

General conditions of sale

1. Definitions

In these conditions the following definitions apply:

“Buyer” means the purchaser of the Goods or Support Services.

“Contract” means the contract between the Supplier and the Buyer for the sale and purchase of the Goods and the provision of Support Services (if any) in accordance with these conditions.

“Delivery” means delivery of the Goods Ex-Works to the Delivery Location (and “Deliver” and “Delivered” shall be construed accordingly).

“Delivery Location” means the site nominated by the Buyer as specified in the Order.

“Ex-Works” has the meaning given to that term in Incoterms 2010.

“Goods” are those products as described in the Quotation.

“Order” means the Buyer’s order for the Goods and/or Support Services as set out in the Buyer’s purchase order form.

“Proposal” means the Supplier’s proposal for the provision of Support Services “Quotation”

means the Supplier’s quotation for the supply of the Goods.

“Software” means the software supplied by the Supplier as part of or in connection with the Goods.

“Specification” means any specification for the Goods, including any related plans and drawings, that is agreed by the Customer and the Supplier.

“Supplier” means SPT Labtech Limited.

“Support Services” means the support services that may be purchased by the Buyer from the Supplier in connection with the Goods, as specified in a Proposal. These include annual Service Agreements, Machine Relocations and Technical Assistance for customers without a service agreement.

“User Manual” means all user manuals, instructions and documents provided by the Supplier in connection with the Goods.

“Warranty Period” means the period of 12 months starting on the date of acceptance of the Goods pursuant to clause 8 below.

2. Basis of Contract and Orders

2.1. These conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2. The Order constitutes an offer by the Buyer to purchase the Goods and any Support Services in accordance with these conditions. The Buyer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Buyer are complete and accurate.

2.3. The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order (an "Order Acknowledgement") at which point the Contract shall come into existence.

2.4. The Contract constitutes the entire agreement between the parties. The Buyer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.

3. Price

The price of the Goods and the Support Services shall be the price stated in the Quotation or Proposal (as applicable). The price for the Goods stated is the net Ex-Works price of the Goods, excluding any Value Added Tax, import duties or other local taxes that may be applicable. Costs for packing, carriage and insurance to the Delivery Location will be charged in addition, unless otherwise stated in the Quotation. The Supplier is entitled to adjust the price stated to rectify any clerical errors or changes in specification, quantity, or place of Delivery.

4. Delivery

The Goods will be deemed Delivered when they have arrived at the Delivery Location. Any dates quoted for Delivery are approximate only and the time of delivery is not of the essence. Should the Buyer be unable or unwilling to accept the Goods within a reasonable period after notification that the Goods have been Delivered, the Supplier reserves the right to make arrangements for the storage of the Goods at the Buyer's expense. Risk in the Goods will pass to the Buyer upon completion of Delivery.

5. Payment

5.1. Amounts payable by the Buyer according to the Quotation will fall due within 30 days of the date of the Supplier's invoice, unless otherwise agreed in writing.

5.2. In the event that payment due is not made to the Supplier within 60 days of the date of the invoice the Buyer will pay interest on the amount due at a rate of 3 per cent above the Base Lending Rate of Barclays Bank plc from the said due date until the time of actual payment

5.3. Unless otherwise stated in the Quotation, an invoice for the full amount will be submitted after delivery and SAT (where applicable), or when the goods are otherwise deemed to be accepted as per clause 8.5

6. Property

6.1. Title to the Goods shall not pass to the Buyer until the Supplier has received all payments due in respect of the Goods in full. Until such time the Buyer will maintain appropriate insurance cover for the Goods and will hold the Goods as bailee and in fiduciary capacity for the Supplier.

6.2. Upon the Supplier presenting reasonable evidence of a material and irreparable breach of this Contract by the Buyer and upon the Supplier's written demand the Buyer will either

(a) deliver the Goods up to the Supplier; or

(b) permit the Supplier or its agents to enter upon the Buyer's premises in order to retake possession of the Goods.

7. Information and Specifications

All illustrations, drawings and other information issued by the Supplier or contained in its catalogs, price lists, advertisements or any other publications must be regarded as approximate guides only and any weights, dimensions, power, measurements, capacities, properties, colors and other particulars of the Goods or Support Services, processes, equipment or materials are offered by the Supplier in good faith as being approximately correct but no responsibility can be accepted for their accuracy except where otherwise specifically agreed in writing by the Supplier. Errors or omissions in such publications are subject to correction.

