

## Sales Terms & Conditions

### 1. Interpretation

1.1 In these Conditions 'EQUIPMENT' means the goods and services (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions; 'SELLER' means Livingston UK Limited trading as Livingston Sales; 'CONDITIONS' means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the Buyer and the Seller; 'CONTRACT' means the contract for the purchase and sale of the Equipment; 'WRITING' includes telex, cable, facsimile transmission and comparable means of communication.

1.2 The headings in these Conditions are for convenience only and shall not affect their interpretation.

### 2. Basis of the Sale

2.1 The Seller shall sell and the Buyer shall purchase the Equipment in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions. Provided that an acknowledgement of the Buyer's order shall not, unless expressed to be so, be a contractual acceptance.

2.2 Any variations to these conditions are invalid unless confirmed by the Seller in Writing

2.3 Any advice or recommendation given by the Seller to the Buyer as to the storage, application or use of the Equipment which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyer's own risk.

2.4 Any error or omission in any information or document issued by the Seller shall be subject to correction without any liability on the part of the Seller.

### 3. Orders or Specifications

3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller's authorised representative.

3.2 The Buyer shall be responsible to the Seller (or ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Equipment within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.3 All equipment is Second User unless otherwise specified by the Seller and is configured for UK use and working to manufacturers' specification unless otherwise stated by the Seller in Wilting Manuals and accessories are supplied as considered necessary by the Seller for normal operation.

3.4 The Seller reserves the right to make any changes in the specification of the Equipment which do not materially affect its quality or performance.

3.5 No order which has been accepted by the Seller may be cancelled by the Buyer.

#### **4. Price of the Goods**

4.1 The price of the Equipment shall be the Seller's quoted price. All prices quoted are valid whilst the Equipment remains available for sale or if shorter for 30 days only.

4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Equipment: provided that the Buyer may give notice within 48 hours of the Seller's notice cancelling the order in which event neither party shall be under any further obligation to the other except insofar as it has already accrued.

4.3 All prices are given by the Seller on an ex works basis, and where the Seller agrees to deliver the Equipment otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.

4.4 The price- is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.

#### **5. Terms of Payment**

5.1 The Seller shall be entitled to payment with order by cash or credit card.

5.2 Where credit arrangements have been agreed in writing an invoice may be raised at any time; after order and payment is due within 30 days of invoice.

5.3 If the Buyer fails to make any payment on the due date then without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the contract or suspend any further deliveries to the Buyer.

#### **6. Delivery**

6.1 Any dates quoted for delivery of the Equipment is approximate only and the Seller shall not be liable for any delay in delivery of the Equipment however caused. Time for delivery shall not be of the essence of the contract unless previously agreed by the Seller in writing. The Equipment may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.2 Where the Equipment is to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalment's shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.3 If the Seller fails to deliver the Equipment (or any instalment) for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Equipment.

6.4 If the Buyer fails to take delivery of the Equipment or fails to give the Seller adequate delivery instructions at the time stated for delivery or fails to make any payment due prior to delivery then, without prejudice to any other right or remedy available to the Seller, the Seller may:

6.4.1 store the Equipment until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage: and/or

6.4.2 after 28days from the due date for delivery accept the contract as repudiated by the Buyer

## **7. Risk and Property**

7.1 Risk of damage to or loss of the Equipment shall pass to the Buyer at the time of delivery or if the buyer wrongfully fails to take delivery of the Equipment, the time when the Seller tendered delivery of the Equipment.

7.2 Notwithstanding delivery and the passing of risk in the Equipment, or any other provision of these Conditions, the property in the Equipment shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Equipment and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

7.3 Until such time as the property in the Equipment passes to the Buyer, the Buyer shall hold the Equipment as the Seller's fiduciary agent and bailee, and shall keep the Equipment separate from those of the Buyer and third parties and the properly stored, protected and insured and identified as the Seller's property, but shall be entitled to resell or use the Equipment in the ordinary course of its business.

7.4 Until such time as the property in the Equipment passes to the Buyer (and provided the Equipment is still in existence and has not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Equipment to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Equipment is stored and repossess the Equipment.

7.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Equipment which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

## **8. Buyer's Right of Return of Second User Equipment**

8.1 Where the Equipment is Second User Equipment, the Buyer shall be entitled to return the Equipment to the Seller within 7 days of delivery for a full refund less any delivery costs incurred by the Seller. The Equipment must be returned in a condition and with accessories identical to that supplied.

## **9. Warranties and Liability**

9.1 Subject to the conditions set out below, the Seller warrants that the Equipment will be fully functional for its intended purpose at the time of delivery and for such period after delivery as is specified by the Seller at the time of sale.

9.2 This warranty does not extend to damage which does not effect the functionality of the equipment: consumables including but not limited to batteries: calibration failures other than arising from Seller's lack of care: failures of any of the following parts: displays, attenuators, travelling wave tubes. YIG oscillators, tape heads and transport mechanisms, backward wave oscillators, caesium and rubidium tubes, software. RF power elements, cases, microphones, lightwave source, transmission and receiving components, catalytic converters, photo multiplier tubes, probes and transducers and thermionic valves.

9.3 This warranty is given by the Seller subject to the following conditions:

9.3.1 the Seller shall be under no liability in respect of any specification supplied by the Buyer:

9.3.2 the Seller shall be under no liability in respect of any defect arising from fair wear and tear. wilful damages, negligence, abnormal working conditions, failure to follow the Seller's instructions and recommendations (whether oral or in writing) or misuse of the Equipment

9.3.3 the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Equipment has not been paid by the due date for payment or the Buyer is in any other respect in material breach of any of these conditions:

9.3.4 the Equipment integrity seals must remain undisturbed and the Equipment must remain unmodified and no previous repair or attempted repair (other than by or with the Seller's written consent) must have been undertaken.

9.4 Subject as expressly provided in these Conditions, and except where the Equipment is sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

9.5 Where the Equipment is sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these Conditions.

9.6 The Buyer must notify the Seller of any defect eligible for remedy under this warranty within 7 days of discovering the defect. If the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Equipment and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Equipment had been delivered in accordance with the Contract.

9.7 Where a valid warranty claim is made, the relevant Equipment shall be returned to the Seller at the expense of the Buyer and shall be redelivered within the UK after rectification to the Buyer at the expense of the Seller:

9.8 Equipment the subject of warranty repair will carry in respect of the repair a warranty for a period of one month from the date of redelivery to the Buyer.

9.9 Where any valid claim in respect this warranty is made, the Seller shall be entitled to repair the Equipment, replace the Equipment (or the part in question) or, at the Seller's sole discretion, refund to the Buyer the price of the Equipment (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.

9.10 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever whether caused by the negligence of the Seller, its employees or agents otherwise which arise out of or in connection with the supply of the Equipment or its use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Equipment, except as expressly provided in these Conditions.

9.11 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Equipment, if the delay or failure was due to any cause beyond the Seller's reasonable control

## **10. Insolvency of Buyer**

10.1 This clause applies if:

10.1.1 the Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

10.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer: or

10.1.3 the Buyer ceases, or threatens to cease, to carry on business; or

10.1.4 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

10.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Equipment have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

## **11. Export Terms**

11.1 Where the Equipment is to be exported from the UK the Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Equipment into the country of destination and for the payment of any duties on them.

11.2 The Buyer shall be responsible for complying with any regulation regulating or restricting the use of the Equipment within the UK.

## **12. General**

12.1 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

12.2 The Contract shall be governed by the laws of England, and the Buyer agrees to submit to the exclusive jurisdiction of the English courts.