

## **SOUTH COAST SCIENCE TERMS AND CONDITIONS OF SALE**

### **1. INTERPRETATION**

a. The "Buyer" means the person firm or company with whom the Contract is made. b. The "Company" means South Coast Science its assignees and successors in title. c. The "Contract" means the contract between the Company and the Buyer on these terms and conditions once acceptance of the offer to purchase has been notified to the Buyer in accordance with clause 2.6 below. d. The "Products" means the products, or any part thereof agreed to be sold to the Buyer and any replacement or spare parts.

### **2. ORDERING**

2.1 All terms and conditions referred to by the Buyer or contained in any form or document or other communications submitted by the Buyer at any time are hereby expressly excluded and these terms and conditions shall supersede and prevail over any inconsistent terms and conditions of the Buyer.

2.2 Quotations issued by the Company will automatically lapse if not acted upon by the Buyer within 30 days of the date of issue.

2.3 No employee or agent of the Company has any authority to make any representation or give any warranty relating to the Products or to agree to any variation or addition hereto or to the Contract.

2.4 The conditions together with any forms or documents incorporated in the Contract constitute the entire agreement between the parties and supersede any prior statements, representations, or undertakings whether oral or written. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

2.5 Oral order and orders made by email must be confirmed in writing by the Buyer. All orders should specify the reference number of Products as listed in the Company's catalogue and where a quotation has been given, the quotation reference.

2.6 Any order placed by the Buyer whether by signing and returning the Company's quotation or otherwise shall constitute an offer to purchase the Products upon the terms and conditions herein. The Contract shall only be formed when the Company has accepted the Buyer's offer by submitting an invoice.

2.7 Invoices are issued on receipt of a purchase order from the buyer and become due as per payment terms detailed in Section 12: Payments.

### **3. GENERAL**

3.1 The Buyer shall not without the prior written consent of the Company assign, transfer or sub-contract the benefit or burden of any Contract or any part thereof.

3.2 No waiver of any item of the Contract by the Company shall be deemed to be a further or continuing waiver of any other terms of the Contract.

3.3 Notices under the Contract must be served in writing and may be served by first class pre-paid post addressed to the respective party's address as it appears in the Contract.

3.4 If any provision hereof is held to be void or unenforceable by any reason of law, it shall be void or unenforceable to that extent only and no further and all other terms shall remain valid and fully enforceable.

3.5 The headings used in these conditions are for ease of reference only and shall not in any way affect the construction thereof.

3.6 The Buyer shall have no right to set off.

### **4. DELIVERY AND ACCEPTANCE OF RISK**

4.1 Delivery will be made to such place as may be specified by the Buyer.

4.2 The time of delivery shall not be of the essence of this Contract and shall be the date and time of despatch of the Products from the Company's premises when risk in the Products shall pass to the Buyer.

4.3 From such time as the risk passes to the Buyer hereunder the Buyer shall maintain insurance of the Products to their full replacement value and any insurance monies received by the Buyer in respect of the Products shall be held on trust for the Company until such time as the Company shall have received full payment for the Products in cleared

funds.

4.4 Any delivery date or period quoted by the Company is an estimate and the Company shall not be liable for any delay in delivery.

4.5 In the event of the Buyer being unable to accept delivery of the Products delivered the Buyer shall (in addition to any other liabilities it may have to the Company) be fully liable for all costs, charges and expenses incurred by the Company (including but not limited to storage, handling and carriage charges).

4.6 Unless otherwise agreed the Company shall not be bound to deliver the Products in one lot or consignment and the Buyer shall therefore be bound to accept split deliveries or instalments.

4.7 Any claim by the Buyer in relation to Products damaged on delivery or in transit or in relation to any shortage of quantities must be made in writing to the Company and the carrier within seven days of delivery otherwise the Products shall be deemed to have been accepted by the Buyer as being compliant with the Contract in all respects.

## **5. TITLE IN THE PRODUCT**

5.1 Until the Company has received payment in full for the Products (together with any other sums due hereunder and any interest payable under clause 12) the Buyer shall hold the Products in a fiduciary capacity as bailee for the Company and: - a. Title to and property in the Product shall remain with the Company as legal and equitable owner thereof and the Buyer shall be entitled to possession of the Products only. b. The Buyer shall store the Products in such a way that they be identified as the property of the Company. c. Without prejudice to any other rights of the Company the Buyer's licence to use and sell the Products shall automatically terminate if the Buyer, being an individual becomes bankrupt or makes an arrangement or composition with his creditors or being a company, has a petition presented or a resolution passed for the appointment of an administrator or a receiver or an administrative receiver or becomes the object of insolvency proceedings. d. If the Products are sold before the Company has been paid in full for such Products the Buyer shall hold the proceeds of sale in a separate bank account apart from all other monies of the Buyer and shall notify its bankers of the Company's interest in such proceeds. On receipt of notice in writing from the Company all proceeds of sale received by the Buyer shall immediately be paid to the Company. e. At any time after the termination of the above licence and prior to the Company received payment for the Products in cleared funds, the Company may repossess the Products and for this purpose the Buyer hereby grants to the Company an irrevocable licence to enter upon any premises of the Buyer and reclaim possession of the Products.

