



Quantum Detectors Ltd  
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## Terms and Conditions

### **1. INTRODUCTION APPLICABILITY AND DEFINITIONS**

1.1 This document sets out the terms upon which we, Quantum Detectors Ltd, supply goods and services to you, our customer.

1.2 All our quotations and contracts for the supply of goods and services are subject to these terms, which apply to the exclusion of any terms and conditions contained in any order or other document submitted by you. No purported variation of these terms or of any contract, and nothing said or written prior to us entering into a contract, is binding on us unless it is specifically set out in our quotation or order confirmation, or in another document signed on our behalf by one of our directors.

1.3 Our quotations are not offers to supply goods and services. Instead, your order is your offer to us to buy goods and services from us, subject to these terms.

Your order is not binding on us until we have issued an order confirmation in respect of it.

1.4 In relation to any design that we agree to undertake for you or any product that we agree to supply to you, "Specification" means the specification of that design or product as set out in whichever may be relevant of our quotation, our order confirmation and any detailed written specification subsequently agreed with you in writing.

### **2. DESCRIPTIONS, RECOMMENDATIONS AND ORDERS**

2.1 Our sales promotional material is intended merely to give a general description of our business and the goods and services we supply. It does not form part of any contract.

2.2 In the interests of certainty, we confirm in writing, signed by one of our directors, any advice or recommendation given by us, or our employees or agents, upon which we intend you to rely. If you choose to rely on any advice or recommendation not confirmed in this way you do so entirely at your own risk and we have no liability in respect of it.

2.3 We may alter the materials, specifications, dimensions, design, production, packaging and finish of anything that we produce as we think fit provided that the alterations do not have a materially adverse effect on quality or performance or are required in order that the product may conform to applicable safety or other statutory requirements.

2.4 You are responsible for ensuring the accuracy of any order that you give us and any specification or other information with which you provide us in connection with any contract.

2.5 Each contract that we enter into is to be treated as a separate contract and (except as stated in these terms) breach of one contract does not constitute breach of another.

### **3. PRICE**

3.1 Unless otherwise stated in our quotation or order confirmation, prices are net ex works our premises and exclude value added tax and non-standard packaging. In particular, the cost of duties (including import and export duties) and insurance are your responsibility and must be met by you.

3.2 In some cases the price for services to be performed by us is stated in our quotation or order confirmation as being "estimated". In such a case we reserve the right to increase our price after we have produced our detailed specification. If our revised price is more than 20% above our estimated price you may terminate the contract by advising us in writing within 7 days of your receipt of the revised price from us. If you do so your only payment obligation under the contract will be to pay, in accordance with the contract, for all phases of the contract up to and including the production of the detailed specification.

3.3 We are also entitled to adjust our price at any time if the cost to us of performing our contract with you increases for any reason beyond our reasonable control including (without limitation) increase in the cost of materials or tooling, changes in exchange rates or the action of any

government or authority.

3.4 We are also entitled to adjust our price under a call-off contract if you ask (and we agree) to vary the terms of call-off under it.

#### **4. PAYMENT**

4.1 Unless otherwise stated in our quotation or order confirmation goods will be invoiced on the date they are made available for despatch. Services which have been provided under a contract may be invoiced at any time.

4.2 Payment of our invoices is due, in cleared funds, within 30 days after the date of issue. Unless otherwise stated in our quotation or order confirmation payment must be made in pounds sterling.

4.3 All our invoices must be paid without regard to any equity, set-off or counterclaim and (without prejudice to our other rights and remedies) we may charge interest on amounts not paid when due at the annual rate of 3% above National Westminster Bank PLC base rate (varying) from the due date of payment to the actual date of payment, whether before or after judgment.

#### **5. DELIVERY**

5.1 Any date or period for delivery or performance set out in our quotation or order confirmation is approximate only and is not of the essence of the contract. In addition, if we are prevented from, or delayed in, delivering any goods or performing any service due to any of the causes referred to in clause 13 the period for delivery or performance is extended by the time lost and you have no right to terminate the contract because of the delay.

5.2 Unless otherwise stated in our quotation or order confirmation delivery is ex works our premises. Any carrier we engage on your behalf to transport items to the address for delivery is deemed to be your agent.

5.3 We shall have no liability to you in respect of any claim that there was a shortfall in the goods delivered to you as against our invoice or despatch note unless you notify us in writing of your claim within 28 days of the date of delivery of the goods to you.

5.4 Whatever the terms for delivery are, you are responsible for ensuring that there is prompt and proper access to the delivery address and for providing sufficient labour and proper equipment there to enable the items delivered to be safely off-loaded and placed in their storage locations.

5.5 If you do not take delivery of any item or do not give us adequate delivery instructions when we request them we may (without prejudice to any other right or remedy available to us) store and insure the item at our cost until either actual delivery or we terminate the contract (whichever occurs first). In these circumstances our charges in respect of storage and insurance are payable by you immediately on demand and any payment due from you under the contract on delivery is payable as if delivery had taken place.

