

Standard Terms and Conditions for Ion Science Ltd.

General

- 1.1 Contracts and orders are accepted only subject to the Company's Conditions of Sale as set out herein and any Special Conditions of Sale if any endorsed on the reverse hereof and the Purchaser shall be bound by such Conditions. No modification of these Conditions or of the particulars contained in the Company's acceptance of an order from the Purchaser will be recognised by the Company unless such modification is expressly accepted by the Company in writing. Unless so accepted any qualification thereof or difference contained in the Purchaser's own order forms shall be inapplicable. All orders, whether based on this quotation or otherwise, shall be subject to the Company's written acceptance.
 - 1.2 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability as the part of the Company.
 - 1.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. A notice is deemed to have been served as follows:
 - a) if personally, by fax or e-mail at the time of delivery;
 - b) if posted, at a time of expiration of 48 hours or (in the case of airmail) 7 days after the envelope containing the notice is posted.
 - 1.4 No waiver by the Company of any breach of the contract by the Purchaser shall be considered as a waiver of any subsequent breach of the same or any other provision.
 - 1.5 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected.
 - 1.6 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties Act 1999) to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from the Act.
 2. **Prices and Payment**
 - 2.1 Delivery, packing, inspection and testing charges, if applicable, will be stated separately. Unless otherwise specified goods and/or services are supplied for payment of net cash on or before the last day of the month following that in which the goods were despatched or services were performed. VAT not included in the quotation or invoice will be added at the rate applicable as well as any other government-imposed taxes in force at the date of invoice.
 - 2.2 The Purchaser shall not be entitled to make any deductions, set-offs or counter claims against the invoice price.
 - 2.3 If the Purchaser fails to make any payment on the due date then, without prejudice to any other rights or remedy available to the Company, the Company shall be entitled to:
 - a) cancel the contract, suspend any further deliveries or suspend the provisions of the services to the Purchaser;
 - b) appropriate any payment made by the Purchaser to such of the goods and/or services (or the goods supplied under any other contract between the Purchaser and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Purchaser); and
 - c) charge the Purchaser interest (both before and after any judgment) on the amount unpaid at the rate of 4% per annum above Barclays Bank base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest)
 3. **Delivery**
 - 3.1 No liability will be accepted by the Company for any delay in the despatch or delivery of the goods and/or performance of the services (whatever the cause of the delay) or for any damage or losses caused thereby. Time for delivery shall not be of the essence of the contract unless previously agreed by the Company in writing.
 - 3.2 Once the goods have been delivered to the Purchaser's premises or the delivery address stipulated in the Order the goods shall be at the sole risk of the Purchaser. If the Purchaser collects the goods from the Company's premises the risk for the goods shall pass to the Purchaser on collection.
 4. **Variation of Price**
 - 4.1 Prices may be altered by the Company without notice at any time. All goods are sold and services are performed subject to the prices ruling at the date of despatch or at the time of performance. If the cost to the Company of performing its obligations shall be increased due to any variation up to the date of despatch of the goods and/or the date of performing the services in the cost of materials, labour or transport or the rate of exchange between Sterling and any foreign exchange rate applicable to the goods and/or services between the date of the Company's acceptance and the date of invoice, the Company reserves the right to increase the quoted price by the additional cost to the Company.
 - 4.2 The quoted price is also subject to adjustment if any changes are made by the Purchaser in the specification of quantities of the goods and delivery requirements.
 5. **Loss as Damage in Transit**

Where transport of the goods has been arranged by the Company and the equipment is damaged in transit or having been placed in transit has not been delivered to the Purchaser then:

 - a) In the case of damage to the equipment the Purchaser shall give notice to the Company within 3 days after delivery and in the case of non-delivery of the equipment the Purchaser shall give notice to the Company within 10 days from receipt of the relevant invoice.
 - b) Goods subject to any claim under this clause must be stored free of charge for inspection by the Company.
 - c) The Company shall be under no liability whatsoever if the Purchaser fails to give such notice of damage or non-delivery and any damage to the equipment shall be deemed to have occurred after delivery of the goods to the Purchaser.
 6. **Alterations to Specification**