## **6. WARRANTY**

6.1 The Company warrants that at the time of delivery the Products will be substantially free from defect in design materials or workmanship.

6.2 The Company will repair or at its option replace defective Products or refund the price to the Buyer in the event of a breach of the foregoing warranty subject to the defects being notified to the Company within 12 months from the date of delivery of the Products to the Buyer (unless otherwise agreed between the parties or if the Company offers a longer warranty than 12 months) and on condition that: - a. the Buyer gives written notice to the Company of the alleged defect within 14 days of the time when the Buyer discovers the defect and b. if so required by the Company the Products are returned to the Company by the Buyer at the Buyer's risk and expense and c. the Products have not been misused neglected or altered in any manner (including but not limited to the label and pin soldering) or dismantled or repaired by the Buyer its agents or employees or by any third party and d. the Buyer gives the Company a reasonable opportunity to inspect and repair the Products and e. the foregoing warranty shall not apply if the Buyer has failed to comply with any instructions or Product literature supplied with the Products relating to the storage, installation, operation, maintenance, or servicing of the Products.

## **7. LIMITATIONS OF LIABILITY**

7.1 The warranty referred to in clause 6 hereof is in substitution for and shall replace all conditions and warranties on the part of the Company implied by statute or common law or otherwise all of which are expressly excluded (insofar as they may be excluded by law).

7.2 Without prejudice to the generality of sub-clause it is the Buyer's responsibility to satisfy itself that the Products

are suitable for its requirements and the Company does not profess to have any skill or judgement in relation to the particular needs of the Buyer. The Buyer shall be deemed to have full knowledge of the nature and properties of and shall carry out its own testing of the accuracy and performance of the Products.

7.3 The Company does not exclude or limit its liability: a. for death or personal injury caused by the Company's negligence; or b. under section 2(3) of the Consumer Protection Act 1987 or the title warranty implied by section 12 of the Sale of Goods Act 1979 or the supply of Goods and Services Act 1982; or c. for fraud or fraudulent misrepresentation: or in respect of any liability which cannot be excluded as a matter of law.

7.4 The Company's total liability to the Buyer in contract, tort or otherwise in respect of damage to the Buyer's physical property shall not exceed £2,000,000.

7.5 The Company shall have no liability to the Buyer in contract, tort or otherwise in respect of the Buyer's loss of profit, loss of turnover, loss of goodwill, reduced share price, wasted management time or for any other pure economic loss whether or a direct or indirect nature.

7.6 Subject to the preceding sub clauses of this clause 7, the Company's aggregate liability in contract, tort or otherwise and arising in connection with the Contract shall be limited to 125% of the price payable for the Products under the Contract.

7.7 Although the Company will use reasonable endeavours to ensure that any figures published by the Company relating to the performance of the Product are accurate, the Company does not warrant the accuracy of any published performance figures.

## **8. WITHHOLDING OF DELIVERY**

Without prejudice to any other remedies it may have, the Company reserves the right to cancel forthwith or to delay performance of the Contract, wholly or in part, upon any breach, non-observance, or non-performance by the Buyer of any item condition or provisions of the Contract between the Company and the Buyer.

## **9. TERMINATION**

The Company shall be entitled to terminate this Contract forthwith by written notice and be immediately entitled to any unpaid sums in respect of Products provided to the Buyer if: -

a. the Buyer (being an individual) becomes bankrupt or if the Buyer (being a Company) adopts a resolution of its winding up or if a petition is presented for the appointment of an administrator or receiver in respect of any part of the Buyer's undertaking or assets or if the Buyer is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 (or any re-enactment thereof). b. the Buyer is in breach of any of these terms and conditions. c. if any other Contract between the parties hereto is terminated by either party for whatever reason.