6. DELAY If we are delayed or impeded or obliged to spend additional time or incur additional expenses in the performance of any of our obligations under a contract due to any act or omission on your part, or on the part of any of your employees, agents, contractors or sub-contractors (including the provision of incorrect or inadequate data, information or resources):-

6.1 you must pay us a reasonable sum in respect of any additional time spent and expenses incurred by us or on our behalf in carrying out our obligations and caused or rendered necessary by such act or omission; and

6.2 if, as a result, performance of the contract is delayed you must pay us on the date payment would have become due but for the delay.

#### **7. TITLE AND RISK**

7.1 Unless otherwise stated in our quotation or order confirmation risk in any item passes to you at the time it is despatched (or collected) from our premises for delivery to you or 5 working days after the date on which we advise you that it is ready for collection (whichever is the earlier).

7.2 Title to each item of goods remains vested in us (notwithstanding the passing of possession and risk to you) until:-

a) the price of that item; and

b) all other money due from you to us on any other account has been paid in full.

7.3 Until title to an item of goods passes to you, you must:-

a) hold it in a fiduciary capacity as bailee for us; and

b) keep it separate from those owned by you or third parties and ensure that it is at all times identifiable as our property;  
and we reserve the right to dispose of it, and may retake possession of it, at any time. In order to retake possession of it we or our agents may enter upon any premises which you occupy.  
7.4 For the avoidance of doubt, clauses 7.2 and 7.3 do not apply to designs, specifications and other work that we undertake for you. The title to, and all intellectual property rights in, these items remain vested in us.

## **8. SERVICES**

If a contract includes services to be performed by us then, unless our quotation or order confirmation states otherwise, the following additional provisions apply:-

8.1 We are only obliged to carry out services during normal working hours. Overtime worked at your request is payable by you in addition to the contract price and will be charged at our prevailing overtime rates. Except where it contains an obvious error, our certificate of the amount payable for overtime, signed by one of our directors, is conclusive and binding on you.

8.2 For the purposes of clause 8.1 our normal working hours are 9.00 a.m. to 5.00 p.m. Monday to Friday (inclusive) excluding English public holidays.

8.3 If services are to be performed away from our premises you must provide, or procure the provision, free of charge of:-

- a) proper and safe storage and protection of all our property on site;
- b) free, unrestricted and safe access for our employees to the premises and to the area where the services are to be performed; and
- c) all materials, facilities, equipment and services to enable the services to be performed safely and expeditiously.

## **9. INTELLECTUAL PROPERTY**

Unless otherwise stated in our quotation or order confirmation, or by written agreement with you signed by two of our directors and expressly referring to this clause, all industrial and intellectual property rights of whatever nature (including, without limitation, patent rights, copyright, design rights and know-how) in all work produced by us in the performance of services under a contract remain our property. However, on payment by you of all sums due to us under the contract you are licensed under that contract to use the work for your own business purposes only. This licence is non-exclusive, royalty free and personal to you. In particular, you are not entitled to licence others to use the work. The licence only terminates if the contract to which it relates is terminated by us in accordance with clause 14.

## **10. INTELLECTUAL PROPERTY RIGHTS INDEMNITY**

10.1 Subject to the liability limitations and exclusions contained in clauses 12.2 and 12.3, we agree to indemnify you against all costs, claims, demands, expenses and liabilities of whatever nature arising out of or in connection with any item produced by us in the provision of services infringing any copyright of any third party which is effective in the United Kingdom provided that the infringement does not result from us carrying out your instructions or using any information or material supplied by you and provided that you promptly give notice to us of any infringement claim to which this indemnity may apply, give us immediate and complete control of, and all reasonable assistance in connection with, the defence of the claim and all negotiations for its settlement and do not prejudice the defence of the claim. We are entitled, at our cost, to replace or alter the item produced by us in order to avoid any infringement. This clause 10.1 states our entire liability to you in respect of the infringement of the industrial or intellectual property rights of any third party. 10.2 You agree to indemnify us and keep us indemnified against all costs, claims, demands, expenses and liabilities of whatsoever nature arising out of or in connection with the use by us of any information or material supplied by you for use by us in connection with any contract infringing any industrial or intellectual property rights (of whatever nature) of any third party.

## **11. WARRANTY**

11.1 This clause concerns any failure:-

- a) of an item of goods in terms of defective materials or workmanship;
- b) by us to perform a service with reasonable skill and care.

11.2 Unless otherwise stated in our quotation or order confirmation (or unless a "use by" date is stated on the shipping note for, or on a label attached to, an item of goods, in which case the warranty period expires on the "use by" date) the warranty period is 12 months and begins on the date on which we invoice you for the relevant items of goods or service.

