

# HIGH TECHNOLOGY SOURCES LIMITED

## Conditions of Sale

### The Customer's attention is particularly drawn to the exclusions of liability in condition 11

#### 1. DEFINITIONS

- 1.1. The 'Company' shall mean High Technology Sources Limited, a company registered in England and Wales with company number 04386579 and its registered office address at Fisher House, Michaelson Road, Cumbria, Barrow-in-Furness, LA14 1HR.
- 1.2. The 'Customer' shall mean the person, firm, company or other organisation entering into the Contract as defined in condition 1.5 of these conditions.
- 1.3. The 'Goods' shall mean all items manufactured or supplied by the Company.
- 1.4. The 'Services' shall mean all advice given and services performed by the Company, including installation of the Goods.
- 1.5. The 'Contract' shall mean the agreement arising between the Company and the Customer following receipt of the Customer's order for the Goods and/or Services comprised in the Company's quotation, or if no quotation has been given, the agreement arising on despatch by the Company of a written acceptance of the Customer's order or despatch of the Goods, whichever first occurs.

#### 2. GENERAL

All Contracts entered into by the Company are subject to and governed solely by these conditions which may only be varied by the Company in writing. These conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

#### 3. PRICES AND QUOTATIONS

- 3.1 All quotations issued by the Company for the supply of Goods and Services shall remain open for acceptance for the period stated in the quotation or, if none is stated, for ninety days.
- 3.2 In all other cases prices for Goods to be supplied or Services performed by the Company shall be those ruling on the date of despatch.
- 3.3 Unless otherwise agreed in writing the Company shall charge the Customer for packaging, carriage and insurance during transport.
- 3.4 All prices quoted for the supply of Goods and Services shall be exclusive of value added tax or any other taxes or customs/excise duties and the Company shall be entitled to charge these items to the Customer at the rate applicable at the date of invoice.
- 3.5 For quotations issued in a currency other than £ Sterling, or where a significant proportion of the price quoted is made up currency other than Sterling. The relevant -/£ exchange rate used will be included within the quotation. In the event that the specified exchange rate varies by a factor of (10%) during the execution of the Contract (in either direction) the Company reserves the right to re-value the price quoted accordingly.
- 3.6 Should changes in applicable laws, rules and regulations, including any change in interpretation thereof by the courts or a legally constituted governmental or regulatory body or similar authority, made after the effective date of commencement of the Contract, result in an increase in the cost to the Company and/or a delay in the Company's time for performance of the Contract, the price and/or the schedule for performance, as the case may be, shall be adjusted to the extent necessary to provide the Company with relief from such increase in cost and/or delay.

#### 4. PAYMENT

- 4.1 Unless otherwise agreed in writing payment of all invoices shall be paid to the Company in full in the currency as invoiced no later than twenty-eight days from the date of invoice.
- 4.2 In the event of delay in payment the Company reserves the right to:
  - 4.2.1 suspend deliveries and/or cancel any of its outstanding obligations under the Contract and
  - 4.2.2 levy a service charge to cover administrative and other associated costs in relation to overdue accounts at the rate of 2% per month on all unpaid amounts.
- 4.3 The Customer shall have no right to set off any amounts owing or alleged to be owing to it by the Company against unpaid invoices to the Company.
- 4.4 The Company shall have the right for reasonable cause to withdraw or refuse credit facilities or to require from the Customer cash on or before delivery, or security for payment, and to withhold delivery until such requirement is complied with.
- 4.5 Any claim or query by the Customer in respect of the invoiced price of the Goods or Services must be notified to the Company by the Customer within the credit period referred to in condition 4.1.

#### 5. PACKAGING AND CONTAINERS

- 5.1 Containers, packaging, labelling, equipment and vehicles, where provided by the Customer, must comply with all relevant national and international safety regulations.
- 5.2 Where Goods are supplied by the Company in returnable containers these must be returned to the Company at the Customer's expense in good condition within the period specified by the Company in writing. Title to the containers shall remain with the Company at all times but they shall be held at the risk of the Customer until return to the Company.
- 5.3 Failure by the Customer to comply with condition 5.2 shall entitle the Company to invoice the Customer after six months for the full replacement value of the container, or prior to that in line with the conditions specified in writing at the time of sale.

