

**Environmental Instruments Limited**

**Terms and conditions for the sale of goods**

**The Customer's attention is drawn in particular to the provisions of clause 11.**

**1 Interpretation**

**1.1 Definitions.** In these Conditions, the following definitions apply:

**Environmental Instruments:** Environmental Instruments Limited (registered in England and Wales with company number 02741424).

**Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

**Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 13.7.

**Contract:** the contract between Environmental Instruments and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

**Customer:** the person or firm who purchases the Goods from Environmental Instruments. The Customer may sell the Goods to a User.

**User:** the person or firm who operates the Goods, often having purchased them from the Customer.

**Force Majeure Event:** has the meaning given in clause 12.

**Goods:** the goods (or any part of them) set out in the Order.

**Order:** the Customer's order for the Goods, as set out in the Customer's purchase order.

**Technical Specification:** the document produced by Environmental Instruments for each item that Environmental Instruments supplies.

**Specification:** any express specification for the Goods including any related plans and drawings that is agreed in writing by the Customer and Environmental Instruments.

**1.2 Construction.** In these Conditions, the following rules apply:

**1.2.1** A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

**1.2.2** A reference to a party includes its personal representatives, successors or permitted assigns.

- 1.2.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.2.4 Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.2.5 A reference to writing or written includes faxes and emails.

## **2 Basis of Contract**

- 2.1 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 save where the Contract includes other matters such as servicing and maintenance in which event the Contract shall include Environmental Instruments' other relevant conditions as specified by Environmental Instruments or as applicable in addition to these Conditions.
- 2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when Environmental Instruments issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Environmental Instruments which is not set out in the Contract. Please refer to clauses 2.1 and 2.7 concerning dealings with Environmental Instruments other than product sales.
- 2.5 This is not a sale by sample. Any samples, drawings, descriptive matter, or advertising produced by Environmental Instruments and any descriptions or illustrations contained in catalogues or brochures other than Technical Specification are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.6 A quotation for the Goods given by Environmental Instruments shall not constitute an offer. A quotation shall only be valid for a period of one calendar month from its date of issue and Environmental Instruments may withdraw it at any time.

## **3 Goods**

- 3.1 The Goods are described in the Technical Specification as modified by any applicable Specification.

3.2 Environmental Instruments reserves the right to amend the specification of the Goods including the Specification (if any) if required by any applicable statutory or regulatory requirements.

#### **4 Delivery**

4.1 Environmental Instruments shall issue a delivery note in relation to each delivery of the Goods which shows the date of the Order, the Environmental Instruments Contract number, any relevant reference number quoted by the Customer in the Order, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

4.2 Environmental Instruments shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after Environmental Instruments notifies the Customer that the Goods are ready.

4.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location. If the Customer collects or arranges its own carrier for the Goods from Environmental Instruments' premises at Units 5-6, The Mansley Centre, Timothy's Bridge Road, Stratford-upon-Avon, CV37 9NQ, UK, delivery shall be completed when the Goods are handed to the Customer or its carrier (as applicable).

4.4 Environmental Instruments manufactures most of its products to order. Environmental Instruments will produce the Goods as soon as it is reasonably able to do so, but factors such as availability of components and existing workload when the Order is received or any unforeseen process failures can affect the timescale for delivery. Any dates quoted for delivery are therefore approximate only, and the time of delivery is not of the essence. Environmental Instruments shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Environmental Instruments with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods or the Customer's delay in payment where payment is not received with the Order and manufacture and delivery is stated by Environmental Instruments to be subject to receipt of payment. For delays after the Goods have been despatched by Environmental Instruments please refer to clause 4.10.

4.5 If Environmental Instruments 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. Environmental Instruments shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide Environmental Instruments with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods or the Customer's failure to pay where manufacture and delivery is stated by Environmental Instruments to be subject to receipt of payment.