11.3 If you report a failure of an item of goods or a service in writing to us promptly following its discovery and in any event within the warranty period, giving a reasonable description of the failure (and, in the case of a failure of an item of goods, the relevant details and serial number of the item), we will investigate the failure and use all reasonable endeavours to rectify it by:-

- a) in the case of an item of goods, replacing it or the defective part in it or repairing it at our premises;
- b) in the case of a service, undertaking any necessary re-execution of the service.

The course of action described above which is adopted by us in any particular case is at our sole discretion.

Owing to the complexity of the goods and services that we supply no warranty is given that they will be error free or that all failures will be remedied. However, if we are unable to remedy a failure in the manner described in this clause, we shall be liable at your written request (and as an alternative to remedying the failure) to reduce the price attributable to the goods or service exhibiting the failure by such amount as is reasonable and fair to both parties having regard to the nature and effect of the failure.

11.4 We have no obligation under clause 11.3 in relation to any failure caused by:-

- a) any work including (without limitation) assembly or installation not undertaken by us;
- b) failure to comply with our instructions and recommendations including (without limitation) those relating to handling and storage procedures (including space, electrical power supply, air-conditioning and dust and humidity control), and use;
- c) neglect, misuse of or unauthorised repair of, or willful or accidental damage to, a product (other than by our employees or subcontractors);
- d) acts of third parties, atmospheric, chemical, electrical or electro-chemical effects or force majeure circumstances (see clause 13).

In addition, our obligations under clause 11.3 do not extend to the replacement of parts subject to normal wear and tear and are conditional upon you complying with your obligations under the contract (including, without limitation, payment of the price) and upon the product with which the failure is associated not having been repaired or modified by any person other than us or our authorised maintainer.

11.5 In order to allow us to comply with our obligations under clause 11.3 you must:-

- a) provide us promptly with all information reasonably available to you which relates to any failure together with the results of any diagnostic tests which we request you to perform;
- b) as and when requested by us, permit our personnel and all others authorised by us, during your normal working hours, to enter and work at your premises and to inspect the product and/or any installation and any relevant packaging;
- c) in respect of work to be carried out at your premises, provide us free of charge with such equipment, supplies, information, documentation and personnel as we may reasonably require; and
- d) provide us with such information and assistance as we may reasonably request in connection with any claim arising out of the failure that we may have against our suppliers or sub-contractors.

11.6 All replacement parts become part of the product and all components that are replaced become our property.

11.7 We may make an additional charge in accordance with our standard scale of charges in force from time to time in respect of time spent, materials used and expenses incurred by us:-

- a) in connection with any matter reported by you as a failure but in respect of which it is found that we have no obligations under clause 11.3;
- b) because you do not comply with any of your obligations under this clause.

11.8 It is your responsibility to satisfy yourself that the Specification for a design or a product meets your requirements. We are not liable on account of a design or a product not meeting any requirement not explicitly included in the Specification.

11.9 Subject to clause 12.1, our obligations under clause 11.3 constitute our entire liability, whether in contract or in tort, for defects in any item of goods or service.

11.10 All conditions (except as to title), warranties, stipulations and other statements whatsoever that would otherwise be implied or imposed by statute, at common law or otherwise howsoever are excluded to the fullest extent permitted by law.

## **12. LIABILITY LIMITATIONS AND EXCLUSIONS**

12.1 Our liability in respect of death or personal injury caused by our negligence is unlimited.

12.2 Except as provided in clause 12.1 our liability in respect of any and all claims (whether in contract or in tort) arising out of or in connection with a contract shall not in the aggregate exceed the price of the products and services to be supplied under that contract.

12.3 Except as provided in clause 12.1, and notwithstanding anything else contained in these terms or any contract, in no event shall we be liable to you for:-

- a) economic loss (which includes loss of profit, business, goodwill, revenue or anticipated savings);
- b) loss arising from any claim made against you by a third party (other than under clause 10.1);
- c) special indirect or consequential loss or damage;
- d) loss or damage arising from your failure to comply with your obligations to us or any matter under your control;

howsoever caused and even if foreseeable or contemplated by you.

## **13. FORCE MAJEURE**

Except in the case of payment and indemnity obligations, neither of us shall be under any liability whatsoever for any delay in, or non-performance of, our respective obligations which is caused by or results from industrial disputes or any other circumstances beyond our respective reasonable control (including in our case, without limitation, computer breakdown, power supply failure, failure of suppliers to meet delivery requirements, absence of supply of essential materials and absence of personnel due to illness or injury) and if any such circumstances prevent due performance of a party's obligations then performance of those obligations shall be suspended for the duration of such circumstances. If such circumstances make it impossible within a reasonable time for the party claiming relief under this clause wholly or substantially to perform its obligations to the other under a contract then that contract may be terminated by the other on giving notice to the party claiming relief under this clause. Neither of us shall be liable to the other by reason of any such termination but you shall pay any of our invoices which are outstanding under the contract and a reasonable sum (which shall include all reasonable expenses incurred) in respect of any services provided by us to you under the contract prior to termination in respect of which we have not already issued an invoice to you.

