

# Terms and Conditions of Sale

## 1. GENERAL

- 1.1. All contracts for the sale of Products or Services from Quantum Detectors Ltd. (QD) will be governed by these conditions. Any other terms, qualification or addition to these conditions, which the Customer may seek to impose, or which are implied by trade, custom, practice or course of dealings will not apply unless expressly accepted by QD in writing.
- 1.2. QD's Quotations are not offers and are valid only for the shorter of either the period stated on the Quotation or ninety days from their issue date.
- 1.3. The Customer's order for the Products or Services specified in QD's Quotation ("Order") shall constitute an Offer to purchase the Products or Services in accordance with these conditions.
- 1.4. The Order shall be deemed to be accepted when QD issues its written Order Acknowledgement or QD makes the Products available for delivery, at which point the contract shall come into existence.

## 2. REPRESENTATIONS

- 2.1. The Customer hereby agrees that in entering into a contract with QD it has done so only on the basis of these terms and conditions, any terms included in QD's Quotation or otherwise in writing agreed between the parties to be a term of the contract. Such a contract shall constitute the entire agreement between the parties.
- 2.2. No term included in the Order shall be incorporated into the contract unless expressly accepted by QD in the Order Acknowledgement.
- 2.3. The Customer acknowledges that it has not relied on, nor has any remedy in respect of, any statement, warranty, assurances or representations made by QD, its employees, or its agents unless specifically referred to in these terms and conditions, included or referred to in QD's Quotation or otherwise expressly agreed in writing between the parties to be a term of the contract.

## 3. INSPECTION AND TESTS

- 3.1. Inspection and tests additional to QD's standard inspection and tests, where practicable and subject to QD's agreement, will be quoted separately and charged as an extra. If the presence of the Customer's representative is required at any inspection or tests, but the Customer's representative fails to attend them if it has been seven days since QD having given notice that it is ready to proceed, the tests may be carried out in the Customer's absence.

## 4. PACKAGING

- 4.1. Unless otherwise stated, the price quoted includes packaging. Where packaging is included, unless otherwise agreed, it will be to QD's standard specification which should be adequate for normal competent handling, covered transport and short-term indoor storage in a temperate climate. If additional protection is required, the Customer must specifically order it and it will be charged.

## 5. DELIVERY AND PASSING OF RISK

- 5.1. Delivery is Ex-Works (QD) unless otherwise stated. Delivery is deemed to have taken place and risk in the Products passes to the Customer on the expiry of fourteen days after the giving of notification to the Customer that the Products are ready for delivery ("a Delivery Notice") or on delivery, if earlier.

## 6. STORAGE

- 6.1. Unless otherwise expressly agreed in writing between the parties, if the Customer fails to take delivery of the Products within fourteen days of the Delivery Notice, QD reserves the right to charge for storage (whether on QD's premises or elsewhere) and all related expenses, including insurance, in respect of all goods not delivered.

## 7. LOSS OR DAMAGE BEFORE DELIVERY OR IN TRANSIT

- 7.1. The Customer must notify QD as soon as possible after delivery and in any event within three days of any shortages in or damage to QD's Products.
- 7.2. In cases where QD is responsible for carriage, the Customer must give notice within three days of the shortage or damage both to QD and to the Carrier.

## 8. PRICE AND PAYMENT

- 8.1. The price for the Products shall be the price set out in the Quotation and as confirmed on our Sales Order Acknowledgement, and unless otherwise stated is exclusive of the costs and charges of insurance and transport.
- 8.2. The individual prices quoted do not include Value Added Sales Tax. If Value Added Sales Tax is applicable it is listed at the bottom of the Quotation.
- 8.3. Unless otherwise agreed, the balance of the price shall be due and payable at QD's office thirty days after the date on which the Services are completed, the Products are delivered or a Delivery Notice is given, whichever is earlier.
- 8.4. In the event of non-payment of the whole or any part of the price in accordance with these conditions, QD reserves the right to charge interest on a daily basis on the amount outstanding from the due date until the actual date of payment in full and in cleared funds. Such interest shall accrue daily at a rate of eight per cent per annum over the Bank of England Base rate from time to time in force and calculated at three-monthly stops. The Customer shall pay the interest together with the overdue amount.
- 8.5. So long as any payment is due by the Customer to QD, QD shall have a lien on any Products in its possession and QD shall also be entitled to suspend work on any subsisting contract.
- 8.6. QD reserves the right to request alternative payment arrangements such as Telegraphic Transfer (T/T) before the goods are delivered. In addition, QD reserves the right to charge an administration fee for payment by Letter of Credit (L/C) and will advise the Customer if this administration fee is applicable.
- 8.7. Notwithstanding clause 8.1, QD may, on giving notice to the Customer, increase the price of the Products to reflect any request by the Customer to change the delivery date, quantities or types of Products ordered, or any additional costs incurred by QD as a result of any delay or failure by the Customer to give adequate instructions or access to adequate facilities for installation.

