

## **DD-Scientific Limited ('the Company') General Terms and Conditions of Sale**

### **Basis of contract**

Goods and services are supplied by the Company subject to these terms and conditions ('Terms and Conditions'), which govern the contract exclusively subject only to any additional terms and conditions stated in the Company's acknowledgement of order. An order is not accepted by the Company, and accordingly there is no contract, until the Company has issued a written acknowledgement of order. No order accepted by the Company may be cancelled or postponed by the Customer (and accordingly no returns will be accepted and no refunds will be made) except with the prior agreement in writing of the Company and on the condition that the Customer will reimburse the Company all costs and expenses incurred by the Company as a result of cancellation. The Customer is responsible for the accuracy of its order, for supplying any information required by the Company to perform the order, and for the accuracy of any such information supplied. Information contained in catalogues, illustrations and similar materials issued by the Company is approximate only; and the Company reserves the right to determine the technical specification of goods required to fulfill the Customer's order and to make any changes which do not materially affect the quality or performance of goods.

### **Price and payment**

Unless stated otherwise in the Company's acknowledgement of order, prices are Ex-works (Incoterms 2000) and the Customer is additionally liable to pay the transport, packaging and insurance costs of delivery. Prices are exclusive of any applicable value added tax for which the Customer is additionally liable. The Company reserves the right to increase the prices stated in the Company's acknowledgement of order according to any subsequent increase in the cost of materials, parts or labour. Unless stated otherwise in the Company's acknowledgement of order, the Company's invoices are payable net cash within 30 days of invoice date. Customer is prohibited from and shall not set off invoiced amounts or any portion thereof against sums that are due or may become due from Company to Customer, its parent, affiliates, subsidiaries or other divisions or units on separate transactions.

The Customer or its representative, who arranges for the goods to be collected from the Company's premises and then has them exported to a place outside the European Community Member States, shall provide the Company with valid evidence of export complying with the applicable VAT regulations within three months of the date shown on the accompanying sales invoice. In case of delivery of goods to foreign-going vessels and aircraft, the Customer shall provide the Company with a receipt duly signed by or on behalf of Customer confirming delivery of the goods on board the ship or aircraft. Should the Customer fail to provide said evidence of export or receipt in time, the Company reserves the right to invoice subsequently and collect any value added tax deemed to be due.

### **Delivery**

The Company will use all reasonable endeavors to effect delivery by the delivery date(s) stated in the contract or in any estimate of delivery time provided by the Company, but time is not of the essence in this regard.

In any event, should delivery be delayed by any act, omission or delay on the part of the Customer the Company is entitled to an extension of time.

### **Force Majeure**

Company shall not be liable for any delay in production or delivery of goods if such is due to an event outside its reasonable control ('force majeure'), which shall include among other things, failure by suppliers to provide Company parts, services, manuals, or other information necessary to the performance by Company, any acts of any government that would limit the ability for contract

performance (including refusal to grant, or suspension of, an export license), fire, earthquake, flood, or any other acts of God; labour strikes or lockouts; riots, civil disobedience, terrorism or war (or imminent threat of same, and material or component shortage). If the force majeure continues for longer than 90 days, either party may terminate a purchase order and Customer will pay Company for work performed prior to termination and reimburse all reasonable expenses incurred by Company as a result of such termination. If delays in delivery or performance are caused by force majeure or Customer, the date of delivery or performance shall be extended by the period of the delay or as mutually agreed. If Company should default or delay or not deliver product for any other reason, Customer's sole remedy against Company shall be an option to cancel its purchase order, through written notice to Company.

## **Risk and Title**

Risk of damage to or loss of goods passes to the Customer on delivery. Title in goods does not pass to Customer, and accordingly the Company remains the owner of them, until the Company has received in cash or cleared funds payment in full of the price for the goods; and if Customer is overdue in paying the price the Company may recover the goods or any of them and for that purpose enter the Customer's premises and, if necessary, detach the goods from other goods or equipment.

## **Warranty**

Except as provided otherwise in these Terms and Conditions, Company warrants goods of its and affiliates' manufacture as in all materials aspects conforming to applicable specifications and/or drawings of Company. Commencing with date of shipment, Company's warranty shall run for 12 months unless Company has specified otherwise in writing. Non-complying goods returned transportation prepaid to Company will be repaired or replaced, at Company's option, and return-shipped lowest cost, transportation prepaid. Company shall have no further liability to the Customer. No goods will be accepted for return without an authorization number obtained in advance of shipment from Company.

The above warranty is subject to the following conditions:

- (i) The Company shall be under no liability in respect of any defect in the goods arising from any drawing, design or specification supplied by the customer.
- (ii) The Company shall be under no liability in respect of any defect arising from fair wear and tear, contamination, willful damage, negligence, incorrect movement, improper installation, neglect, failure to follow Company's instructions (whether oral or in writing), operation in environmental conditions outside specified safe operating extremes, misuse or modification or repair of the goods without the Company's approval.
- (iii) The Company shall be under no liability in respect of any defect or failure of the goods to operate in accordance with the specifications, illustrations, description and other particulars in the Company's literature due to the fact that the Customer combines or uses the goods with any incompatible equipment or ancillary products that may be connected to the goods.

Company reserves the right to charge its regular charges if inspection does not disclose a defect within the terms of this warranty. Repaired or replaced equipment shall be warranted for the remainder of the unused warranty term or for 90 days from shipment, whichever is longer.

