

## Kentech Instruments Ltd., Terms And Conditions Of Sale

### 1 DEFINITIONS

- 1.1 "Seller" shall mean Kentech Instruments Ltd, 114 Nibthwaite Road, Harrow, Middlesex. HA1 1TG. UK
- 1.2 "Buyer" shall mean the company, firm, person or other corporations named overleaf.
- 1.3 "Goods" shall mean all or any part of the goods or materials which the Seller contracts to supply.
- 1.4 "Services" shall mean all or any of the services which the Seller contracts to supply.

### 2 BASIS OF CONTRACT

- 2.1 These conditions shall apply to all contracts, whether written, oral or implied for the supply of Goods or Services.
- 2.2 Any conditions of purchase or other terms provided by the Buyer shall be of no effect whatsoever nor shall any variation or alteration to these conditions be of any effect unless specifically negotiated and made in writing and signed by or on behalf of the Seller by an authorised signatory of the Seller.
- 2.3 No Binding contract shall be created by the placing of an order by the Buyer unless and until the Seller's written acknowledgement of the order shall have been posted or delivered, which acknowledgement will be deemed to repeat these conditions or, alternatively in the event that no such acknowledgement is sent, at the time of acceptance of any order for the Goods or Services by the Seller a binding contract will be created subject to these conditions.

### 3 QUOTATIONS

- 3.1 Any quotations in whatever form by the Seller is given subject to these conditions and does not constitute an offer to sell. The validation of any such quotation shall expire 30 days after the date of issue, unless a negotiated extended time period has been made in writing and signed by or on behalf of the Seller by a duly authorised signatory of the Seller.

### 4 PRICES

- 4.1 Subject to anything to the contrary contained in any quotation issued by the Seller, prices for the Goods or Services are exclusive of Value Added Tax and any duties or import taxes.
- 4.2 The Buyer shall have no right of set off whether statutory or otherwise.
- 4.3 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods or Services to reflect any increase in the costs of the Seller which is due to any factor beyond the Seller's control.
- 4.4 Unless otherwise expressly stated in writing by the Seller, all prices payable must be settled in pounds sterling.

### 5 VARIATION AND CANCELLATION

- 5.1 The Seller shall be under no obligation whatsoever to accept any variation or cancellation to an order once accepted. If the Seller at its complete discretion agrees to accept any such variation or cancellation it may levy such charges as it, in its absolute discretion, sees fit.

### 6 PAYMENT AND DEFAULT BY BUYER

- 6.1 The Seller reserves the right at any time at its discretion to demand security of payment before commencing and or continuing with the contractor delivering the Goods or goods upon which Services have been rendered.
- 6.2 Subject to clauses 6.3 and 6.4 and unless otherwise agreed in writing by the Seller the Buyer shall pay the Seller in full for the Goods or Services.
- 6.3.1 In the event that the Buyer fails to make payment by the due date or otherwise commits a breach of these conditions, the Seller may in its absolute discretion and without prejudice to any other rights which it may have:-
  - (a) Suspend all future deliveries or supplies to the Buyer under the contract in question or under any other contracts and/or terminate all or any part of such contract without liability upon its part.
  - (b) Require payment in advance for any future deliveries.
  - (c) In the case of non-payment on or before the due date or on demand (as indicated in paragraph 6.4) charge interest on the amount due on a day to day basis at the rate of two percent per month compounded annually from the time of delivery or date of invoice whichever is the earlier until the date of actual payment.
- 6.4 Without prejudice to any other rights the Seller may have by virtue of paragraph 6.3 (c) the Seller may demand immediate payment of all sums whether or not due in the event that :-
  - (a) The Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction) or :-
  - (b) An encumbrance takes possession of, or a receiver is appointed over, any of the properties or assets of the Buyer or :-
  - (c) The Buyer ceases, or threatens to cease, to carry on business, or :-
  - (d) The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

## **7 DELIVERY AND COLLECTION**

- 7.1 Delivery times for the supply of the Goods or Services of the Seller within its quotations or otherwise are intended as estimates only and are not therefore to be treated as the essence of the contract or binding on the Seller. The Seller will not be liable to the Buyer for any loss or damage (direct or indirect) occasioned by the Seller's failure to deliver the Goods or goods upon which the Services have been rendered by the date or within the time stated, and in no case shall delay be a ground for rejection or cancellation.
- 7.2 The right to deliver the Goods or the goods upon which the Services have been rendered in part is expressly reserved by the Seller and the conditions shall apply to any such part or parts mutatis mutandis.
- 7.3 In the event that the Buyer is responsible for collecting the goods or goods upon which the services have been rendered, and such collection does not occur within seven days of the Buyer having been informed that such goods are ready for collection, the Seller may charge the Buyer for storage of any such goods until collection occurs in addition to the price for the Goods or Services.