## **14. TERMINATION AND OTHER REMEDIES**

14.1 We may suspend our performance of any contract whilst you are in default of any of your obligations under that, or any other, contract including (without limitation) your payment obligations.

14.2 We may also by notice to you terminate any contract (or at our discretion the supply to you of particular goods or services) immediately if you fail to pay any sum due to us and that sum remains unpaid for 14 days after we give you notice that the sum has not been paid and refer to this clause.

14.3 Either of us is entitled by notice to the other to terminate any contract between us (or in the case of termination by us, the supply to you of particular goods or services) forthwith if the other:-

- a) commits a serious breach of any term of that contract and fails within 14 days after having been given notice by the other party of the breach and referring to this clause to remedy the breach (in the case of a breach capable of remedy) or to tender to the other party reasonable compensation for the breach (in the case of a breach not capable of remedy);
- b) being a company, presents a petition or has a petition presented for its winding-up or convenes a meeting to pass a resolution for voluntary winding-up or has an administrative receiver appointed of all or any part of its assets or undertaking or has a petition presented for an administration order to be made in relation to it or calls a meeting of, or enters into any composition or arrangement with its creditors or ceases to carry on business;
- c) being an individual dies or being a partnership or firm is dissolved or in either case has a bankruptcy petition issued or bankruptcy order made against it or in either case

negotiates for or enters into any composition or arrangement with or assignment for the benefit of its creditors of the other party.

14.4 Immediately upon termination of any contract (however it is caused) each of us shall return to the other all property of the other that is in our respective possession (including without limitation all records (including records stored in any computer readable form), drawings and documents and copies of records, drawings and documents) relating to the contract. In addition, any sums due to us from you under the contract shall become immediately payable. 14.5 In respect of all debts which you owe us we have a general lien on all goods and property belonging to you in our possession and are entitled, upon the expiration of 14 days notice to you, to sell or otherwise dispose of them as we think fit and to apply the proceeds of sale towards payment of the debts. 14.6 The rights, powers and remedies under these terms are cumulative and, except as expressly provided in these terms, any right, power or remedy may be exercised (wholly or partially) from time to time. In addition, termination of a contract does not affect any obligations which expressly or by implication are intended to come into or continue in force on or after that termination.

## **15. NOTICES**

Any notice to be given under any contract must be in writing and may be delivered by hand or posted by first class post (pre-paid) in the case of us to our registered office and in the case of you to your address as set out in our quotation or order confirmation or such other address as you may from time to time have communicated to us in writing for the service of notices. A notice delivered by hand is deemed to have been received upon delivery to the relevant address. A notice delivered by first class post is deemed to have been delivered 48 hours after the time of posting. If your address is outside the UK a notice sent by pre-paid air mail is deemed to have been received 7 days following the time of posting.

## **16. CANCELLATION**

You are not entitled to cancel a contract or any part of it without our prior written agreement and then only strictly in accordance with the terms of that agreement. We are not bound to agree to cancellation and may complete the contract notwithstanding any purported cancellation by you. We may cancel a contract at any given time, and will formalise the cancellation in writing.

## **17. GENERAL**

17.1 Headings The headings used in this document are for ease of reference only and do not affect its construction.

17.2 Waiver No failure, forbearance, delay or indulgence by either of us in enforcing our respective rights shall prejudice or restrict such rights and no waiver of any such rights or any breach of any contractual term shall be deemed to be a waiver of any other right or of any later breach.

17.3 Validity If any of these terms or any term of any contract between us is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the term shall be deemed to have been omitted and the validity and/or enforceability of the remaining terms or terms of the contract shall not be affected. However if the omission renders the contract not reasonably commercially viable then a replacement term complying with the applicable law and reflecting as closely as possible our original intention as is necessary to make the contract reasonably commercially viable shall be implied into the contract.

17.4 Sub-contracting We may engage the services of sub-contractors to perform any of our obligations under contracts with you. However, unless otherwise stated in our quotation or order confirmation or agreed by you in writing, no sub-contracting of obligations by us will release us of responsibility for their due performance.

17.5 Assignment Your rights under (or arising under) any contract may not be sub-licensed, assigned, transferred or otherwise disposed of, in whole or in part, without our prior written consent (which consent shall not be unreasonably withheld or delayed).

17.6 Law All contracts are deemed to have been made in England and shall be governed in all respects by English law and the English Courts shall have jurisdiction to settle any disputes which may arise out of or in connection with any contract.

17.7 Previous Conditions These conditions supersede all our previous terms and conditions of sale.