

## Standard Terms and Conditions for Ion Science Inc

### 1. General

**1.1** Contracts and orders are accepted only subject to Ion Science Inc (the "Company")'s Conditions of Sale as set out herein and Special Conditions of Sale, if any, endorsed on the reverse hereof (collectively, "Conditions") and the Purchaser shall be bound by such Conditions. No modification of these Conditions or of the particulars contained in the Company's acceptance of an order from the Purchaser will be recognized by the Company unless such modification is expressly accepted by the Company in writing and signed by the Company's authorized representative. Unless so accepted, any qualification thereof or difference contained in the Purchaser's own order forms shall be inapplicable. All orders, whether based on a quotation or otherwise, shall be subject to the Company's written acceptance. ANY PROPOSAL THAT INCLUDES DIFFERENT OR ADDITIONAL TERMS THAT VARY FROM COMPANY'S CONDITIONS ARE OBJECTED TO AND DISALLOWED. NOTWITHSTANDING THE FOREGOING, ANY SUCH COUNTERPROPOSALS BY PURCHASER SHALL NOT OPERATE AS A REJECTION OF THE CONTRACT OF SALE, BUT AS A REJECTION OF THE ADDITIONAL OR DIFFERENT TERM(S).

**1.2** Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

**1.3** Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. A notice is deemed to have been served as follows: a) if personally, by fax, e-mail or overnight delivery, at the time of delivery; b) if posted, 5 (five) days after the envelope containing the notice is posted.

**1.4** No waiver by the Company of any breach of the contract by the Purchaser shall be considered as a waiver of any subsequent breach of the same or any other provision.

**1.5** 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(s) in question shall not be affected.

**1.6** Company represents that the goods sold by Company will be produced in compliance with applicable fair labor standards laws, occupational safety and health laws, and laws related to equal employment opportunity.

### 2. Prices and Payment

**2.1** Delivery, packing, inspection and testing charges, if applicable, will be stated separately. Unless otherwise specified, goods and/or services are supplied with payment due net 30 (thirty) days from date of invoice or from the date that the goods were dispatched or services were performed, whichever is earlier. Prices quoted or stated, unless stated otherwise in writing, do not include sales, use, excise or similar taxes or duties. Purchaser shall pay these taxes directly if the law permits or will reimburse Company if it is required to pay them. Purchaser will provide tax exemption certificates or evidence of tax payment on request.

**2.2.** The Purchaser shall not be entitled to make any deductions, set-offs or counter claims against the invoice price.

**2.3** If the Purchaser fails to make any payment on the due date then, without prejudice to any other rights or remedy available to the Company, the Company shall be entitled to: a) cancel the contract, suspend any further deliveries or suspend the provisions of the services to the Purchaser; b) appropriate any payment made by the Purchaser to such of the goods and/or services (or the goods supplied under any other contract between the Purchaser and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Purchaser); and c) charge the Purchaser interest (both before and after any judgment) on the amount unpaid at the rate of 1.5% per month or the highest amount allowed by law, whichever is lower, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest)

### 3. Delivery

**3.1** No liability will be accepted by the Company for any delay in the dispatch or delivery of the goods and/or performance of the services (whatever the cause of the delay) or for any damage or losses caused thereby. If for any reason, the quantities of the products covered hereby or of any materials used in the production of the products reasonably available to Company shall be less than the total Company needs for its own use and for sale, Company may allocate its available supply of products among its existing or prospective purchasers and/or its own departments, divisions and affiliates in such manner as Company deems proper in Company's sole discretion, without thereby incurring liability on account of the method of

allocation determined or its implementation or for failure to perform this contract. Time for delivery shall not be of the essence of the contract unless previously agreed by the Company in writing.

**3.2** The goods are offered for Sale FCA Company's Factory Gates (Incoterms 2020) with risk in the goods, including, but not limited to the risk of loss, theft, damage or destruction of the products, transferred on delivery. If the Purchaser collects the goods from the Company's premises, the risk for the goods shall pass to the Purchaser on collection.

Company and Purchaser shall comply with all applicable international, national, state, regional and local laws and regulations with respect to their performance of this contract, including compliance with all US Export Controls that prevail at time of export as set by Bureau of Industry and Security and Export Administration Regulations.

### 4. Variation of Price

**4.1** Prices may be altered by the Company without notice at any time. All goods are sold and services are performed subject to the prevailing prices at the date of dispatch or at the time of performance. If the cost to the Company of performing its obligations shall change due to any variation up to the date of dispatch of the goods and/or the date of performing the services, including but not limited to the cost of materials, labor or transport or the rate of exchange between US Dollar and any foreign exchange rate applicable to the goods and/or services, the Company reserves the right to adjust the quoted price.

**4.2** The quoted price is also subject to adjustment if any changes are made by the Purchaser in the specification of quantities of the goods and delivery requirements.

