

Thames Side Sensors Europe Limited

Terms and Conditions of Tender and Sale

1. In these conditions the following definitions apply;

the "Seller" shall mean Thames Side Sensors Europe Limited, with registered address 88 Harcourt Street, Dublin 2, D02 DK18, Republic of Ireland;

the "Buyer" shall mean the company whose name and address is shown on the Purchase Order and shown on the Order Confirmation document, or Proforma Invoice document, provided by Thames Side Sensors Europe Limited;

the "Goods" shall mean the goods shown on the Order Confirmation document, or Proforma Invoice document, and any subsequent Invoice (or Commercial Invoice) issued by Thames Side Sensors Europe Limited;

the "Price" shall mean the total price payable by the Buyer for the Goods including Value Added Tax or any similar or replacement tax where applicable, as shown on the Order Confirmation document, or Proforma Invoice document, issued by Thames Side Sensors Europe Limited;

2. These conditions are the sole conditions of the Contract between the Seller and the Buyer. No variation of these conditions shall be valid unless made in writing, agreed and signed by both the Seller and the Buyer. Any inconsistent term or condition in any document of the Buyer is agreed to be void and of no effect and shall form no part of the Contract between the Seller and the Buyer.
3. Any tender hereby made is open for acceptance (unless previously withdrawn by the Seller) for not more than 21 days from the date shown on the Quotation given by the Seller and is subject to confirmation by the Seller on receipt of any instruction to proceed with an order, or any Purchase Order, provided by the Buyer.
4. A Quotation hereby given by the Seller shall not be regarded by the Buyer as an offer and orders resulting therefrom shall not be considered binding until such time as the Seller has accepted the Buyer's offer in writing.
5.
 - (a) The Price quoted is net. Where an order is delivered in instalments an invoice will be submitted for each consignment and each invoice shall be treated as a separate account and shall be payable accordingly;
 - (b) Prices quoted may increase proportionally for any increase in the cost of materials and/or labour between the date of Quotation and the date of supply.
6. Unless the Buyer has stated in the Purchase Order, or elsewhere in a document sent to the Seller, that the Goods will be collected from the Seller's premises the Seller will arrange the freight / transport of the Goods to the Buyer and will charge the cost of freight / transport additionally to the Buyer on the Invoice issued by the Seller.
7. Unless otherwise agreed to by the Seller in writing all special tests and inspections required by the Buyer shall be carried out at the premises of the Seller at the full expense of the Buyer. When any Goods have been finally passed as satisfactory by a representative of the Buyer the same shall be deemed to comply with the Seller's obligations in all respects and no claim thereafter that the Goods are defective or unsatisfactory in any respect can be made by the Buyer.
8.
 - (a) Payment of the Price shall be made within 30 calendar days of the date of issue of an Invoice by the Seller. The Buyer agrees to pay interest at the rate of 5% above the base rate from time to time of the European Central Bank or 10% per annum (whichever shall be the higher) on any sums remaining overdue to the Seller beyond 30 days after the date of issue of an Invoice by the Seller. From time to time the Seller may grant to the Buyer special payment terms of more than 30 days after the date of issue of an Invoice for the Goods.
 - (b) In the case of the Seller issuing to the Buyer a Proforma Invoice, either part of the Price or the full Price shall be payable in advance of the Seller sending the Goods to the buyer or making them available for

collection from the Seller's premises. In some cases the Seller may insist on full payment of the Price by the Buyer in advance of the Seller commencing any manufacturing or supply chain activity if the Goods are made according to order and/or if the seller classifies the Goods as having slow inventory movement.