#### 6. DELIVERY

- 6.1 Unless otherwise agreed in writing, delivery shall take place when the Goods are passed to the carrier or shipping agent or to the Customer's representative, whichever shall first occur.
- 6.2 The Customer shall ensure that adequate and safe facilities and procedures exist for receipt of the Goods at its premises at the time of delivery by the Company or its agent or carrier, and warrants to the Company that the site where it intends to use the Goods is suitable in all respects for their intended use and is licensed in accordance with any relevant local regulations, and such licenses shall be produced for inspection prior to delivery if the Company so requests.
- 6.3 All delivery dates are quoted in good faith but the Company reserves the right to alter them, notifying the Customer as soon as reasonably practicable. Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence.
- 6.4 The Customer shall not be entitled unreasonably to delay delivery or refuse to accept delivery. If in the opinion of the Company the Customer:
  - 6.4.1 is not ready to receive the Goods on the day intended, or
  - 6.4.2 fails to give the Company adequate instructions, or
  - 6.4.3 fails to collect Goods intended for collection, or
  - 6.4.4 fails to comply with the provisions of condition 6.2 in whole or in part,then the Company shall be entitled to store, dispose of or otherwise deal with the Goods in any way it thinks fit without being responsible for any loss and to charge for any costs arising.
- 6.5 If the Customer does not take delivery of the Goods within 14 days after the Company notifies the Customer that the Goods are ready for delivery, the Company shall have the right to cancel the Contract.
- 6.6 The Customer shall promptly notify the Company in writing in the event that Goods do not arrive within seven days of their anticipated receipt.
- 6.7 If the Company fails to deliver the Goods its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Company shall have no liability for any failure to deliver the Goods to the extent that such failure is covered by the circumstances in condition 6.4 or the Customer's failure to provide the Company with adequate delivery instructions.

#### 7. ACCEPTANCE

- 7.1 In cases where the Company is involved in the installation of Goods the Customer shall allow the Company and its representatives proper access to the site during the installation period and following completion of installation the Goods shall be accepted by the Customer when the Goods have been demonstrated to be in proper working order, or within ten working days, whichever is the sooner.
- 7.2 In all other cases the Customer shall inspect the Goods within seven days of receipt and failure to notify the Company in writing of any defect or other proper objection to the Goods or their packaging within such period shall constitute acceptance by the Customer.
- 7.3 Acceptance by the Customer shall be without prejudice to its rights under condition 10.

#### 8. RISK AND TITLE

- 8.1 The risk in the Goods shall pass to the Customer on delivery.
- 8.2 Title to the Goods shall remain with the Company until payment of all amounts due under the Company's invoice and until then:
  - 8.2.1 the Customer agrees to store the Goods in such a way that the Goods are readily identifiable as the property of the Company and to maintain the Goods in good working order and condition; and
  - 8.2.2 the Customer agrees not to dispose of or resell the Goods until the Goods have been paid for in full.
- 8.3 In the event that the Customer being a Company enters into liquidation or has a winding up order made against it or has a receiver or administrator appointed in respect of its assets or being an individual or firm becomes bankrupt, the Company shall be entitled:
  - 8.3.1 immediately to terminate the Contract without notice; and/or
  - 8.3.2 to enter the premises of the Customer with such transport as may be necessary and repossess any of the Goods to which it is entitled under condition 8.2.
- 8.4 Nothing in this condition shall confer any right upon the Customer to return the Goods or to refuse or delay payment for the Goods.

#### 9. SERVICES

- 9.1 Where the Company is to perform Services the Customer shall ensure that:
  - 9.1.1 adequate and safe facilities and procedures exist at its premises and that the Company is notified well in advance in English of any relevant regulations or statutory requirements that affect such premises; and
  - 9.1.2 where the Services are performed outside the United Kingdom the Company shall be notified well in advance in English of any regulation, consents or statutory requirements it has to comply with; and
  - 9.1.3 subject to condition 9.1.1 and 9.1.2, it shall comply with all relevant regulations and provide all necessary licences and certificates.
- 9.2 The Company shall be entitled to refuse to perform the Contract if the provisions of condition 9.1 are not strictly complied with by the Customer.
- 9.3 Where the Company is to perform those Services listed below certain additional conditions shall apply to the Contract, copies of which are available on request:
  - 9.3.1 consultancy and design;
  - 9.3.2 custom synthesis and labelling;
  - 9.3.3 loading, unloading and exchanging of radiation sources.
- 9.4 Time shall not be of the essence for the performance of the Services.