- 4.6 If the Customer fails to accept delivery of the Goods within three Business Days of Environmental Instruments or its carrier attempting to deliver the Goods to the Delivery Location or of Environmental Instruments notifying the Customer that the Goods are ready then, except where such failure or delay is caused by a Force Majeure Event or Environmental Instruments' failure to comply with its obligations under the Contract:
- 4.6.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which Environmental Instruments or its carrier attempted to deliver the Goods to the Delivery Location or Environmental Instruments notified the Customer that the Goods were ready; and
  - 4.6.2 Environmental Instruments shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.7 If 10 Business Days after the day on which Environmental Instruments notified the Customer that the Goods were ready for delivery the Customer has not accepted delivery of them, Environmental Instruments may resell or otherwise dispose of part or all of the Goods.
- 4.8 Environmental Instruments may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.9 Where Goods are to be delivered to a Delivery Location outside the UK the Customer shall supply such information as shall be required to enable Environmental Instruments to complete any relevant documentation and satisfy any applicable export and import regulations provided that Environmental Instruments shall not be expected or obliged to do anything which is in contravention of such documentation or regulations.
- 4.10 Environmental Instruments will notify the Customer of the expected delivery date for the Goods (**expected delivery date**). The Customer shall notify Environmental Instruments in writing no later than two Business Days from the expected delivery if it has not received the Goods. Failure to do so may prevent Environmental Instruments from claiming from the carrier or under any insurance in respect of such delay.
- 4.11 On delivery the Customer shall inspect the Goods as soon as reasonably practicable and shall notify Environmental Instruments in writing of any damage which has or may have been caused in transit no later than two Business Days from receipt. Failure to do so may prevent Environmental Instruments from claiming from the carrier or under any insurance in respect of such damage.

## **5 Rental**

- 5.1 All rented and demonstration equipment and accessories are to be returned in the condition they were issued. The renter or borrower is responsible for any and all charges resulting from abuse, damage or untimely return of the instrument.
- 5.2 Equipment and accessories are insured during outward shipping by Environmental Instruments but the Customer is responsible for insuring the goods from receipt to safe return to Environmental Instruments, including during return shipping.
- 5.3 There will be no refund for early return of equipment or accessories.
- 5.4 Any charges associated with repair of damaged equipment or accessories will be invoiced separately after repairs are completed.

## **6 Quality**

- 6.1 Environmental Instruments warrants that on delivery, and (save as set out in clause 5.4) for a period of 12 months from the date of delivery (unless another period of warranty has been agreed in writing by Environmental Instruments) (**warranty period**), the Goods shall:
  - 6.1.1 conform in all material respects with their description in the relevant Technical Specification as modified by any applicable Specification;
  - 6.1.2 be free from material defects in design, material and workmanship; and
  - 6.1.3 be fit for any purpose held out by Environmental Instruments in the relevant Technical Specification as modified by any applicable Specification.
- 6.2 Subject to clause 6.3, if:
  - 6.2.1 the Customer gives notice in writing, including photographs, to Environmental Instruments within a reasonable time of discovery and in any event during the warranty period that some or all of the Goods do not comply with the warranty set out in clause 6.1;
  - 6.2.2 Environmental Instruments is given a reasonable opportunity of examining such Goods;
  - 6.2.3 the Customer (if asked to do so by Environmental Instruments) returns such Goods to Environmental Instruments' place of business at Environmental Instruments' cost in such manner as Environmental Instruments may reasonably request; and
  - 6.2.4 provides such evidence of purchase or delivery such as invoice or delivery note as Environmental Instruments may reasonably request,

Environmental Instruments shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full and reimburse the Customer's reasonable carriage and insurance costs incurred in returning the Goods to Environmental Instruments.

6.3 Environmental Instruments shall not be liable for Goods' failure to comply with the warranty set out in clause 6.1 in any of the following events:

6.3.1 the Customer or User makes any further use of such Goods after giving notice in accordance with clause 6.2;

6.3.2 the defect arises because the Customer or User failed to follow the operating manual or other oral or written instructions from Environmental Instruments as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;

6.3.3 repairs or alterations carried out other than by Environmental Instruments or an agent specifically authorised to carry out the work;

6.3.4 the Customer or User opens, alters, or repairs or otherwise tampers with such Goods without the written consent of Environmental Instruments;

6.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, accidental damage or abnormal storage or working conditions;

6.3.6 the defect arises as a result of Environmental Instruments following any drawing, design or Specification supplied by the Customer; or

6.3.7 the Goods differ from their description in the Technical Specification as modified by any applicable Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements;

6.3.8 the Goods are damaged in transit to which clause 4.11 applies.

6.4 The exclusions from the 12 month period referred to in clause 5.1 are:

6.4.1 electrochemical cells and other consumables and any other items indicated by Environmental Instruments from time to time or specifically notified by Environmental Instruments to the Customer.

6.4.2 data collected and/or stored using the Goods.

As regards items referred to in clause 5.4.1 Environmental Instruments will pass on to the Customer the benefit of such warranties as are available from the suppliers of such items to Environmental Instruments.