## **10. CANCELLATION**

10.1 No cancellation by the Buyer is permitted unless expressly agreed by the Company in writing.

10.2 Subject to the foregoing the following cancellation charges shall be payable by the Buyer. Period between the date Cancellation charge of acknowledgement of order as a proportion of the of the Products hereunder and the total invoice price the date of cancellation not exceeding 15 days 10% 30 days 20% 45 days 50% 60 days 75% thereafter 100%

## **11. PRICE**

11.1 All prices quoted by the Company are exclusive of VAT and any other direct or indirect taxes.

11.2 Unless otherwise stated all prices include the cost of any packaging but exclude the cost of carriage handling freight and other delivery charges to the destination(s) specified by the Buyer.

11.3 If for any reason outside the Company's control the cost to the Company of supplying the Product increases after the date of acceptance of the Buyer's offer, the Company may increase the price accordingly.

11.4 If the Company incurs any costs as a result of the Buyer's neglect or default (including but not limited to any inadequacy of the Buyer's instructions), the Buyer shall pay those costs in addition to the Contract price.

## **12. PAYMENT**

12.1 Unless otherwise agreed in writing by the Company the following payment terms apply to all invoices:

- All invoices for devices, a 50% deposit is payable on receipt of invoice and the balance of the invoice must be paid prior to despatch of your order. We are not able to add your order to our production schedule until such time as the initial deposit has been paid.
- An invoice for the renewal of data services must be paid on or before 14 days of receipt of the invoice.
- All other invoices, including but not limited to, costs for shipping, spares, repairs, etc must be paid in full by the due date of the invoice, normally 14 days after invoice date.
- Payment shall only be deemed to have been made when the Company has received payment in cleared funds in its bank account.

12.2 Time of payment shall be of the essence and failure to make any payment to the Company on the due date shall entitle the Company at its options to treat the Contract as repudiated and/or b. cancel the delivery of any undelivered Products. 12.3 If any payment due to be made hereunder is overdue, the Company reserves the right to charge interest thereon, both before and after judgement on a day-to-day basis at the rate of 4% above the base rate of Lloyds Bank Plc from time to time from the date payment was due to be made until the date payment is actually received.

## **13. EXPORT TERMS**

13.1 Where the Products are supplied for export from the United Kingdom, the provisions of this clause 13 shall (Subject to any special terms agreed in writing between the Buyer and the Company) apply notwithstanding any other provisions of these conditions and the Products are sold FCA Brighton (incoterms 2010) and the Company shall be under no obligation to give notice under Section 32(3) of the Sale of Goods Act 1979.

13.2 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Products into the country of destination and for the payment of any duties thereon.

13.3 Unless credit insurance is available or if the Company accepts alternative payment methods, payment of all amounts due to the Company shall be made by irrevocable letter of credit confirmed through a prime London bank established by the Buyer in favour of the Company immediately on receipt on the invoice. The letter of credit shall be for the Contract price inclusive of any tax or duty payable by the Buyer and shall be valid for at least six months or such longer period as shall have been estimated by the company for delivery. The Company shall be entitled to payment on presentation to such United Kingdom Bank of the documents specified by the Company.

## **14. STORAGE, MAINTENANCE AND SUPPORT SERVICES**

To ensure correct functioning of the Products the Company recommends that the Products are stored, maintained, and serviced to a required standard listed down in the applicable published servicing and specification materials. Failure to do so to such standard or the use of non-authorized components fitted during service (where applicable) means that the company shall not be liable for any loss or damage (howsoever arising) sustained by the Buyer.

## **15. SPECIFICATIONS/DRAWINGS**

All specifications, drawings and particulars of weight and dimensions published by the Company are approximate only.

## **16. INDEMNITY**

The Buyer shall indemnify and hold harmless the Company against all liability, losses, claims and expenses which may result by reason of any breach by the Buyer of the terms of the Contract or by reason of any use of the Products by the Buyer or any person to whom the Products were supplied (whether directly or indirectly) by the Buyer.

## **17. FORCE MAJEURE**

The Company shall not be liable or responsible for any loss or damage caused by delay in the performance or by non-performance of any of its obligations hereunder (including but not limited to delayed delivery or non-delivery) where the same is occasioned by any circumstances or event outside of the control of the Company. In such event, the

Company may cancel or suspend the Contract without incurring any liability whatsoever for any loss or damage resulting from such cancellation or suspension.

## **18. THIRD PARTY RIGHTS**

The Buyer and the Company agree that the terms of the Contract shall not be capable of being enforced by a third party pursuant to the Contracts (Rights of Third Parties) Act 1999

**19. LAW**

The construction validity and performance of the Agreement and any dispute arising out of or relating to the Contract and its subject matter shall be governed in all respects by English Law and the parties hereby submit to the non-exclusive jurisdiction of the English Courts.