

TERMS AND CONDITIONS OF SALE

SPEX CertiPrep Ltd

1.7.04

1. INTERPRETATION/DEFINITIONS

In these terms:

The Seller means SPEX CertiPrep Ltd.

The Contract shall mean the Contract between the Seller and the Purchaser.

“Goods and Services” respectively mean all goods and all services (as applicable) covered by the Purchase Order and/or any part(s) thereof.

The “Purchase Order” / “Order” means the Purchaser’s relevant order for the supply of Goods and/or Services by the Seller.

The “Purchaser” means the establishment placing the order on the Seller

Quotations are submitted and orders are accepted only upon and subject to Terms and Conditions of Sale as herein set out. Unless expressly agreed and accepted by the Seller in writing, any terms in an order form which is inconsistent with these terms will be deemed to be inapplicable. There are to be no terms, conditions or warranties implied into a Contract for the supply and/or delivery of goods by the Seller by virtue of previous dealings.

The Contract is assumed to be binding, for an order or acceptance of an offer as soon as the Seller has sent notification of receipt of an order.

2. QUOTATION

All quotations are tendered without engagement and are subject to confirmation upon receipt of order. All prices are exclusive of VAT and delivery (unless otherwise stated) and when no period is stated for acceptance, quotations are open for 30 days from date of issue.

3. OWNERSHIP AND RISK

It is an express condition of all Contracts entered into by the Seller for the supply and/or delivery of goods, that ownership of such goods and all reasonable rights in respect of such goods remain vested in the Seller and do not pass to the Purchaser until the complete and final settlement of all monies owed to the Seller by the Purchaser in respect of the supply and/or delivery of such goods.

The Purchaser of goods supplied and/or delivered by the Seller indemnifies the Seller in respect of any and all actions, claims, losses and damages arising out of the Purchaser's possession of the Seller's property until such time as ownership of such property should rightfully pass to the Purchaser in accordance with the terms of the Contract for the supply and/or delivery of such property.

The risk of the goods is transferred to the Purchaser when the goods are delivered to the Purchaser's premises and all risks insurance shall be procured by the Purchaser at its expense covering the equipment at invoice value without any deductions

4. DESPATCH DATES

Every effort will be made to adhere to any despatch dates quoted by the Seller. The Seller accepts no liability for any financial or other loss whatsoever or howsoever caused by acts of the Seller, the Seller's servants, the Seller's agents, or otherwise in respect of delivery of goods supplied.

5. LOSS OR DAMAGE IN TRANSIT

Claims for non-delivery will not be entertained unless the Seller and the carriers are notified within 5 days from despatch date.

Additionally, the Seller is unable to accept responsibility for damaged goods unless the Seller and the carriers are notified within 3 days of receipt of such damaged goods. Errors and omissions in respect of goods supplied by the Seller must be notified to the Seller by the Purchaser within 5 days of receipt of such goods.

6. CLAIMS

The Seller will not be liable in respect of any claim, action or damage whether arising in Contract or in tort for any injury, loss or damage howsoever caused by or arising out of the use of any goods manufactured, sold, supplied or delivered by the Seller.

7. GUARANTEE

The Seller guarantees goods of their manufacture against defective workmanship and materials and passes on to the customer the benefit of the warranty, if any, given by other manufacturers of the goods concerned. For equipment manufactured by the Seller the following guarantees apply:

- a) Unless otherwise stated in the quotation, all previously unused equipment, (except for those made of glass or similar material and parts which are consumables or subject to wear with normal use), are guaranteed for repair (or replacement at the seller's discretion without charge for labour or materials for the period of 12 months from date of delivery to Purchaser.
- b) Installation services for the period of 90 days from date of installation.
- c) Repairs and replacement of parts - the balance of the warranty period for the parts concerned.

The above guarantee does not apply to components subjected to misuse due to common negligence, adverse environmental conditions or accident, nor to any components which are not operated in accordance with the instructions supplied. Labour, materials and expenses shall be billed to the customer at the rate then in effect for any repairs or products supplied not covered by this guarantee. The guarantee does not apply to any parts or equipment that have been repaired, altered or installed by anyone not authorised by the Seller in writing.

(d) It is expressly agreed that under no circumstances shall implied or tacit warranty be granted by the Seller. Moreover, the Seller shall incur no other liability for direct or indirect damages to third parties, commercial or financial damages, or for any other cause.

