the Contract.

(c) Neither the Company nor the Customer shall disclose to third parties or use for its own purposes any confidential information or trade secrets of the other.

(d) The Company and the Customer each warrants to the other that it has the necessary intellectual property rights to enable it to perform its contractual obligations and will forthwith inform the other on discovery of any infringement of intellectual property rights.

(e) All intellectual property rights in the Products or arising from the supply of the Services or the performance of the Contract shall be the property of the Company and no licence of such intellectual property rights is granted to the Customer.

5. PRICES, TERMS AND VESTING

(a) All invoices shall be paid in the invoiced currency within 30 days following the end of the month of invoicing (the "Due Date") without any deduction, withholding, set-off or counterclaim.

(b) Prices quoted in any catalogues or price lists are subject to change without notice.

(c) Prices quoted are nett ex-works or include delivery within the mainland of the United Kingdom as set out in the Company's quotation and are subject to VAT or other taxes unless specifically stated to the contrary.

(d) The Contract Price includes the supply of standard operating and maintenance manuals.

(e) The Company reserves the right to charge statutory interest on any sums still outstanding on the Due Date. Such interest and compensation shall accrue as laid out in the Late Payment of Commercial Debts (Interest) Act 1998 as amended from time to time.

(f) Unless otherwise agreed in writing by the Company, payment for export orders will be by irrevocable letter of credit

(g) In case of any non-payment, the Company shall be entitled (without prejudice to its other rights) to suspend performance and charge the Customer for all costs and expenses occasioned thereby and/or at any time thereafter to terminate the Contract in accordance with clause 8 below.

(h) All Products and Specifications shall remain the property of the Company until paid for in full.

(i) Between delivery and payment in full the risk in the Products shall be with the Customer, who shall hold them as fiduciary agent and bailee and shall keep the same in good condition and repair, properly stored, insured and labelled as being the Company's property.

(j) Proof of delivery to the Customer's site in respect of any Products referred to in an invoice of the Company shall be deemed to be sufficient proof as to the Company's property in the Products.

(k) Where several Products have been delivered to the Customer's site and the Company has issued several corresponding invoices, the Company shall be entirely at liberty to select which invoice is attributable to which Product.

(l) In the event of termination in accordance with clause 8 below or in the event of non-payment (in full or in part) for the Products by the Due Date, the Customer hereby irrevocably licenses the Company to enter upon any of its and (insofar as it is able) any third party premises which are under its control or where the Products are situated to repossess the Products.

6. WARRANTY

(a) The Company provides a warranty, subject to the terms set out in this clause 6, that during the applicable warranty periods below (each a "warranty period") its Products and spare parts will not be defective due to some inadequacy or neglect in the Company's workmanship or material and its servicing, repair and maintenance will be carried out to the standard to be expected of a competent heating engineer ("warranty"). Warranty periods:
(i)Products commissioned by the Company - 24 months from the date of commissioning or 30 months from the date of despatch, whichever is earlier. 30 months is only given if commissioning is ordered at the point of sale of the associated product. The warranty under this sub-clause includes labour and associated materials ("Products" definition does not refer to spare parts);
(ii) Products supplied (but not commissioned) by the Company - 24 months from the date of despatch. The warranty under this clause only includes associated materials. Associated labour is excluded ("Products" definition does not refer to spare parts);
(iii) Spare parts supplied and installed by the Company - 12 month from the date of installation;
(iv) Spare parts supplied (but not installed) by the Company - 12 months from the date of despatch;
(v) Servicing, repair or maintenance provided by the Company - 28 days from the date of the first performance; provided that where any Product or part has been repaired or replaced under the warranty, the warranty period for such repaired or replaced Product or part shall end on the expiry of the applicable warranty period for the original Product or part that has been repaired or replaced.
Spares supplied by the Company from the Ygnis range are sold with the benefit of the manufacturers warranty only. The Company shall use its reasonable endeavours to assist Customers with warranty claims against the manufacturer of the Ygnis spares range. The Company provides no additional warranty in relation to the Ygnis spares range.