## **8 TITLE TO GOODS**

- 8.1 The property in the Goods shall remain as the Seller's and the Buyer shall hold the Goods as fiduciary agent for the Seller until such time as the price of all the Goods and/or Services supplied at any time by the Seller together with all other sums owing to the Seller on any account whatsoever at the date of this contract have been paid in full.

## **9 DESIGNS AND DRAWINGS**

- 9.1 Where the Seller prepares designs or drawings at the request of the Buyer the Buyer shall approve such designs and drawings in writing and until such approval has been received by the Seller, the Seller shall be under no liability to the Buyer and any time for delivery shall not commence to run.
- 9.2 If the Goods are manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification or requirement submitted by the Buyer and agreed by the Seller the Buyer shall indemnify the Seller in respect of any claim against the Seller directly attributable to or caused by any such specification or requirement.

## **10 PRODUCT INFRINGEMENT**

- 10.1 The Buyer warrants that any instructions, plans or designs furnished by the Buyer shall not be such as will cause the Seller to infringe any letters patent, copyright, registered design, right of confidence or trade mark in execution of the Buyer's order and agrees to indemnify the Seller against all claims, costs or other expenses incurred by the Seller in respect thereof.

## **11 EXCLUSION OF LIABILITY**

- 11.1 The Seller shall be under no liability in respect of any defect in the Goods or Services arising from any drawing, design or specification supplied by the Buyer.
- 11.2 Any claim by the Buyer which is based on any defect in the quality or conditions of the Goods or Services or their failure to correspond with specification shall be notified to the Seller within such time as the Buyer shall reasonably require to examine the Goods or goods upon which Services have been rendered which for the purpose of these conditions shall be no more than 14 days from the date of delivery or collection. If no such notification is received, the Buyer will not be entitled to reject the Goods or Services and must pay their price.
- 11.3 Where any valid claim in respect of any of the Goods or Services is notified to the Seller in accordance with these conditions, the Seller shall be entitled to repair or replace the Goods (or the part in question) free of charge or, at its sole discretion, refund to the Buyer the price of the Goods or Services (or a proportionate part of the price) and the Seller shall have no further liability to the Buyer.
- 11.4 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable for any claim made against the Buyer by any third party nor under the contract or otherwise for any consequential loss or damage, whether for loss or profit or otherwise and whether caused by the negligence of the Seller, its agents or employees or otherwise which arises out of or in connection with the supply of the Goods or Services for their use or resale by the Buyer. Except as expressly provided in these conditions.

## **12 FORCE MAJEURE**

- 12.1 Without prejudice to the generality of any of the foregoing conditions, the Seller shall not be liable for any loss or damage caused by the non-performance or delay in the performance or any of its obligations hereunder if the same is occasioned by any cause whatsoever which is beyond the Seller's control. Should any such event occur the Seller may cancel or suspend this contract without incurring any liability for any loss or damage thereby occasioned.

13 **EXPORTED GOODS**

- 13.1 Subject to any special terms agreed in writing between the Seller and the Buyer, the provisions of this clause 13 shall apply notwithstanding any other provision in these conditions.
- 13.2 Where the Goods are supplied for export from the United Kingdom the Buyer shall be responsible for :-
- (a) Complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon.
  - (b) Arranging for testing and inspection of the Goods at the Sellers premises before shipment. The Seller shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which claim is made after delivery.
- 13.3 Unless otherwise agreed in writing between the Buyer and Seller the Goods shall be delivered in accordance with shipping arrangements determined by the Seller and notified to the Buyer.
- 13.4 Unless otherwise agreed in writing between the Buyer and Seller payment of all amounts due to the Seller shall be made as follows :-
- (a) Within 30 days of despatch from the Seller's premises or collection therefrom.
  - (b) Payments will be in £ sterling by direct transfer to the Seller's nominated account.
  - (c) All bank charges in respect of the bank transfer will be to the Buyer's account and the Seller will receive the amount as invoiced.
  - (d) These payment terms are subject to satisfactory credit references being obtained. In any event the Seller reserves the right to specify alternative payment terms which will be stated on the quotation.

14 **GENERAL**

- 14.1 Any notice required or permitted to be given by any party to the other under these conditions shall be in writing addressed to that other party at its registered office or principle place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving notice
- 14.2 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 provision shall not be affected.
- 14.3 Any dispute arising under or in connection with these conditions for the sale of Goods or Services shall be referred to arbitration. This will be by a single arbitrator appointed and agreed by the buyer and seller.
- 14.4 The construction, validity and performance of the contract shall be governed by and be interpreted in accordance with English law (or in the case of international transactions by International Mercantile Law).