- (c) In the event of the Buyer failing to fulfil the terms of payment or if the Seller shall at any time have any doubts about the solvency or financial responsibility of the Buyer the Seller shall be entitled to refuse to make any further delivery of the Goods (or make the Goods available for collection) under this or any other contract.
9. The Seller's liability in respect of any claim made by the Buyer in respect of the Goods shall be limited to the Price of the Goods.
10. (a) All conditions and warranties as to the conformity of any Goods with sample or description or as to the condition quality or fitness of any purpose whatsoever of the Goods are excluded;
- (b) The Seller shall not be liable for any loss or damage whether caused by negligence of the Seller its servants or agents or in any other way whatsoever and shall in no circumstances be liable for any loss of profit business or production or any similar loss or damage whether direct indirect or consequential howsoever caused.
11. (a) The Seller will replace or correct any defective parts resulting from faulty design materials or workmanship of the Goods by the Seller for a period of time after the date of the Invoice issued by the Seller, depending on the model, which is specified in the Warranty Policy of the Seller in force on the date of the Invoice (the "Warranty").
- (b) The Warranty does not cover items which the Buyer itself must be capable of checking and replacing. The Seller shall not be responsible for the repairs necessitated by the Buyer failing to comply with the appropriate operating and maintenance instructions nor for repairs necessitated by maltreatment or any cause which cannot be traced to the equipment itself (e.g. a lightning strike). The Warranty is not valid without written permission from the Seller if the Goods are repaired altered or rebuilt in any way by persons other than the Seller's personnel. The Warranty is not valid if the cable of any load cell supplied by the Seller has been modified from its original condition at the time of shipment, or collection, including the cutting or stripping of the load cell cable. The Warranty shall not be valid if the Buyer having discovered or suspecting an error in the Goods neglects to notify the Seller of the suspected error and continues to use the Goods without the Seller's specific permission given in writing. The Seller does not provide any Warranty for labour costs, transport costs, administrative charges, import costs, Value Added Tax or any similar or replacement tax where applicable, import or export costs, documentation costs, or any other costs relating to the Warranty.
12. (a) All goods sent to the Buyer, or collected by the Buyer or the Buyer's assigned representative, shall be at the Buyer's risk from the time they leave the premises of the Seller. The Buyer should insure against any loss or damage occurring thereafter;
- (b) All Goods sent to the Buyer, or collected by the Buyer or the Buyer's assigned representative, shall remain in the legal and beneficial ownership of the Seller until all sums due from the Buyer to the Seller under this or any other Contract have been paid in full. Prior to such payment in full the Buyer shall hold all such Goods separately from any other goods in the Buyer's possession;
- (c) Notwithstanding that the Goods have not been paid for in full the Buyer as bailee for the Seller and not otherwise shall have the power and right to sell such Goods and all proceeds of sale shall be retained by the Buyer (and is so required by the Seller in a separate bank or other account) and held by the Buyer in trust for the Seller beneficially until all sums due from the Buyer to the Seller under this or any other contact have been paid in full.
13. (a) If no date for delivery to the Buyer is provided in the Contract the Buyer shall be bound to accept the Goods when they are ready for delivery by the Seller;
- (b) If a date for delivery to the Buyer is specified it should be an estimate only and shall date from the receipt by the Seller of definite instruction to proceed together with the necessary information and completed drawings or patterns if these are supplied by the Buyer;