- 8.8. Payment shall be in the amount and currency specified in the Quotation and shall be due and payable in full in cleared funds within 30 (thirty) calendar days of the date of the Invoice, and time shall be of the essence. QD may issue the Invoice on or after the dispatch date (or commencement of the Services), or if QD is unable to deliver the Products due to any fault on the part of the Customer, on the intended date of dispatch.
- 8.9. Where payment is made in advance, title to the Products shall not pass to the Customer until delivery has been made in accordance with clause 3.
- 8.10. In the event the Customer orders quantities of Products with associated price discounts and fails to take these quantities within the agreed timescales for delivery, QD reserves the right to amend the prices to reflect the actual quantity of Products delivered to the Customer.
- 8.11. The Customer is not entitled to withhold, set off or counterclaim any sums due under Invoices received from QD. The Customer must raise any dispute relating to an Invoice within 15 (fifteen) days of the date of invoice. If the Customer's dispute is held valid, QD shall credit the Customer the disputed amount.
- 8.12. If the Customer fails to pay any sum due to QD by its due date; without prejudice to any other rights or remedies, QD may (i) either postpone or cancel delivery or any installation due under this Contract or any other Contract with the Customer; and/or (ii) charge the Customer interest at a rate of 8% (eight per cent) above the Bank of England base rate calculated on a daily basis, which the Customer shall pay on an indemnity basis, together with any additional costs and expenses incurred by QD as a result of such delay.
- 8.13. All payments due under the Contract are expressed free of all taxes, duties and charges of whatsoever nature. In the event any such taxes, duties and charges are levied on QD the price of the Products shall be increased by an amount equivalent to such taxes, duties and charges.
- 8.14. If payments received from the Customer are not stated to a particular Invoice, QD may apply such payments to any outstanding Invoice.

## 9. INSTALLATION

- 9.1. Where the Contract provides for installation by QD, it will supply the necessary supervisory personnel, labour and hand tools for the installation in accordance with QD's Quotation.
- 9.2. Unless otherwise expressly agreed in writing between the parties, the Customer shall be responsible for:
  - 9.2.1. all necessary site preparation;
  - 9.2.2. the proper unloading and safe-keeping of QD's Products from the time of delivery;
  - 9.2.3. the provision of lifting equipment and any other equipment excluding hand tools and all services required to install or operate the Products;
  - 9.2.4. any work not specifically included in QD's Quotation or agreed in writing to be carried out by QD; and
  - 9.2.5. the provision of access to and possession of the site at such time and in such condition as will enable QD to complete the installation within any contractual time limit.

## 10. EXTRAS

- 10.1. The Customer shall be responsible for any additional costs incurred by QD as a result of variation, delay or suspension of work arising from any act or omission of the Customer or any other contractor employed by the Customer or from any other circumstance beyond QD's reasonable control.

## 11. PASSING OF TITLE

- 11.1. Unless otherwise agreed:

- 11.1.1. Notwithstanding delivery or the passing of risk, title to QD's Products shall not pass until QD has been paid in full and in cleared funds. In the event of any occurrence reasonably leading QD to believe that its interest in its Products is in jeopardy, QD reserves the right with its agents and appropriate transport to enter the Customer's premises for the purpose of recovering and re-selling its Products;

- 11.1.2. If the Customer disposes of QD's Products before payment has been made in full, then notwithstanding delivery or the passage of risk in the Products, QD retains the right to trace the proceeds of such disposal to recover the price unpaid, together with interest and costs;

- 11.1.3. If the Products have been delivered to the Customer but title has not yet passed to the Customer, the Customer shall maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.

- 11.2. QD may ship and deliver the Products in instalments and no partial shipment or delivery shall constitute a breach by QD.

- 11.3. Risk against loss or damage to all or any of the Products shall transfer from QD to the Customer upon delivery in accordance with the specified Incoterm.