Additional warranty terms for specific goods may apply.

The Company does not represent that the goods may not be compromised or circumvented; that the goods will prevent any personal injury or property loss; or that the goods will in all cases provide adequate warning or protection.

## **Liability**

In no event shall either party be liable for (a) any indirect, incidental, consequential loss; (b) any loss arising from business interruption; (c) loss of profits; (d) loss of revenue; (e) loss of use of any property or capital; (f) loss of anticipated savings; or (g) loss of data. Neither party shall be liable for any loss or damage where that liability arises as a result of their knowledge (whether actual or otherwise) of the possibility of any such loss or damage.

Company's liability in respect of any order or otherwise under these Terms and Conditions shall in no case exceed the sales price of the relevant order. These exclusions and limitations on damages shall apply regardless of how the loss or damage may be caused and against any theory of liability, whether based in contract, tort, or otherwise. Company excludes or restricts its liability for all matters in respect of which it is permitted by law to do so.

## **Intellectual property rights**

Copyright, design right and all other rights in the design and manufacture of goods supplied by the Company remain the Company's property and none is acquired by the Customer.

Any Software provided by Company is hereby licensed and not sold. The license is nonexclusive, and is limited to such equipment and/ or location(s) as are specified on the purchase order for which this instrument serves as either a quotation or acknowledgment. No other use is permitted. Company retains for itself (or, if applicable, its suppliers) all title and ownership to any software delivered hereunder, all of which contains confidential and proprietary information and which ownership includes without limitation all rights in patents, copyrights, trademarks and trade secrets. Customer shall not attempt any sale, transfer, sublicense, reverse compilation or disassembly or redistribution of the software. Nor shall Customer copy, disclose or display any such software, or otherwise make it available to others (except as Company authorizes in writing).

## **Indemnity against intellectual property rights infringement**

Company agrees to defend or settle any claim, suit, or proceeding brought against Customer based upon a claim that any product manufactured and provided by Company hereunder directly infringes any third party patent, copyright, or mask work and to pay costs and damages finally awarded to the third party, provided that: Company is notified promptly in writing of such claim; Company is provided sole control of such defence or settlement using counsel of Company's choice; and Customer provides Company with all available information and assistance. Company shall not be responsible for any settlement or compromise of such claim made without Company's written consent.

Company shall have no such obligation in respect of claims arising: (a) from products not in Company's catalogue or products developed pursuant to Customer's direction, design, or specification; (b) from products developed by Company using any process required by Customer; (c) from the combination of any product with other elements if such infringement would have been avoided by the product not in such combination; or (d) from products that have been modified if such infringement would have been avoided by the unmodified product. Customer agrees to defend, indemnify, and hold harmless Company from and against any claims, suits, or proceedings whatsoever arising from such exclusions identified in (a)-(d) above.

At any time after such a claim has been made or Company believes is likely to be made, or a court of competent jurisdiction enters an injunction from which no appeal can be taken, Company will have at its option the discretion to: (a) procure for Customer the right to continue using such Product; (b) replace or modify such Product; or (c) accept the Product's return and refund the purchase price less twenty percent (20%) annual depreciation from shipment date. In no event shall Company be liable for any consequential, incidental, special, or punitive damages. The foregoing states Company's entire liability and Customer's exclusive remedy for any actual or

alleged infringement of third party rights. This article is in lieu of and replaces any other expressed, implied, or statutory warranty against infringement.

## **Termination**

If the Customer makes any voluntary arrangement with its creditors, becomes subject to an administration order, becomes bankrupt or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction) or if any encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer, or if the Customer takes or suffers any similar action in consequence of a debt, or if the Customer ceases, or threatens to cease, to carry on business, the Company may terminate the contract with immediate effect and without liability to the Customer.

## **Export**

Customer shall comply with all applicable export control laws and regulations of the United States and any other country having proper jurisdiction and shall obtain all necessary export licenses in connection with any subsequent export, re-export, transfer and use of all product, technology and software purchased, licensed, and received from Company.

## **Applicable law and jurisdiction**

Company and Customer expressly agree that the construction interpretation and performance of these Terms and Conditions and all transactions hereunder shall be governed by laws of England and Wales. The courts of England and Wales shall have exclusive jurisdiction for any disputes relating to the contract which is not resolved by the parties.

## **General**

These Terms and Conditions (including those stated on the face hereof) shall constitute the entire agreement of Company and Customer, superseding all prior agreements or understandings, written or oral, and cannot be amended except by mutual writing. Customer may not assign any rights or duties hereunder without Company's written prior consent. Provisions herein which by their very nature are intended to survive termination, cancellation or completion of Customer's order after acceptance by Company shall survive such termination, cancellation or completion. No waiver by the Company of any breach by the Customer of the contract is to be considered a waiver of a subsequent breach. The contract is not intended to confer a benefit on any third party and no third party is entitled to enforce any provision of the contract. If any provision of the contract is held to be invalid or unenforceable in whole or in part, the validity of the other provisions of the contract (and, where applicable, the remainder of the provision in question) shall not be affected. Translations of these Terms and Conditions are provided for convenience only and the English version of these Terms and Conditions shall prevail in case of conflict between the different language versions.

**DD-Scientific Limited, Unit 1 Castle Trading Estate, Fareham, UK, PO16 9SF**