8. Installation and Acceptance Tests

8.1. If explicitly stated in the Quotation, the Supplier will unpack and install the Goods at the Delivery Location, connect the Goods to utilities and recommission the Goods in accordance with its standard procedures.

8.2. Unless otherwise agreed, the Buyer will provide any necessary moving and lifting equipment and personnel to get the Goods to their final installation location, and shall ensure that the installation location is safe, secure and away from building work.

8.3. The Buyer will provide the utilities and environment specified in any pre-installation document provided by the Supplier and will be responsible for keeping the Goods safe and secure until they have been installed by the Supplier. The Supplier will not be liable for any delay or failure in installing the Goods to the extent caused by the Buyer failing to perform its obligations hereunder.

8.4. If explicitly stated in the Quotation, the Supplier will perform a site acceptance test ("SAT") in accordance with its standard acceptance protocol and procedures and in the presence of the Buyer, to verify the operation of the Goods in accordance with the Specification. If the Goods pass the SAT, the Buyer will immediately confirm this in writing and the Goods will be deemed accepted. If the Goods fail to pass any aspect of the SAT, the Supplier will use reasonable endeavors to rectify the problem in a timely manner and then repeat the SAT in accordance with this clause. If, prior to acceptance, the Supplier deems there to be a defect in the Goods that cannot be fixed, it may at its election replace the Goods for equivalent Goods for acceptance testing pursuant to this clause, or take back the Goods and refund the price to the Buyer.

8.5. Notwithstanding the foregoing, the Buyer will be deemed to have accepted the Goods if it makes any operational use of the Goods in the course of its business.

9. License

9.1. The Supplier grants the Buyer one non-exclusive, revocable license, transferable only as part of the sale of the Goods, for the full period of copyright in the Software, to use the Software in object code form to the extent necessary to use the Goods in the normal course of its business and in accordance with the User Manual.

9.2. In relation to scope of use of the Software:

- (a) "use of the Software" means loading the Software into temporary memory or permanent storage on the relevant computer, provided that installation on a network server for distribution to other computers is not "use" if the Software is licensed under this license for use on each computer to which the Software is distributed;
- (b) the Buyer may not use the Software other than as specified above without the prior written consent of the Supplier;
- (c) the Buyer may make one backup copy of the Software for its lawful use provided that it records the number and location of all copies of the Software and take steps to prevent unauthorized copying;
- (d) the Buyer shall not (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole or in part except to the extent that any reduction of the Software to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Software with the operation of other software or systems used by the Buyer, unless the Supplier is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Buyer shall request the Supplier to carry out such action or to provide such information (and shall meet the Supplier's reasonable costs in providing that information) before undertaking any such reduction.

9.3. The Supplier warrants and undertakes that it is the legal and beneficial owner of the Software and that so far as it is aware it has obtained all necessary authorisations to license the Software as set out in this clause.

10. Warranty on Goods

10.1. Unless otherwise stated in the Quotation, the Supplier warrants that during the Warranty Period and subject to the Buyer using the Goods only in accordance with the User Manual, the Goods will conform in all material respects with the Specification. The Supplier's sole remedy for breach of this warranty is to remedy at its own expense any material defects that have arisen in the Goods as a result of faulty design, workmanship, or materials so that the Goods conform in all material respects with the Specification or, at the Supplier's sole election, to replace the Goods or take back the Goods and refund a reasonable proportion of the price to the Buyer taking into account any use the Buyer has made of the Goods.

10.2. The Supplier may refuse any warranty claim where the failure has directly or indirectly resulted from:

- a) the Goods not being used, stored or maintained in accordance with the procedures set out in the User Manual, pre-installation document and other documentation supplied by the Supplier or
- b) the Goods being repaired or modified by someone other than the Supplier's own service personnel or authorized agents or
- c) wilful or negligent damage by an employee or agent of the Buyer, or other third party or
- d) use of labware other than that recommended or approved by the Supplier or
- e) non-compliance with SPT Labtech's IT Support Policy, a copy of which is available upon request or
- f) installation of any computer hardware or software that the Supplier has not authorized and approved in writing. If the software requires certain local user groups and accounts on the PC, the Buyer undertakes not to delete these groups, nor modify the permissions granted to members of these groups or
- g) fair wear and tear.

10.3. If, either prior to or during a warranty repair, the issue is not covered by warranty in the opinion of the Supplier, the Supplier will provide a quotation for the remedial work at prevailing support rates and a purchase order will be provided by the Buyer to cover the cost of repair.