- 11.4. Delivery will be subject to receipt by QD of any necessary export licences, documentation or requirements. In the event these cannot be obtained by QD, QD will be entitled to terminate the Order with immediate effect without any liability to Customer.

- 11.5. If the Customer fails to take delivery of the Products or any part thereof on the due date or fails to provide instructions or documents required to enable the Products to be delivered on the due date, QD may, on giving written notice to the Customer, store or arrange for the storage of the Products, and on the service of such notice: (i) risk against loss or damage to all or any of the Products shall pass to the Customer; (ii) the delivery of the Products shall be deemed to have taken place; and (iii) the Customer shall pay to QD all costs and expenses including storage and insurance charges arising from its failure.

- 11.6. For the avoidance of doubt, QD shall not be liable for any delay in delivery of the Products that is caused by a Force Majeure Event or the Customer's failure to provide QD with adequate delivery instructions.

- 11.7. QD's sole liability in the event of any failure to deliver the Products shall be the reasonable costs and expenses incurred by the Customer in obtaining replacement goods of similar quality and description to the Products in the cheapest market available, less the price for the Products specified in the Quotation.

## 12. LIABILITY

- 12.1. Nothing in these terms and conditions shall limit or exclude the liability of QD for death or personal injury resulting from negligence, fraud, fraudulent misrepresentation,

breach of any of the obligations under section 12 of the Sale of Goods Act 1979 and section 2 of the Supply of Goods and Services Act 1982, or defective Products under the Consumer Protection Act 1987.

12.2. For defects:

12.2.1. QD shall replace or at its option repair any failure (fair wear and tear excluded) in its Products supplied which, under conditions of proper use and maintenance, results from defects in designs, materials or workmanship and which appears not later than twelve months after the giving of a Delivery Notice or the date of delivery, whichever is the earlier, provided always that defective parts are promptly returned by the Customer, carriage paid, to QD's works unless otherwise arranged.

12.2.2. QD does not guarantee Products not of its own manufacture but the Customer shall be entitled to the benefit of any available manufacturer's guarantee/warranty.

12.2.3. QD warrants repair and service work for six months from the date of despatch of the serviced or repaired goods. This warranty extends only to the specific component having been repaired or serviced, and not to the overall product.

12.3. For delay in delivery: The delivery date of the Products or completion of the Contract quoted or otherwise agreed is subject as herein provided to QD's current best estimate of the likely date for such shipment or completion. Time is not of the essence and QD shall not be liable for any loss or damage of any kind whatsoever resulting from any delay in such delivery or completion.

12.4. For failure to meet specification or performance:

12.4.1. Subject to clauses 12.4.2 and 12.4.3, if on delivery QD's Products or Services are shown to be materially defective, not in accordance with specification or to be incapable of attaining any guaranteed standard of performance due solely to QD's default, QD shall make good the Products or services.

12.4.2. QD shall not be obliged to make good Products or Services if any defect in the product or services is reasonably considered to be of minor or insignificant nature and that the Customer is able to use the Products or services for the purpose intended.

12.4.3. If failure to make good the Products or services under clause 12.4.1 constitutes performance of the Contract substantially different from that which was reasonably expected, then the Customer may return the Products for repair.

12.5. Misrepresentation: Any representation other than one forming part of the contract in accordance with condition 2 of these conditions shall not form part of the contract nor give rise to any liability on QD's part even if subsequently found to be incorrect.

12.6. General:

12.6.1. Notwithstanding anything contained in these terms and conditions, QD shall under no circumstances be liable for any consequential or indirect damage or loss, however caused, including (but not restricted to) loss of profits, loss of goodwill, damage to trading relationships, and financial loss.

12.6.2. QD's liability in respect of all other losses shall be limited to the invoiced value of the Order.

12.6.3. Save as specifically mentioned in this condition, QD shall not be liable in Contract, tort or otherwise for any personal injury or other loss or damage of any kind whatsoever suffered by the Customer or any other person arising out of or in connection with any contract between the parties for the provision of QD's Products or Services. Save as aforesaid the Customer shall indemnify QD and its servants against any claims in respect of such injury, loss or damage. For the



purpose of this condition, QD contracts on its own behalf and on behalf of and as trustee for its servants.