- (c) Unless otherwise agreed in writing the place for delivery of the Goods shall be the Buyer's premises as specified in the delivery address on the Order Confirmation or Proforma Invoice issued by the Seller;
 - (d) In the event of delivery being wholly or partly suspended or delayed by act of God fire accident riot civil commotion hostilities war strikes lock-outs import and/or export restrictions emergency breakdown of plant non-delivery of raw materials or of any other event of any kind whatsoever which is beyond the control of the Seller the Buyer shall have no right to cancel the Contract but shall accept delivery of the Goods at such time after the termination of such suspension or delay as the Seller is reasonably able to deliver the Goods having regard to the Seller's commitments to other customers. If however delivery of the Goods is suspended or delayed for a period exceeding three months from the date when the Goods would otherwise have become due for delivery to the Buyer then unless otherwise agreed in writing so much of the Contract as relates to the Goods shall automatically be cancelled and the Contract shall remain in full force with regard to other goods covered by the contact;
 - (e) The Seller shall in no circumstances be liable to the Buyer for any loss or damage howsoever caused resulting from non-delivery or late delivery of any of the Goods. The Seller will not enter into any Contract that contains clauses or wording that binds the Seller into paying any compensation or reducing the Price for the Goods or issuing any credit note or other credit document for non-delivery or late delivery of the Goods or any part of the Goods;
 - (f) Acceptance of delivery by or on behalf of the Buyer shall be conclusive that the Buyer has examined the Goods and has found them to be in every way satisfactory and fit for the purpose for which they might be required.
14. (a) In no circumstances shall the Seller be bound or in any way liable for any representation made or any information or advice given to the Buyer or to any other person whatsoever by the Seller or by any person who is or who is deemed by law to be an agent of the Seller where the said representation is made or information or advice is given in pursuance of this or any other Contract or in any other way whatsoever;
- (b) The Seller shall in no circumstances be bound by or liable for any description information or illustration contained in a catalogue price list datasheet website brochure leaflet or other document of any kind and nothing contained in any such document shall form part of this or any Contract between the Seller and the Buyer;
- (c) In placing an order for the Goods or any item thereof the Buyer warrants that it has tested goods of that description and specification and that such goods are suitable for any purpose for which the Buyer may require them.
15. (a) Notwithstanding anything contained in these conditions the Seller shall be under no liability to the Buyer unless written notice of the Buyer's claim is received by the Seller within 10 calendar days of delivery of the Goods to the Buyer or to the Buyer's order or where a claim is in respect of an alleged failure to deliver the Goods within 10 calendar days of the date of the Seller's invoice. Claims under the Warranty contained in these conditions must be made within 7 calendar days of the occurrence which has resulted in the claim.
- (b) Where a claim is received by the Seller the Seller may in its entire discretion elect to accept the return of the Goods and if the Seller so elects the Seller shall be entitled within a reasonable time of such return to tender further goods in performance of the Contract and the terms of the Contract shall apply to such goods tendered by the Seller as if they were the goods originally delivered pursuant to the Contract. Nothing in this condition shall place the Seller under any obligation to make such election and if such election is made it shall not be taken as an admission of liability or obligation to the Buyer in respect of the Buyer's claim.
16. (a) The Seller shall be entitled to terminate this contract upon the happening of any of the following events:-
- (i) failure by the Buyer to pay any sum due to the Seller under the Contract on the due date;
 - (ii) breach by the Buyer of any other condition of the Contract;

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- (iii) the buyer suffering any execution to be levied on its goods or in the case of an individual Buyer dying entering into a composition or arrangement for the benefit of his creditors or having a Receiving Order in bankruptcy made against him or if a body corporate having a Receiver or manager appointed or going into liquidation.
 - (b) In the event of termination the Buyer shall forthwith pay to the Seller all sums due to the seller under this Contract. Any deposit paid by the Buyer shall be forfeit to the Seller and irrecoverable by the Buyer. The Seller shall be entitled to immediately repossess all goods in possession or control of the Buyer or of any servant or agent of the Buyer in which property has not passed to the Buyer and shall be entitled to enter upon any premises of the Buyer or in control of the Buyer for such purpose for the Seller to give credit to the Buyer for the value if any of the Goods are repossessed against any sums due under the Contract.
- 17. (a) The Seller gives no warranty that the Goods conform to any statutory requirement or that the Goods do not infringe any patent or trade mark (whether registered or not) risk whereof shall at all times be upon the Buyer;
- (b) Where the Goods are manufactured and supplied to the requirements or specifications of the Buyer the Buyer shall indemnify the Seller against all claims against the Seller in respect of any breach of any statutory requirement or the infringement of any patent or trade mark (whether registered or not).
- 18. The Seller will not grant the Buyer any rights to Intellectual property or rights to ownership of the designs know-how patterns prototypes translations patents drawings solid models or any other document relating to the design or conception or function of any product supplied by the Seller. No rights to reproduction arrangement modification use in any jurisdiction according to current and future laws in any jurisdiction worldwide will be available to the Buyer. The Seller will not indemnify the Buyer or give any guarantee against any intellectual property claim made by any party against the Buyer in any jurisdiction worldwide.
- 19. The Buyer may not forbid the Seller from mentioning to any third parties the commercial relationship of this Contract without explicit written consent to this restriction by a Company Director of the Seller.
- 20. Should one or several of these conditions be or become void, the others remain fully valid. The Buyer undertakes to agree to new conditions which are as far as possible equal to the void conditions regarding their spirit and the common wishes of the Buyer and the Seller. Any contract amendment must be made in writing and signed by a Company Director of the Seller.
- 21. This Contract shall be construed in accordance with and governed in every respect by the Laws of Ireland and all actions arising out of or connected with this agreement shall be brought in the Courts of Ireland.