### 5. Alterations to Specification

The Company reserves the right to incorporate revisions to the specifications or designs of the equipment without notice. In such cases the goods shall be accepted by the Purchaser as conforming to the contract.

### 6. Drawings

Drawings, specifications and other information supplied by the company:

- are confidential and remain the property of the Company
- must not be disclosed to any other party
- must be returned to the Company if the quotation is not accepted
- are approximate only and shall not, unless otherwise stated, be deemed to form part of the contract.

### 7. Goods on Sale or Return

**7.1** Goods stated as being 'Sale or Return' are supplied entirely at the Purchaser's own risk and shall remain so until, returned to the Company in a satisfactory condition to the Company's address. The Company reserves the right to charge for any work that may be necessary to restore the goods to their former condition.

**7.2** Unless otherwise agreed in writing, goods supplied on a Sale or Return basis shall be returned to the Company within 1 (one) month from delivery date. If goods are not returned within this period, they will become due for payment in accordance with these Conditions.

### 8. Retention of Title

**8.1** Property in the goods shall remain vested in the Company until payment thereof shall have been made by the Purchaser in full. The Purchaser shall be in possession of the goods solely as bailee for the Company until the full price is paid. The Purchaser shall store the goods separately from his own goods and/or those of any other person and at all times the goods shall be stored in such a manner that they are readily identifiable as Company's goods until the full price is paid.

**8.2** The Purchaser's rights to possession shall cease forthwith if the Purchaser;

- not being a company, commits an act of bankruptcy; or
- being a company, does anything or omits to do anything which would entitle a receiver or administrator to take possession of any of its assets, or which would entitle any person to present a winding-up petition or a receiver is appointed to take possession of any of the Purchaser's assets or a petition is presented to wind up the Purchaser.

**8.3** Whenever and as soon as the Purchaser does or omits to do anything whereby his right to possession ceases under the provisions of condition 8.2 then:

- the Purchaser shall immediately notify the Company that his right to possession has ceased and of the circumstances in which this has occurred, and
- the Purchaser shall on oral or written request furnish the Company, or the Company's representatives or agents with sufficient information so as to enable the Company to retake possession of the goods and such information shall include full details of the place where the goods are kept, and
- the Company shall have an irrevocable license without prior notice to enter upon the Purchaser's premises by itself, its representatives or agents

during normal business hours in order to retake possession of the goods.

**8.4** If the Purchaser shall sell the goods without complying with the provisions of this Clause 8, the Purchaser shall be in breach of bailment and liable to account to the Company for the proceeds of any sale.

**8.5** In selling any goods, the Purchaser shall, as regards any third party, act solely on its own behalf and shall not have or hold himself out in any way whatsoever as having the right to make representations to or contracts with the third party on behalf of the Company.

**8.6** The Purchaser shall inform the Company immediately of any seizure, whether threatened or actual, of the goods.

**8.7** The goods shall from the time set forth under clause 3 hereof, become the sole risk of the Purchaser who shall fully insure the goods against all risks with a reputable insurance company at its own expense.

## **9. Bankruptcy/Liquidation**

**9.1** If the Purchaser becomes bankrupt or goes into liquidation or makes any composition with its creditors or if a receiver of any of its assets is appointed, the Company shall be at liberty either:

- a) to cancel the contract summarily by notice in writing without compensation to the Purchaser, or
- b) to have the option of completing the contract provided agreement is reached between the Company or any receiver or liquidator or other person appointed.

**9.2** The exercise of any of the rights granted under condition 9.1 shall not prejudice or affect any right of action of remedy which shall have accrued or shall thereafter accrue to the Company.

## **10. Guarantee and Liability**

**10.1** The following Guarantee shall be deemed to be incorporated in these Conditions of Sale: For a period of 12 (twelve) months from the date on which a product either manufactured or sold by the Company is delivered to the Purchaser, the Company will exchange or repair, at the Company's option, any part or parts thereof requiring replacement or repair by reason of defective workmanship or material.

**10.2** No claim by Purchaser of any kind including, but not limited to, claims for indemnification, shall be greater in amount than the purchase price for the products in respect of which damages are claimed. IN NO EVENT SHALL COMPANY BE LIABLE TO PURCHASER FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, STATUTORY, SPECIAL, OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOSS OF USE, LOSS OF TIME, INCONVENIENCE, LOST BUSINESS OPPORTUNITIES, DAMAGE TO GOOD WILL OR REPUTATION, OR LOSS OF DATA, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN.

**10.3** The Company shall not be responsible for any expense which the Purchaser may incur in removing or having removed or any replacement or having replaced any part or parts sent for inspection or in fitting or having fitted any new parts supplied in lieu thereof.