- 12.7. Except with regard to the liability referred to in condition 12.1 hereof, no action or arbitration proceedings whether in Contract, tort or otherwise arising in connection with or as a direct or indirect result of the Contract may be brought by either party more than three years after the party concerned becomes aware or reasonably should have become aware of the facts constituting the cause of action.
- 12.8. These conditions define the whole of QD's liabilities and all conditions and warranties implied by statute, common law or trade usage are hereby excluded.

### 13. SAFETY

- 13.1. The price quoted includes only the provision of such safety equipment as is specifically mentioned in QD's Quotation. If any further safety equipment is required under any statutory enactment or regulation for the time being in force, then if QD provides the same it shall be entitled to make a reasonable charge for so doing, and if such provision by QD does not form part of the Contract, the Customer shall take such steps in connection with the safety of the Product sufficient to ensure, as far as is reasonably practicable, that the Products will be safe when used properly. In either case, the Products shall not be used until all necessary safety equipment has been provided.

### 14. LOCATION AND USE LIMITATIONS

- 14.1. The Products supplied by QD shall not be used in any country other than that for which they were originally ordered without QD's consent.
- 14.2. This clause, 14.2, applies to sales of QD Merlin and Cheetah M3 Products only, as these Products are not permitted to be used for certain applications. The Customer warrants and represents that they will not use Merlin and Cheetah M3 Products supplied by QD in (i) automotive; (ii) aeronautics; (iii) military; (iv) life sustaining products; or (v) any medical application (except for (a) research (b) development of medical imaging systems or (c) medical devices used solely as diagnostic tools); or (vi) any nuclear materials related to defence systems or power systems, or (viii) any tobacco industry funded work (as defined by Cancer Research UK Code of Practice on Tobacco Industry Funding to Universities) or (viii) any space application except fundamental research. Nor will the Customer use Merlin or Cheetah M3 Products supplied by QD for (i) materials analysis applications using X-ray tube-based X-ray diffraction, X-Ray fluorescence, small/wide Angle X-ray scattering or X-ray reflectometry techniques; or (ii) X-ray computed tomography for small animal imaging and X-ray computed tomography for human body imaging.

### 15. CONFIDENTIAL INFORMATION AND GDPR

- 15.1. The Customer shall keep secure and confidential all information provided by QD that relates to its business including but not limited to the Products, and other Products or Services provided by QD, including technical specifications, designs, drawings and samples, whether or not expressly marked "confidential", including information that ought reasonably be known to be confidential, including the terms of the Contract.

- 15.2. The Customer shall not disclose such confidential information to any other party without the prior written consent of QD, and shall only use such information in connection with the completion of this Contract.
- 15.3. The Customer acknowledges that QD will process information about the Customer's business, individuals employed or engaged by the Customer, and the Customer's clients, including but not limited to names, telephone and email contact details, and records of calls or communications with QD. QD uses this information for the purpose of entering into and performing this Agreement, for the administration of its business, and to protect or enforce QD's rights, and processes information in accordance with its Privacy Policy in force from time to time at <https://quantumdetectors.com>.
- 15.4. Each of QD and the Customer shall comply with their obligations under the relevant data processing laws as are applicable from time to time, including the UK General Data Protection Regulations and the UK Data Protection Act 2018 from time to time in force.
- 15.5. The Customer acknowledges that certain personal data may be shared outside the UK as part of QD's routine business management and operations, and QD will transfer such data in accordance with the applicable law.
- 15.6. Each of QD and the Customer shall provide assistance and co-operate with the other to enable them to comply with their obligations to provide information to the Information Commissioner, or to respond to a request by an individual to exercise their rights under the relevant laws, or to complete any privacy impact assessment or security check.
- 15.7. QD shall notify the Customer of any material data security breach affecting personal data relating to the Customer or any individual employed or engaged by the Customer.

## 16. OWNERSHIP OF INTELLECTUAL PROPERTY

- 16.1. QD's intellectual property rights including but not limited to patents, design rights, copyright and know-how in and relating to the Products, designs, drawings, concepts or other materials shall remain the exclusive property of QD (and its licensors), and the Customer shall not at any time make any unauthorised use of such intellectual property rights, nor authorise or permit any of its agents, contractors or any other person to do so.
- 16.2. The Customer shall not reproduce or disclose QD's designs, drawings, specifications or information to any third party. The Customer shall not copy, disassemble, decompile, reverse engineer or create derivative works (or cause or enable any third party to copy, disassemble, decompile, reverse engineer, or create derivative works) based on the whole or any part of any QD Products.