#### 10. WARRANTY

- 10.1. The Company warrants that (i) all Goods will at the time of delivery, and for the period referred to in condition 10.4, be free from material defects and/or

- workmanship and (ii) that all *Services* will be carried out by the *Company* with reasonable care and skill.
- 10.2. The *Company* shall not be liable for the *Goods'* failure to comply with the warranty in condition 10.1 if:
- 10.2.1. the defect arises because of the *Customers* misuse or failure to follow the *Company's* oral or written instructions as to the storage, installation, commissioning, use or maintenance of the *Goods* or (if there are none) good trade practice;
- 10.2.2. the defect arises as a result of the *Company* following any drawing, design or *Goods* specification supplied by the *Customer*;
- 10.2.3. the *Customer* alters or repairs such *Goods* without the written consent of the *Company*;
- 10.2.4. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
- 10.2.5. the *Goods* differ from their description or any relevant specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 10.3. The *Company's* sole liability for breach of this warranty shall be at its option to give credit for, replace or repair any *Goods* or re-perform any *Services* provided that:
- 10.3.1. the *Company* is informed in writing within seven days of the failure or defect becoming apparent; and
- 10.3.2. the failure or defect is shown to the *Company's* reasonable satisfaction to be due to its faulty design, workmanship, material or packaging.
- 10.4. The period of the warranty in condition 10.1 will extend for a period of twelve (12) months from the date of delivery of the *Goods* or for any differing expiry period as stated within the quotation, whichever is the shorter. Where the *Company* is not the manufacturer of the *Goods*, the *Company* will endeavour where applicable and upon the *Customer's* written request, to transfer to the *Customer* the benefit of any warranty or guarantee given to the *Company*.
- 10.5. These conditions shall apply to any repaired or replacement *Goods* supplied by the *Company* under clause 10.3.
- 10.6. Subject to condition 10.1, unless otherwise expressly agreed by the *Company* and set out in writing in the *Contract*, no warranties or representations are given or made by or on behalf of the *Company* as to the performance, availability, durability, use, storage, effectiveness, quality, suitability or fitness for any purpose of any *Goods* sold or supplied, or for any service provided, and any *Conditions* or warranties implied or imposed by operation of law are hereby excluded.
11. EXCLUSIONS AND LIMITATIONS OF LIABILITY
- 11.1 Nothing in these conditions shall limit or exclude the *Company's* liability for:
- 11.1.1 death or personal injury caused by the *Company's* negligence;
- 11.1.2 fraud or fraudulent misrepresentation;
- 11.1.3 anything which may not be lawfully limited or excluded
- 11.2 Subject to condition 11.1:
- 11.2.1 the *Company* shall not in any event be liable to the *Customer* whether as a result of breach of contract, warranty, guarantee, indemnity, tort (including negligence), strict liability or otherwise for any: (i) third party claims for financial loss or expense; (ii) loss of profit or anticipated profit; (iii) account of profit; (iv) loss of bargain; (v) loss of revenue; (vi) reduction in turnover; (vii) loss of use of the Product or Equipment; (viii) business interruption or downtime costs; (ix) loss of contract or business opportunity; (x) claims of customers or other *Contractors* of *Customer*; or (xi) whether or not included in (i) to (x) above any indirect, special, incidental or consequential loss or damage; and
- 11.2.2 the *Company's* total liability to the *Customer* in respect of all other losses arising under or in connection with the *Contract*, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price for the *Goods* and/or *Services* that are the subject of the *Contract*, or £100,000, whichever is less.
- 11.3 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods Act 1982 are, to the fullest extent permitted by law, excluded from the *Contract*.
- 11.4 The *Company* shall not be bound by any representations or statements on the part of its employees or agents whether oral or in writing and including those made in catalogues and other promotional material (excluding technical details and specifications) except where such representations or statements are expressly made part of the *Contract*.
- 11.5 The *Customer* shall ensure that the specification of the *Goods* ordered is suitable and safe for the intended use or environment of use except where it makes known details of such use to the *Company* in writing prior to conclusion of the *Contract* in such a way as clearly to place reliance on the *Company's* special skills.
- 11.6 The *Customer* shall handle the *Goods* in a suitable and safe manner and shall comply with any instructions supplied to it by the *Company*. The *Customer* shall pass on to users (including but not limited to purchasers and users of other goods into which the *Goods* are incorporated) all relevant safety information and ensure that all users are given appropriate training for the proper use of the *Goods*. The *Company* may request, and the *Customer* shall provide, evidence that the *Customer* has obtained and provided all necessary training to users of the *Goods* so as to comply with the relevant laws and regulations of the United Kingdom including but not limited to the *Customer's* permit issued by the Environment Agency for use of radioactive substances.
- 11.7 Where the *Company* experiences technical difficulties in the production of non-standard or custom-made *Goods* it may cancel the *Contract* without being liable to the *Customer* in any way.
- 11.8 Where the *Customer* supplies designs, drawings and specifications to the *Company* to enable it to manufacture non-standard or custom-made *Goods* the *Customer* warrants that such manufacture will not infringe the intellectual property rights of any third party.