10.4. The product warranty does not include any scheduled maintenance visits, reinstallation or validation during the warranty period.

10.5. Parts replaced under warranty are covered until the expiry of the product Warranty Period.

10.6. Prior to any warranty work, the Buyer will ensure the Goods have been decontaminated from chemical or biological risks, and will advise the Supplier on any residual materials which could not be removed by cleaning.

10.7. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 and 13 to 15 of the Supply of Goods and Services Act 1982 are to the fullest extent permitted by law excluded from the Contract.

11. Support Services

11.1. Any Service Agreement shall come into force on the date agreed between the Buyer and Supplier and will be for the period or project specified in the Proposal.

11.2. The Buyer will pay the fees for the Support Services as set out in the Proposal (the "Support Services Fees").

11.3. All site visits will be prearranged and require advance authorisation from the Buyer. The Buyer may cancel a site visit by giving one week's prior notice in writing. In the event a site visit is canceled by the Buyer, the Supplier will re-schedule the visit for the next mutually agreeable date. The Buyer will be liable for any non-refundable charges or expenses involved incurred by the Supplier as a result of such cancellation. The Supplier shall have no liability for failing to provide the Support Services as a result of the Buyer's failure to authorize a site visit or to allow the Supplier access to its premises or Goods as required by the Supplier.

11.4. Upon completion of a site visit the Buyer is required to countersign the Supplier's engineer's report (using electronic signature capture pad) thus approving the information in the report is correct and the call has been left in a satisfactory state prior to the engineer's departure. If the Buyer does not sign the report and also does not provide written objection to it within five (5) business days after the Supplier provides the Buyer with the report, then the report shall be deemed as approved.

11.5. The Buyer will ensure their site is safe and advise all parties of chemical, biological and other hazards that may exist and provide information regarding any precautions to be taken prior or during a visit. The Buyer will provide visiting the Supplier personnel any special protective clothing necessary.

11.6. The Buyer and the Supplier will endeavor to agree a mutually convenient time for the first Preventive Maintenance visit (as defined in the Proposal) within 3 months from the commencement of the Service Agreement. If an engineer is called to site within the first 3 months following commencement of the Service Agreement to address a technical matter then the Supplier reserves the right to incorporate the Preventive Maintenance Activities (as defined in the Proposal) into that visit.

11.7. Goods not maintained by the Supplier immediately prior to the commencement of the Support Services must be in acceptable condition. Where there has been lapse between the Warranty Period or previous service cover and the commencement of the Support Services the Supplier reserves the right to inspect the Goods prior to commencement of Support Services. Any charges associated with the inspection or bringing the Goods to an acceptable condition shall be paid by the Buyer at the Supplier's hourly rates then in effect as a condition to the commencement of the Support Services.

11.8. The Buyer may terminate the Service Agreement at any time, but no refund will be provided to Buyer for any unused period of Support.

11.9. For a period of 3 months following any chargeable repairs or relocation and recommissioning of the Goods, the Supplier will remedy at its own expense any defects that may arise in the Equipment through faulty or incorrect workmanship. Replacement parts are supplied with a 12 month warranty and will be replaced free of charge should a defect arise providing the Goods are under a SPT Platinum Service Agreement.

11.10. The Supplier shall be under no obligation to repair, replace, rectify or recover function lost or impaired Goods of Software arising from abnormal working conditions, misuse, or any of the reasons defined in Clause 10.2 (a) to (g) of these conditions.

12. Intellectual Property Rights

The Buyer acknowledges that the Supplier owns all intellectual property rights in the Goods, the Software and the Support Services and no rights are granted to the Buyer in respect thereof except as expressly set out in these conditions.

13. Force Majeure

Neither party shall be liable to the other for failure or delay in the performance of its obligations under this Contract to the extent that this is caused by matters beyond the reasonable control of the party affected, provided that the affected party shall:

- (a) promptly give written notice to the other stating such event and how its performance of its obligations have been prevented or delayed;
- (b) use its best endeavors to restore its ability to perform its obligations under this Contract; and
- (c) mitigate the effects of the event and continue to perform such obligations as are not affected by it.

14. Cancellation

Cancellation by the Buyer of a duly acknowledged Order for Goods can be made up to the date which is 4 weeks before the estimated despatch date. In the event of such cancellation the Buyer shall pay the Supplier 25% of the agreed price, to compensate for loss of revenue and all other costs incurred by the Supplier in connection with such cancellation.