8. CONFIDENTIALITY

All drawings, designs, specifications and other information which the Seller may supply in connection with a quotation or order are confidential. They remain the property of the Seller and must not be disclosed to any third party without the Seller's written permission. If requested, such documents must be returned to the Seller.

9. CANCELLATION

In the event of the cancellation by the Purchaser of an order, the Purchaser shall then be liable to a cancellation charge and to make reasonable and fair compensation to the Seller for any and all expenditure of money, materials and manpower incurred by the Seller in execution of the order against all Contractual liability which the Seller has incurred in respect of the order. Any cancellation must be only with written approval of Seller.

10. DELIVERY/DELAY IN DELIVERY

If the Seller does not receive delivery instructions from the Purchaser within 14 days after notification that the goods are ready for despatch, the Seller shall be entitled to arrange storage on behalf of the Purchaser at their risk, making a charge for doing so. The Seller shall also be entitled to payment for the goods as if they had been duly delivered.

A delay in delivery cannot justify cancellation of the order.

11. PERFORMANCE

The Seller shall be responsible for supplying equipment whose performance will meet its own published specification. It is the responsibility of the Purchaser to determine that the goods ordered are suitable for the purpose to which they are to be used.

12. PAYMENT AND RETENTION OF TITLE

Unless agreed otherwise in writing by the Seller, payment in full shall be made within 30 days of the date of invoice. If the Purchaser does not comply punctually with these terms of payment, the Seller reserves the right to charge interest on any account overdue at the rate of 1½% per month (compounded) and without notice to suspend further deliveries until all arrears (including interest) have been paid. The Seller also has the option to rescind any existing valid Contract without prejudice to any rights already accrued to the Seller under such Contracts. Title for all goods supplied shall remain in the Seller until payment has been made in full for them and all other goods supplied by the Seller. The goods must, until title passes, be stored in such a way that they are readily identifiable as the Seller's property. If payment in full is not made within 3 months of date of delivery, or if the Purchaser is judged insolvent or bankrupt, then the Seller shall be entitled, after giving notice of intention to repossess, to enter upon any premises and repossess any goods to which the Seller has title under this clause.

13. RETURN OF GOODS

In no circumstances may goods supplied against a firm order be returned without the Seller's prior written consent. All goods returned must be securely packaged and unless the Seller arranges collection, consigned carriage paid. A handling charge will be rendered in respect of all returned goods, at the discretion of the Seller.

14. TERMINATION

The Seller may, without prejudice to other rights and remedies, determine any Contract or unfulfilled part of it or withhold further deliveries if:

- a) the Purchaser fails to make payment on the due date in respect of any Contract with the Seller
- b) the Purchaser purports to cancel or suspend or commit any breach of this or any other Contract with the Seller
- c) the Purchaser becomes insolvent or makes any composition with the Purchaser creditors.

15. FORCE MAJEURE

The Seller is released from its delivery and warranty obligations by fortuitous events and force majeure. Fortuitous events include total or partial strikes, floods, fires, mobilisation, wars, epidemics, interruption of transport, shortages of raw materials, equipment breakdown and other analogous events.

16. COPYING

The goods are sold for the Purchaser's exclusive use and may not be copied or replicated. The Purchaser shall be liable for any and all present and future injury sustained by the Seller because of copying, including loss of income and profits.

17. INSOLVENCY AND BANKRUPTCY

If either party becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or becomes bankrupt or makes an arrangement with its creditors or has an administrative receiver or administrator appointed or commences to be wound up (or suffers any analogous process in any foreign jurisdiction) the other party may, without prejudice to any other of its rights, terminate the Contract forthwith by written notice.

18. ASSIGNMENT AND SUB-CONTRACTING

The Purchaser shall not assign or transfer the Contract or any of its rights or obligations under the Contract without the Seller's prior written consent.

19. SAFETY OBLIGATIONS

Purchaser shall use qualified individuals trained and familiar with safe operation procedures in the use of all products supplied by the Seller, including Material Safety Data Sheets supplied with chemicals and the use of all safety devices and guards when operating equipment, and the Purchaser shall maintain the same in proper working order. If Purchaser fails to observe the obligations contained in this paragraph, Purchaser agrees to indemnify and hold Seller harmless from any liability or obligation incurred by Purchaser to persons injured directly or indirectly in connection with the use or operation of the equipment.

20. WAIVE

Any failure by the Seller to enforce any of these conditions shall not be construed as a waiver of any of the rights hereunder.

21. GOVERNING LAW

This contract and the rights and obligations of the parties hereunder shall in all respects be governed by English law.