(b) The Company provides extended warranties for certain products and for heat exchanger elements of other products, subject to the terms set out in this clause 6, that during the applicable warranty periods below (each a "warranty period") its Products and spare parts (excluding the Ygnis range) will not be defective due to some inadequacy or neglect in the Company's workmanship or material and its servicing, repair and maintenance will be carried out to the standard to be expected of a competent heating engineer ("warranty"). Warranty periods.
Under this clause the warranty period beyond that specified under clause 6(a) above does not include associated labour, whether commissioned by the company or not:
(i) Trigon Solar Collectors supplied by the Company - 5 years from the date of despatch;
(ii) Halstock Calorifier supplied by the Company - 5 years from the date of despatch;
(iii) Varmax Range Heat Exchanger only - 5 years from the date of despatch of the relevant Varmax Product;
(iv) Aluminium Heat Exchangers - 5 years from the date of despatch of the relevant Product incorporating the Aluminium Heat Exchanger;
(v) Purewell VariHeat Range Primary and Secondary Heat Exchangers only - 10 years from the date of despatch of the relevant Purewell VariHeat Product;
(vi) Modumax Mark IV Range Heat Exchanger only - 10 years form the date of despatch of the relevant Modumax Mark IV Product;
(vii) Stratton Mark II Heat Exchanger only - 5 years from the date of despatch of the relevant Stratton Mark II Product
(viii) Stratton Mark III boiler product range – 5 years from the date of despatch;
(ix) Dorchester SG Water Heater – Cylinder 5 years from date of despatch (parts only), all other items as per clause 6 a (i) and (ii);
(x) Tyneham heat pump - 5 years if commissioned by the Company else as per clause 6 a (i) and (ii)

(c) The warranty will not apply and the Company will have no obligation under clause 6(a):-
(i) unless the Product or servicing, repair or maintenance in question has been paid in full;
(ii) unless the product in question has been properly installed, used and maintained in accordance with current industry standards, accepted good practice and the Company's recommendations (including without limitation any recommendation relating to water quality);
(iii) unless the Customer has informed the Company of the alleged defect or sub-standard servicing, repair or maintenance within the applicable warranty period and within 28 days of its discovery;
(iv) unless the Customer complies with all instructions given by the Company following notification of the alleged defect or sub-standard servicing, repair or maintenance to the Company (including without limitation ceasing to use the Product and where the defect relates to any item referred to in clause 6(a)(ii)-(ix) returning the relevant Product or part to the Company);
(v) unless (where applicable) the Company has free and unrestricted access to the Product; or
(vi) to parts which in the opinion of the Company are wearing, service and/or consumable parts.

(d) In the event that any Product commissioned by the Company (excluding spare parts) can be shown to the Company's reasonable satisfaction (on the balance of probabilities) to be defective due to some inadequacy or neglect in the Company's workmanship or material during the warranty period set out in clause 6(a)(i) then the Company shall at its option repair or replace any defective Product to part thereof or credit a sum to be agreed with the Customer (in lieu of repair or replacement). The Company will provide labour and parts in connection with a repair or replacement under this clause 6(c) but the warranty shall not include and the Company shall not be responsible for any and all incidental, related, consequential and/or third party costs (where labour, parts or otherwise) arising in relation to any such repair or replacement (including without limitation gaining access to the Product or part, making good any damage caused in accessing the Product or part, craneage, lifting, removal and/or reinstallation of Products or parts into the systems) and such costs are the responsibility of the Customer.