**10.4** The company shall not be responsible for any defect, which in the opinion of the Company was attributable to, but not specifically limited to:

- a) Wear and tear;
- b) Any form whatsoever of improper use or use which was not in accordance with accepted practice;
- c) Abnormal corrosive or abrasive conditions;
- d) Non-compliance with any instructions issued by the Company concerning the use, fitting and servicing of the goods;
- e) Incorrect fitment.
- f) Faulty or irregular supply of electricity; or
- g) Work performed by Purchaser or a third party

**10.5** Modified goods supplied by the Company in accordance with Clause 5 of these conditions shall not constitute a defect for the purposes of this guarantee.

**10.6** THIS GUARANTEE IS GIVEN IN LIEU OF AND EXCLUDES EVERY CONDITION OR WARRANTY WHETHER STATUTORY OR OTHERWISE. COMPANY MAKES NO OTHER WARRANTIES OR REPRESENTATIONS TO PURCHASER OR ANY OTHER PERSON OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS, AND COMPANY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. PRODUCTS SOLD HEREUNDER ARE SOLD ONLY TO THE SPECIFICATIONS SPECIFICALLY SET FORTH BY THE COMPANY IN WRITING. PURCHASER ASSUMES ALL RISK WHATSOEVER AS TO THE RESULT OF THE USE OF PRODUCTS PURCHASED, WHETHER USED ALONE OR IN

## **COMBINATION WITH OTHER PRODUCTS OR SUBSTANCES.**

**10.7** This guarantee is limited to those parts of the goods that are manufactured by Ion Science Ltd and sold by Ion Science Inc. Any parts which are not manufactured by Ion Science Ltd shall be subject to such warranties and/or guarantees (if any) as are given by the manufacturer of such parts.

## **11. Claims**

**11.1** No claim for credit, exchange or repairs can be considered unless prior approval of the Company is obtained by the Purchaser. Without such approval from the Company, goods may not be returned to the Company. In addition, any such goods must be returned carriage paid to the Company and supported by the following particulars:

- a) The Company's reference on the product from which the part or parts were taken.
- b) The defects, claims and the reasons for them
- c) Date of purchase and source from which the product was purchased.

**11.2** Purchaser shall inspect the product immediately upon receipt and shall inform Company of any alleged non-conformity (including but not limited to non-conformity for defect or damage or missing product) within 5 (five) days of receipt or expected receipt. Failure by Purchaser to provide Company with written notice of a claim within 5 (five) days, shall constitute a waiver by Purchaser of all claims with respect to such products.

## **12. Force Majeure**

Should the Company be prevented from performing at the agreed date by strikes, Lockouts, act of God, pandemic, war, fire, tempest, flood, accident or damage to goods, or delay in obtaining or inability to obtain through scarcity of materials or for any other cause beyond the Company's control, the Company may suspend delivery until a reasonable time after the end of the happening and during such time as is reasonably incidental to the resumption of normal production of sale or cancel or vary the contract without penalty.

## **13. Lien**

In addition to any right of lien to which the Company may by law be entitled, the Company shall have a general lien on all goods of the Purchaser in its possession (whether or not payment for such goods or some of them may have been received) for the unpaid price of any other goods sold and delivered to the Purchaser by the Company under the same or other contracts.

## **14. Waiver**

The Company's rights shall not be affected or restricted by any indulgence or forbearance granted to the Purchaser. No waiver by the Company of any breach shall operate as a waiver of any later breach. These Conditions can only be modified or changed in writing and signed by authorized representatives of both parties.

## **15. Miscellaneous.**

**15.1 Governing Law.** These Conditions are made and shall be interpreted, construed, governed and enforced with respect to any matter or dispute arising out of these Conditions, any purchase or sale of products or services hereunder or any transaction, purchase order or other document contemplated hereby in accordance with the laws of the State of Texas, without giving effect to conflicts of law principles. Any claims or legal actions by one party against the other arising or concerning any rights under these Conditions, any purchase or sale of products or services hereunder or any transaction, purchase order or other document contemplated hereby shall be resolved on an expedited basis by binding arbitration in Harris County, Texas before a single arbitrator mutually agreeable to the parties, or if no agreement is reached, before a single arbitrator from the American Arbitration Association selected in accordance with its commercial arbitration rules then in effect, which arbitration shall be conducted in accordance with such rules. The decision of the arbitrator shall be final and binding on the parties and judgment on the arbitration award may be entered in any court having jurisdiction over the subject matter of controversy. Both parties hereby submit to the jurisdiction and venue of same.

**15.2 Spare Parts:** Company shall make available to Purchaser a complete list of spare parts, also known as consumables, for the items related to this purchase at or before the time of shipment.

**15.3 No Assignment.** This contract between Company and Purchaser is not transferable by Purchaser without the prior written consent of Company.