- 6.5 If it is found that there is no breach by Environmental Instruments of the warranty set out in this clause 5, Environmental Instruments shall be entitled to charge the Customer for any carriage administration and inspection costs incurred by Environmental Instruments in relation to any return or inspection of the Goods.
- 6.6 Except as provided in this clause 5, Environmental Instruments shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 6.1.
- 6.7 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 6.8 These Conditions shall apply to any repaired or replacement Goods supplied by Environmental Instruments.
- 6.9 The warranty period shall not be extended as a result of any repair or replacement pursuant to this clause 5.
- 6.10 Environmental Instruments may from time to time offer additional warranty schemes applicable to certain of its products subject to such terms and conditions as Environmental Instruments may specify. Details available from Environmental Instruments on request.
- 6.11 The Customer shall not remove or obscure Environmental Instruments' company or product name or branding on the Goods without Environmental Instruments' prior written consent. Any such action would also constitute alteration or tampering within clause 5.3.4.
- 6.12 Once the Contract has been made Environmental Instruments shall not be obliged to accept any cancellation or the return of any Goods which are not in breach of the Contract. Environmental Instruments may from time to time at its discretion offer a returns policy. The policy current as at the date of these Conditions is as set out in Supplement B clauses 16 to 19. The policy is subject to change or withdrawal at any time. Details available from Environmental Instruments on request.

## **7 Title and risk**

- 7.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 7.2 Save as set out in clause 6.3 title to the Goods shall pass to the Customer on completion of delivery.
- 7.3 Title to the Goods shall not pass to the Customer until Environmental Instruments has received payment in full (in cash or cleared funds) for:
- 7.3.1 the Goods; and
  - 7.3.2 any other goods or services that Environmental Instruments has supplied to the Customer in respect of which payment has become due.

- 7.4 Until title to the Goods has passed to the Customer, the Customer shall:
- 7.4.1 hold the Goods on a fiduciary basis as Environmental Instruments' bailee;
  - 7.4.2 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Environmental Instruments' property;
  - 7.4.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - 7.4.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - 7.4.5 notify Environmental Instruments immediately if it becomes subject to any of the events listed in clause 10.2; and
  - 7.4.6 give Environmental Instruments such information relating to the Goods as Environmental Instruments may require from time to time,

but the Customer may use or resell the Goods in the ordinary course of its business.

- 7.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 10.2, or Environmental Instruments reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been irrevocably incorporated into another product, or resold, and without limiting any other right or remedy Environmental Instruments may have, Environmental Instruments may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## **8 Price**

- 8.1 The price of the Goods shall be the price set out in the Order, subject to acceptance by Environmental Instruments, or, if no price was quoted prior to submission of the Order by the Customer, the price set out in Environmental Instruments' standard published price list in force as at the date of delivery.
- 8.2 Where the value of Goods in the Order is below the minimum set by Environmental Instruments from time to time Environmental Instruments reserves the right to add an administration charge in respect of its costs in dealing with such Order.
- 8.3 In the event of any request by the Customer to make any change in the delivery date(s), quantities or types of Goods ordered, or otherwise change the Contract Environmental Instruments will as soon as reasonably practicable notify the Customer of any impact on the Contract including the delivery, price and payment terms. The



Customer shall then promptly notify Environmental Instruments whether it wishes to proceed with such changes.

8.4 Environmental Instruments may, by giving notice to the Customer at any time up to ten Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

8.4.1 any factor beyond Environmental Instruments' control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs); or

8.4.2 any delay by the Customer in making payment where manufacture and delivery is stated by Environmental Instruments to be subject to receipt of payment.

8.5 The price of the Goods carriage, packaging and insurance shall be quoted and invoiced to the Customer in addition to the price of the Goods.

8.5.1 Where the Delivery Location and/or the Customer are outside the UK the price of the Goods is exclusive of any applicable sales import export or other tax or duty which shall be paid by the Customer.

8.6 The price of the Goods is exclusive of amounts in respect of value added tax (**VAT**). The Customer shall, on receipt of a valid VAT invoice from Environmental Instruments, pay to Environmental Instruments such additional amounts in respect of VAT as are chargeable on the supply of the Goods.

## **9 Payment**

9.1 Environmental Instruments may invoice the Customer for the Goods on or at any time after Environmental Instruments has accepted the Order in accordance with clause 2.3.

9.2 Unless expressly otherwise agreed in writing by Environmental Instruments as set out in Supplement A clauses 13 to 15 of these Conditions, payment in full must be received with the Order.