(e) In the event that any item referred to in clause 6(a)(ii)-(ix) can be shown to the Company's reasonable satisfaction (on the balance of probabilities) to be defective due to some inadequacy or neglect in the Company's workmanship or materials during the applicable warranty period set out in clause 6(a)(ii)-(ix) then the Company shall at its option supply a replacement Product or parts thereof or spare parts or credit a sum to be agreed with the Customer (in lieu of supply of a replacement). The Customer will be responsible for any and all incidental, related, consequential and/or third party costs arising in relation to the removal of the faulty Product or part (including without limitation gaining access to the Product or part, making good any damage caused in accessing the Product or part, dismantling, installation, craneage, lifting and/or transport). The warranty in respect of any item referred to in clause 6(a)(ii)-(ix) does not cover the cost of the Company attending on site to inspect and/or carry out work in respect of such items and such costs shall be charged to the Customer.

(f) In the event that any servicing, repair and maintenance work carried out by the Company can be shown to the Company's reasonable satisfaction (on the balance of probabilities) to be below the standard to be reasonably expected of a competent heating engineer during the applicable warranty period set out in clause 6(a)(xi), the Company shall at its option re-perform the relevant service, repair or maintenance (but no parts shall be included) or credit a sum to be agreed with the Customer (in lieu of re-performance).

(g) All work carried out to Products or parts thereof not covered by the warranty shall be charged to the Customer.

(h) Where the Company agrees with an end user to attend on site to Products that it has previously supplied then it reserves the right to charge for such attendance.

(i) Any dispute as to whether a defect is covered by the warranty which is not resolved between the Company and the Customer shall be referred to an expert appointed by the President of The Institute of Mechanical Engineers in London whose decision shall be final and binding upon and whose fees shall be shared equally by the Company and the Customer.

(j) The warranty is not assignable unless the Company expressly agrees otherwise in writing.

7. LIMITATION OF LIABILITY AND FORCE MAJEURE

(a) Save as provided in clause 7(b), the Company's entire liability to the Customer (whether for negligence, breach of contract, breach of statutory duty, representations, misrepresentations or otherwise) in respect of the Contract shall not exceed the Contract Price (as defined in clause 2(d)).

(b) Nothing in these conditions excludes or limits the Company's liability for
(i) death or personal injury caused by the Company's negligence,
(ii) defective products under the Consumer Protection Act 1987,
(iii) breach of the terms implied by section 12 of the Sale of Goods Act 1979
(iv) any matter for which it would be illegal for the Company to exclude or attempt to exclude its liability and
(v) fraud or fraudulent misrepresentation.

(c) The Company shall be under no liability to the Customer in respect of any breach of contract or otherwise for any indirect or consequential loss or for any loss of profits, income, production or plant availability, loss of use or availability of any premises or for any third party losses (including damage to third party property), and the Customer should insure against these risks.

(d) The liability of the Company in respect of renewables shall not extend beyond the exercise of reasonable skill and care in the choosing of a supplier in respect thereof.

(e) To the fullest extent permitted by law the warranty in clause 6 is offered in place of any statutory rights which are excluded.

(f) Neither the Company nor the Customer shall be liable for any default due to events beyond the reasonable control of either of them including by way of example only war, acts of God and strikes.

8. TERMINATION

(a) The Company shall be entitled forthwith to terminate this Contract in the event of
(i) customer cancellation of order in part or whole;
(ii) non-payment (in whole or in part) by the Due Date or
(iii) if at any time before payment in full is made (whether or not payment is yet due) the Company (after attempting consultation with the Customer) reasonably considers that there is a likelihood that the Customer may not pay by the Due Date or
(iv) the Customer committing a material breach of any term of the contract and (if such breach is remediable) failing to remedy that breach within 14 days of the Company notifying the Customer in writing of doing so or
(v) the Customer becomes insolvent or has a liquidator (other than for the purpose of a solvent amalgamation or reconstruction), administrator or administrative receiver appointed.

(b) In the event that the Contract is terminated in accordance with clause 8(a), the Customer shall be liable to the Company for any amount(s) that the Company is bound to pay to any third party in respect of any of the Products, all the costs and expenses which it incurred up until the date thereof (including but not limited to transport and delivery costs), any diminution in the value of any of the Products that are returned to the Company, and the profit it reasonably expected to make on the Contract had the same been fully performed, less such nett sum (if any) as the Company is able to make in disposing of the Products.