## 17. INTELLECTUAL PROPERTY INDEMNITY

- 17.1. Subject to the limitations contained in these terms and conditions, QD will indemnify the Customer against any claim by third parties that the ordinary use of the Products supplied by QD to the Customer infringes the intellectual property rights of the third party, and against all reasonable costs and damages which the Customer incurs in any resultant action, provided always that this indemnity shall not apply to any infringement:
  - 17.1.1. which is due to QD having followed a design or instruction furnished or provided by the Customer, or

- 17.1.2. which is due to the use of QD's Products in a manner not permitted under this agreement or for a purpose or in a country not specified or disclosed to QD in writing prior to the formation of the Contract, or
  - 17.1.3. which is due to the use of QD's Products in association or combination with any other article not supplied by QD, or
  - 17.1.4. where QD procures for the Customer the right to continue to use the Products or QD has modified or replaced the Products.
- 17.2. This indemnity is conditional on the giving of notice by the Customer at the earliest possible time in writing of any claim made or action threatened or brought against the Customer, and on the Customer permitting QD at its expense to have the sole conduct of correspondence, negotiations and dispute resolution that may ensue. The Customer represents and warrants to QD that any design or instruction furnished or given by the Customer shall not be such as will cause QD to infringe any letters patent, registered design, trademark or copyright in the execution of the Customer's order.

## 18. FORCE MAJEURE

- 18.1. 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.

## 19. TERMINATION

- 19.1. QD may either suspend, cancel further deliveries or terminate a Contract immediately on written notice to the Customer and without further liability to the Customer if the Customer: (i) is in material or persistent breach of any term of the Contract, which in the case of a remediable breach the Customer fails to remedy within any reasonable time specified by QD in writing; or (ii) makes any arrangement with its creditors; is the subject of a bankruptcy; makes a winding up order; is insolvent or otherwise unable to pay its debts as they fall due, or undergoes a change in control without prior approval of QD; or (iii) commits any offence under the Bribery Act 2010; or (iv) suffers a Force Majeure Event.
- 19.2. QD may terminate a Contract without cause on giving not less than 90 (ninety) days' notice to the Customer for convenience at any time, providing that the Customer shall remain liable for payment of the price for all Products delivered prior to the termination date.
- 19.3. The Customer may terminate a Contract in whole or in part, in the event that QD is in material breach of Contract which is not remedied or not capable of reasonable remedy, or where QD suffers a Force Majeure Event which persists for a period in excess of 60



calendar days, and subject to clause 12, QD's sole liability to Customer arising due to termination by Customer under this clause 14, shall be to pay to the Customer, the reasonable and demonstrable incremental costs incurred in procuring an alternative supply for products equivalent to the Products.

- 19.4. The Customer may only terminate a Contract for convenience with the prior written consent of QD, and subject to such reasonable terms and conditions as QD acting reasonably may require. For the avoidance of doubt, the Customer shall be liable for the following costs: (i) for termination within 30 (thirty) days prior to the due date for delivery (specified in the Quotation or otherwise agreed between the parties) the full price set out in the Quotation for the Products; (ii) for termination between 31 (thirty-one) and 60 (sixty) days prior to the due date for delivery the higher of (1) the costs incurred by QD, including those incurred as a result of the termination, and (2) 50% of the price stated in the Contract for the terminated Products; and (iii) for termination on more than 60 (sixty) days prior to the due date for delivery, all the costs incurred by QD as a result of the termination, including any work in process for Products not previously accepted by Customer. Nothing in this clause will exclude or limit the Customer's liability for the full Contract price of all Products delivered prior to any such termination.
- 19.5. QD may exercise any of the rights herein without any liability and without prejudice to any other right or remedy to which QD may be entitled by operation of law or otherwise, including without limitation the right to recover QD's costs with respect to work in progress and incidental costs.

## 20. SEVERANCE

- 20.1. If at any time any one or more of the provisions of these conditions become or are held to be invalid, illegal or unenforceable in any respect under any law, the validity and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

## 21. LAW

- 21.1. These terms and conditions, 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, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

## 22. ARBITRATION

- 22.1. All disputes arising in connection with the contract between QD and the Customer shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The arbitration shall take place in London. This clause shall only apply and take effect where the Customer is resident outside the United Kingdom and Eire.

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