15. Limitation of Liability

15.1. The Supplier shall not in any circumstances have any liability in connection with the Goods or any Support Services for any losses or damages which may be suffered by the Buyer (or any person claiming under or through the Buyer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories: special damage even if the Supplier was aware of the circumstances in which such special damage could arise; loss of profits; loss of anticipated savings; loss of business opportunity; loss of goodwill; loss or corruption of data; or loss or corruption of any compounds or materials.

15.2. The total liability of the Supplier, whether in contract, tort (including negligence) or otherwise and whether in connection with this Contract or any collateral contract, shall in no circumstances exceed a sum equal to the price the Seller has received from the Buyer for the Goods or Support Services.

15.3. The Buyer agrees that, in entering into this Contract, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in this license or (if it did rely on any representations, whether written or oral, not expressly set out in this license) that it shall have no remedy in respect of such representations and (in either case) the Supplier shall have no liability in any circumstances otherwise than in accordance with the express terms of this Contract.

15.4. Except as expressly stated in this Contract, all terms, conditions and warranties implied by statute, conduct or otherwise are hereby excluded to the fullest extent permitted by law.

15.5. Nothing in this Contract shall exclude or purports to exclude the Supplier's liability for death or personal injury caused by its negligence, or for fraud or fraudulent misrepresentation, or for any other liability that cannot be excluded or limited by law.

16. Termination

This Contract will remain in effect until the later of the expiry of the Warranty Period and the termination or expiry of the Support Services. Clause 12, 15, 18, 19 and 20.9 of this Contract shall survive the expiry or termination of this Contract howsoever arising.

17. Export Controls

The Buyer shall comply with all applicable export controls and all other applicable laws and regulations in connection with the use of the Goods.

18. Non-solicitation

The Buyer will not offer employment to any employee of the Supplier either during the term of this Contract or within one year of their termination or completion. Should the Buyer act in breach of this condition, then without prejudice to any other remedies available to the Supplier the Buyer will pay the Supplier by way of liquidated damages the equivalent of one year's salary for the employee concerned.

19. Dispute Resolution

If a dispute arises out of or in connection with this Contract or the performance, validity or enforceability of it ("Dispute") then the parties shall follow the procedure set out in this clause:

(a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars ("Dispute Notice"), together with relevant supporting documents. On service of the Dispute Notice, the Sales Manager of the Supplier and Purchasing Manager of the Buyer, or their delegates, shall attempt in good faith to resolve the Dispute;

(b) if the Sales Manager of the Supplier and Purchasing Manager of the Buyer, or their delegates are for any reason unable to resolve the

Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to the Managing Director of the Supplier and Managing Director of the Buyer, or their delegates, who shall attempt in good faith to resolve it; and

(c) if the Managing Director of the Supplier and Managing Director of the Buyer, or their delegates, are for any reason unable to resolve the Dispute within 30 days of it being referred to them the Dispute shall be finally resolved by arbitration in accordance with the rules of the London Court of International Arbitration in London.

20. General

20.1. These terms and conditions may only be amended by written agreement between the parties, expressly stating how any clauses have been changed.

20.2. No person other than a party to this Contract shall have any rights to enforce any term of this Contract.

20.3. If any of the terms of this Contract become invalid, illegal or unenforceable, the remaining provisions shall continue to have full force and effect.

20.4. A waiver by either party of any term or condition of this Contract in one instance shall not be deemed or construed to be a waiver of such term or condition for any similar instance or of any subsequent breach. All rights, remedies, undertakings and obligations herein are cumulative.

20.5. Neither party will use the name of the other or any of its employees for advertising or publicity purposes without its or their respective consents.

20.6. Neither party shall assign, sub-contract or transfer any interest, obligation, or right in or under this Contract without the other's prior written consent. If all or any part of the Supplier's obligations are sub-contracted, the Supplier shall remain responsible for all the acts and omissions of its sub-contractors as if the Supplier had itself carried out the acts and omissions concerned.

20.7. The Supplier represents and undertakes that it is entering this Contract as principal and not as agent for any other party. Nothing in this Contract shall create or be deemed to create a partnership or relation of principal and agent between the parties.

20.8. Any notices or other communications to be given under this Contract shall be given in English in writing to the parties at the addresses specified in the Quotation or such other addresses as may be agreed between the parties in writing from time to time.

20.9. This Contract shall be governed by and construed in accordance with the laws of England, and both the parties submit to the nonexclusive jurisdiction of the English Courts to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).