9.3 Environmental Instruments will not commence manufacture or deliver the Goods until:

9.3.1 payment under clause 8.2 is received; or

9.3.2 where Environmental Instruments has agreed credit terms with the Customer but the Customer has exceeded such terms, the Customer is in compliance with such terms.

9.4 Where Environmental Instruments has agreed credit terms in writing the Customer shall pay the invoice in full and in cleared funds no later than 30 days from the date of the invoice.

- 9.5 Time of payment is of the essence.
- 9.6 Payment shall be made in cleared funds to the bank account nominated in writing by Environmental Instruments. Payment shall be made in the currency of the invoice. The Customer shall be responsible for all related bank charges and currency conversion to ensure that Environmental Instruments receives the total amount invoiced in full.
- 9.7 If Environmental Instruments at its discretion agrees to accept payment by credit card such agreement may be conditional on payment of an administration charge in respect of Environmental Instruments' costs in receiving payment by this method.
- 9.8 If the Customer fails to make any payment due to Environmental Instruments under the Contract by the due date for payment (**due date**), then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above HSBC Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 9.9 As an alternative to the right stated in clause 8.8 Environmental Instruments reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 9.10 Where exceptionally Environmental Instruments may permit a Customer to try out Goods such trial shall be subject to such terms and conditions as Environmental Instruments may specify in addition to these Conditions. Pending acceptance of the Goods by the Customer and receipt of payment in full cleared funds by Environmental Instruments such Goods shall also be subject to Environmental Instruments' terms and conditions of hire. Details available on request.

## **10 Customer's insolvency or incapacity**

- 10.1 If the Customer becomes subject to any of the events listed in clause 10.2, or Environmental Instruments reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to Environmental Instruments, Environmental Instruments may cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and Environmental Instruments without incurring any liability to the Customer, and all outstanding sums in respect of Goods delivered to the Customer shall become immediately due.
- 10.2 For the purposes of clause 10.1, the relevant events are:
- 10.2.1 the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is the subject of a bankruptcy petition or order, or is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case,

- within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
- 10.2.2 the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
  - 10.2.3 (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
  - 10.2.4 a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days or a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
  - 10.2.5 (being a company) an application is made to court, or an order is made, for the appointment of an administrator or a notice of intention to appoint an administrator is given or an administrator is appointed over the Customer or a floating charge holder over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
  - 10.2.6 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.2.1 to clause 10.2.45 (inclusive);
  - 10.2.7 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business or the Customer's financial position deteriorates to such an extent that in Environmental Instruments's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and
  - 10.2.8 (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation;
  - 10.2.9 the Customer breaches clause 12.3.
- 10.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

## **11 Limitation of liability**

11.1 Nothing in these Conditions shall limit or exclude Environmental Instruments' liability for:

11.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

11.1.2 fraud or fraudulent misrepresentation;

11.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;

11.1.4 defective products under the Consumer Protection Act 1987; or

11.1.5 any matter in respect of which it would be unlawful for Environmental Instruments to exclude or restrict liability.

11.2 Subject to clause 11.1:

11.2.1 Environmental Instruments shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any:

11.2.1.1 loss of profit; or

11.2.1.2 loss of goodwill; or

11.2.1.3 loss of business; or

11.2.1.4 loss of business opportunity; or

11.2.1.5 loss of anticipated saving; or

11.2.1.6 loss or corruption of data or information; or

11.2.1.7 special, indirect or consequential loss arising under or in connection with the Contract; and

11.2.2 Environmental Instruments' 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 £1,000,000.

## **12 Force majeure**

12.1 Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen,

was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

12.2 A party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event:

12.2.1 notify the other party of the nature and extent of such Force Majeure Event; and

12.2.2 use all reasonable endeavours to remove any such causes and resume performance under this agreement as soon as feasible.

12.3 If any events or circumstances prevent a party from carrying out its obligations under the Contract for a continuous period of more than ten (10) Business Days, the other party may terminate this Contract immediately by giving written notice to the affected party.

## **13 General**

### **13.1 Assignment and subcontracting**

13.1.1 Environmental Instruments may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

13.1.2 The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of Environmental Instruments.

### **13.2 Notices**

13.2.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier, fax or email.

13.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.2.1; if sent by pre-paid first class post or recorded delivery, at 9.00 am on the

second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email by Environmental Instruments after satisfactory transmission or if sent by fax or email to Environmental Instruments on written confirmation by Environmental Instruments of receipt.