The Company reserves the right to incorporate revisions to the specifications or designs of the equipment without notice. In such cases the goods shall be accepted by the Purchasers as conforming to the contract.
 7. **Drawings**

Drawings, specification and other information supplied by the company;

 - a) are confidential and remain the property of the Company
 - b) must not be disclosed to any other party
 - c) must be returned to the Company if the quotation is not accepted
 - d) are approximate only and shall not, unless otherwise stated, be deemed to form part of the contract.
 8. **Goods on Sale or Return**
 - 8.1 Goods stated as being 'Sale or Return' are supplied entirely at the Purchaser's own risk and shall remain so until, returned to the Company in a satisfactory condition to the Company's address. The Company reserves the right to charge for any work that may be necessary to restore the goods to their former condition.
 - 8.2 Unless otherwise agreed in writing goods supplied on a Sale or Return basis shall be returned to the Company within 1 month from the date of delivery. If goods are not returned within this period they will become due for payment in accordance with these conditions.
 9. **Retention of Title**
 - 9.1 Property in the goods shall remain vested in the Company until payment therefore shall have been made by the Purchaser in full. The Purchaser shall be in possession of the goods solely as bailee for the Company until the full price is paid. The Purchaser shall store the goods separately from his own goods and/or those of any other person and at all times the goods shall be stored in such a manner that they are readily identifiable as our goods until the full price is paid.
 - 9.2 The Purchaser's rights to possession shall cease forthwith if the Purchaser;
 - a) not being a company commits an act of bankruptcy; or
 - b) being a company does anything or omits to do anything which would entitle a receiver or administrator to take possession of any of its assets or which would entitle any person to present a winding-up petition or a receiver is appointed to take possession of any of the Purchaser's assets or a petition is presented to wind up the Purchaser.
 - 9.3 Whenever and as soon as the Purchaser does or omits to do anything whereby his right to possession ceases under the provisions of condition 9.2 then:
 - a) the Purchaser shall immediately notify the Company that his right to possession has ceased and of the circumstances in which this has occurred, and
 - b) the Purchaser shall on oral or written request furnish the Company, the Company's representatives or agents with sufficient information so as to enable the Company to retake possession of the goods and such information shall include full details of the place where the goods are kept, and
 - c) the Company shall have an irrevocable license without prior notice to enter upon the Purchaser's premises by itself its representatives or agents during normal business hours in order to retake possession of the goods.
 - 9.4 The Purchaser may sell the goods to a third party prior to the date on which full payment of the price is received by or made to the Company if and only if:
 - a) none of the circumstances specified in condition 9.2 have occurred or are reasonably expected to occur; and
 - b) the proceeds of sale if less than the fell price of the goods or such part of the proceeds of sale as equals the full price of the goods when received by the Purchaser and/or his agents are placed forthwith in an interest bearing deposit account and the funds therein or the appropriate part thereof are held on trust for the Company and are payable to the Company; and
 - c) notice is given as soon as reasonably practicable to the Company of the sub-sale including the name and the address of the third party and the name and address of the bank with whom the deposit account has been opened and the number of the account and
 - d) notice is given as soon as reasonably practicable to the company once the proceeds of sale have been received by the Purchaser.
 - 9.5 If the Purchaser shall sell the goods without complying with the provisions of condition 9.4 the Purchaser shall be in breach of bailment and liable to account to the Company for the proceeds of the sale.
 - 9.6 In exercising the right of sale under condition 9.4 the Purchaser shall as regards the third party act Solely on his own behalf and shall not have or hold himself out in any way whatsoever as having the right to make representations to or contracts with the third party on behalf of the Company.
 - 9.7 The Purchaser shall inform the Company immediately of any seizure, whether threatened or actual, of the goods.
 - 9.8 The Purchaser shall from the time when under clause 3 hereof they become sole risk of the Purchaser fully insure the goods against all risks with a reputable insurance company at its own expense. The insurance shall cover the Company's interest in the goods, and the Purchaser shall hold in a separate bank account all monies paid under such insurance in trust for the Company and shall pay the same to the Company on demand. If the Purchaser shall not effect such insurance the Company shall be entitled to insure our goods and demand reimbursement for the cost of the same from the Purchaser
10. **Bankruptcy/Liquidation**
 - 10.1 If the Purchaser becomes bankrupt or goes into liquidation or makes any composition with his creditors or if a receiver of any of his assets is appointed, the Company shall be at liberty either:-
 - a) to cancel the contract summarily by notice in writing without compensation to the Purchaser; or
 - b) to have the option of completing the contract provided agreement is reached between the Company or any receiver or liquidator or other person appointed.
 - 10.2 The exercise of any of the rights granted to the Purchaser under condition 10.1 shall not prejudice or affect any right of action of remedy which shall have accrued or shall thereafter accrue to the Company.
 11. **Guarantee and Liability**
 - 11.1 The following Guarantee shall be deemed to be incorporated in these Conditions of Sale: For a period of twelve months from the date on which a product both manufactured and sold by the Company is delivered to the Purchaser, the Company will exchange or repair at the Company's option any part or parts thereof requiring replacement or repair by reason of defective workmanship or material.
 - 11.2 Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Purchaser by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the contract, for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Company, its employees or agents or otherwise) which arise out of or in connection with the supply of the goods or their use or resale by the Purchaser, except as expressly provided in these Conditions.
 - 11.3 The Company shall not be responsible for any expense which the Purchaser may incur in removing or having removed or any replacement or having replaced any part or parts sent for inspection or in fitting or having fitted any new parts supplied in lieu thereof.
 - 11.4 The company shall not be responsible for any defect, which in the opinion of the Company was attributable to:
 - a) Wear and tear
 - b) Any form whatsoever of improper use or use which was not in accordance with accepted practice
 - c) Abnormal corrosive or abrasive conditions
 - d) Non-compliance with any instructions issued by the Company concerning the use, fitting and servicing of the goods
 - e) Incorrect fitting
 - f) Faulty or irregular supply of electricity
 - 11.5 Modified goods supplied by the Company in accordance with Clause 6 of these conditions shall not constitute a defect for the purposes of this guarantee.
 - 11.6 This guarantee is given in lieu of and excludes every condition or warranty whether statutory or otherwise.
 - 11.7 This guarantee is limited to those parts of the goods that are manufactured by Ion Science Ltd. Any parts which are not manufactured by Ion Science Ltd shall be subject to such warranties and/or guarantees (if any) as are given by the manufacturer of such parts.
 12. **Claims**