- 11.9 This clause 11 shall survive termination of the *Contract*.
- 12 INDEMNITIES
- 12.1 The *Customer* shall indemnify the *Company* in respect of any claim which may be made against the *Company*:
- 12.1.1 That the use to which the *Goods* are put constitutes a breach of section 6 of The Health and Safety at Work Act, 1974, or any other relevant United Kingdom or overseas safety legislation.
- 12.1.2 That the use to which the *Goods* are put infringes the patent, copyright or other intellectual property rights of any third party and/or
- 12.1.3 arising out of the failure by the *Customer* to observe the terms of the *Contract*.
- 12.2 The provisions of condition 12.1 shall not apply where the claim arises as a result of the negligence of the *Company* or use of the *Goods* in accordance with the *Company's* written instructions.
- 12.3 This clause 12 shall survive termination of the *Contract*.
- 13 STANDING ORDERS
- 13.1 Acceptance by the *Company* of each standing and call off order received from the *Customer* for the supply and delivery of fixed quantities of *Goods* at stated intervals or for the supply of fixed quantities of *Goods* at intervals to be advised by the *Customer* shall constitute a single *Contract*.
- 13.2 All such orders once accepted are subject to cancellation by the *Company* giving one month's prior written notice to the *Customer* and are subject to immediate cancellation by the *Company* without notice in the event that either:
- 13.2.1 the provisions of condition 8.3 apply to the *Customer*, or
- 13.2.2 the *Customer* is in breach of condition 4.1.
- 13.3 The *Customer* shall only be entitled to cancel such orders on giving one month's prior written notice to the *Company* and after repayment to the *Company* of the amount of any discount or special price reduction from which the *Customer* has benefited up to the date of cancellation.
- 14 FORCE MAJEURE
- 14.1 The *Company* shall not be liable to the *Customer* as a result of any delay or failure to perform its obligations under the *Contract* as a result of the *Company* being delayed, hindered or prevented by any circumstances beyond its reasonable control including but not limited to any strike, lock-out or any other industrial dispute, act of God, compliance with requirements of any government port or international authority, plant breakdown, equipment failure and inability to obtain equipment, fuel, power, materials or transportation.
- 14.2 The *Company* shall promptly notify the *Customer* if an event of force majeure arises and during the period in which the *Company* is prevented from performing the *Contract* the *Customer* shall be entitled after giving the *Company* written notice of its intention to do so to purchase *Goods* elsewhere at its own cost and risk and the *Company* shall not be obliged to make up deficiencies which arise as a result.
- 14.3 If an event of force majeure exceeds one month the *Company* may cancel the *Contract* without limiting its other rights or remedies or incurring any liability to the *Customer*.
- 15 MISCELLANEOUS
- 15.1 The failure of the *Company* to enforce its rights under the *Contract* at any time for any period of time shall not be construed as a waiver of any such rights.
- 15.2 The *Customer* undertakes not to use any trade marks or trade names applied to the *Goods* nor to do or permit anything whereby the goodwill and reputation for such trade marks or trade names is prejudiced or damaged. This clause 15.2 shall survive termination of the *Contract*.
- 15.3 A person who is not a party to the *Contract* shall not have any rights under or in connection with it.
- 15.4 All techniques, processes, inventions, trade secrets, equipment, drawings, designs, specifications, documents, proposals and information concerning the *Goods* or *Services*, relating to the *Company's* business of which the *Customer* shall obtain knowledge or information (except to the extent that they are within or fall into the public domain other than by breach of the *Contract*) shall remain both during and after the completion of the business conducted under the *Contract* the absolute and exclusive property of the *Company* and the *Customer* shall keep confidential and retain the same with the utmost secrecy and shall procure that all members of the *Customer* Group shall abide by the terms of this provision as though it were binding upon each of them and the *Customer* shall not, and shall procure that all members of the *Customer* Group shall not, use the same other than for the purpose of the *Contract*, the *Goods* or *Services* received, nor shall it cause or permit anything which may damage or endanger the intellectual property of the *Company* or allow or assist others to do so.
16. GOODS RETURN
- 16.1 Certain items of *Goods* manufactured and/or supplied by the *Company* benefit from a one-for-one *Goods* return policy, details of which will be made available to the *Customer* in writing at the time of quotation or prior to conclusion of the *Contract*.
- 16.2 In all other circumstances, return of *Goods* supplied by the *Company* will be subject to the prior written agreement of suitable terms (including recompense) by the *Company*. Where a *Customer* returns *Goods* without such prior written agreement such *Goods* shall be returned to the *Customer*, who shall be charged fully for all costs incurred by the *Company*.
- 16.3 In all cases where acceptance of returned *Goods* has been agreed by the *Company*, then the *Customer* shall be responsible for all charges incurred in returning such *Goods*.
- 16.4 This condition shall not apply to *Goods* returned by the *Customer* to the *Company* under the warranty in condition 10.
17. GOVERNING LAW
- 17.1 The *Contract*, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with the laws of England and Wales.
- 17.2 The parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.