- 13.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

### **13.3 Anti-bribery compliance**

The Customer shall:

- 13.3.1 comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
- 13.3.2 not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

### **13.4 Severance.**

- 13.4.1 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 13.4.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

### **13.5 Waiver.**

A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

### **13.6 Third party rights.**

A person who is not a party to the Contract shall not have any rights under or in connection with it.

**13.7 Variation.**

Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by Environmental Instruments.

**13.8 Governing law and jurisdiction.**

13.8.1 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, English law.

13.8.2 Save as set out in clause 12.8.3 the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

13.8.3 Environmental Instruments shall not be bound by the provisions of clause 12.8.2 and may issue proceedings in such jurisdiction as it in its absolute discretion considers appropriate.

**Supplement A – Credit policy**

**14 Standard payment conditions**

14.1 Environmental Instruments' standard conditions for payment are as set out in clause 8 of these Conditions.

14.2 Unless otherwise agreed in writing by Environmental Instruments all goods are ordered on a pro forma basis and must be paid for in advance of manufacture and shipment.

14.3 For the avoidance of doubt:

14.3.1 any variation of the payment provisions set out in clauses 13.1 and 13.2 above is at Environmental Instruments' absolute discretion; and

14.3.2 any credit granted may be varied or withdrawn by Environmental Instruments at any time.

**15 Credit accounts – UK Customers**

Environmental Instruments will consider credit applications from businesses in the UK which are registered limited companies subject to the following procedure:

15.1 Environmental Instruments' credit application form must be fully completed and signed by or on behalf of the applicant who is or will be Environmental Instruments' customer.

15.2 Environmental Instruments will make a decision as soon as reasonably possible as to whether to offer credit and if so the value of the credit limit. This will be advised to the applicant in writing.

15.3 Environmental Instruments' written confirmation will set out the details of the payment terms and any other applicable terms.

## **16 Credit accounts – non UK Customers**

16.1 Customers outside the UK will normally be required to pay on a pro forma basis.

16.2 A Customer outside the UK seeking credit must complete Environmental Instruments' non UK customer credit application form.

16.3 The applicant's details and required credit limit will be passed to a foreign credit checking agency.

16.4 Environmental Instruments will make a decision as soon as reasonably possible as to whether to offer credit and if so the value of the credit limit. This will be advised to the applicant in writing.

16.5 Environmental Instruments' written confirmation will set out the details of the payment terms and any other applicable terms.

## **Supplement B – Returns policy**

### **17 Returns and cancellation**

17.1 Once the Contract has been made Environmental Instruments shall not be obliged to accept any cancellation or the return of any Goods which are not in breach of the Contract. The provisions of clauses 16 to 19 are without prejudice to clause 5 of these Conditions.

17.2 Environmental Instruments recognises that on occasion the Customer may wish to cancel or return Goods. Accordingly Environmental Instruments may at its discretion offer a returns policy from time to time. The policy current as at the date of these Conditions is as set out in this Supplement B clauses 16 to 19. The policy is subject to change or withdrawal at any time. Details available from Environmental Instruments on request.

17.3 If the Customer wishes to cancel or return Goods other than for a breach of the Contract or otherwise as expressly set out in these Conditions it shall not do so without seeking Environmental Instruments' prior written consent which consent if granted may be subject to such conditions as Environmental Instruments in its absolute discretion considers appropriate in the circumstances.



17.4 Any change in specification of the product requested after the order has been confirmed, such as a change in power supply, is classified as a request to cancel or return Goods.

**18 Non-returnable Goods**

18.1 Items included in Environmental Instruments' product list are considered standard. Any other items are bespoke. Bespoke Goods are non-returnable at any time.

18.2 Goods cannot be returned once used or not otherwise in the condition in which they were delivered.

**19 Returnable Goods**

19.1 Where Environmental Instruments has given its written consent for the return of Goods under clause 16.3 such Goods must be returned unused in their original or comparable quality packaging, insured and carriage paid to Environmental Instruments.

19.2 Returned Goods will be subject to inspection by Environmental Instruments prior to acceptance.

**20 Cancellation and return costs**

Where Environmental Instruments has given its written consent for the cancellation return of Goods under clause 16.3 and subject to acceptance of returned Goods under clause 18.2, the following charges will apply based on the Contract price of the Goods:

20.1 Cancellation before production of the Goods commences: 10%.

20.2 Cancellation during production of the Goods: 25%.

20.3 Cancellation after production of the Goods but before they are despatched from Environmental Instruments' premises: 50%.

20.4 Cancellation or return of the Goods after they are despatched from Environmental Instruments' premises: 50% plus carriage costs.

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