No claim for credit, exchange or repairs can be considered unless prior approval of the Company is obtained by the Purchaser. Without such approval from the company goods may not be returned to the Company. In addition, any such goods must be returned carriage paid to the Company and supported by the following particulars;

 - 12.1 The Company's reference on the product from which the part or parts were taken
 - 12.2 The defects, claims and the reasons for them
 - 12.3 Date of purchase and source from which the product was purchased.
 13. **Force Majeure**

Should the Company be prevented from delivering at the agreed date by strikes, Lockouts, act of God, war, fire, tempest, flood, accident or damage to goods, or delay in obtaining or inability to obtain through scarcity of materials or for any other cause beyond the Company's control the Company may suspend delivery until a reasonable time after the end of the happening and during such time as is reasonably incidental to the resumption of normal production of sale or cancel or vary the contract without compensation.
 14. **Lien**

In addition to any right of lien to which the Company may by law be entitled the Company shall have a general lien on all goods in its possession (whether or not payment for such goods or some of them may have been received for) the unpaid price of any other goods sold and delivered to the Purchaser by the Company under the same or other contracts.
 15. **Waiver**

The Company's rights shall not be affected or restricted by any indulgence or forbearance granted to the Purchaser. No waiver by the Company of any breach shall operate as a waiver of any later breach.
 16. **Applicable Law**

The rights and obligations of the parties and all the terms and conditions hereof and any disputes arising out thereof shall be construed in accordance with English Law to the exclusive jurisdiction of the courts of which the Purchaser shall submit.