

Conditions of Sale

1 GENERAL

1.1 In these Conditions:

1.1.1 The following expressions shall have the following meanings:-

"Buyer" the individual, firm or company from whom an order to supply Goods and/or Services is received by the Seller;

"Conditions" means these conditions and includes any additional terms and conditions of sale agreed in writing by the Seller;

"Contract" a contract for the Supply of Goods and/or Services by the Seller to the Buyer;

"Goods" any goods agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them).

"Seller" PI-KEM limited (Reg Number 42152228)

"Services" the work or services or any of them to be provided by the Seller under the Contract;

1.2 The legal construction of these Conditions shall not be affected by their headings.

2 Quotations, orders, formation of Contract

2.1 Subject to any variation under Condition 2.5, the Contract shall be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply).

2.2 Any quotation is issued by the Company on the basis that no contract will come into existence until the Company despatches an Order Acknowledgement to the Buyer but the terms contained in any quotation (including prices) will normally remain fixed if a Contract is made within 30 days of the date of the quotation provided that the Company has not previously withdrawn it.

2.3 The Company will be under no liability for any order received until the Order Acknowledgement in respect of it is delivered to the Buyer or (if earlier) the Company delivers the Goods to the Buyer at which time a Contract will be formed between the Company and the Buyer incorporating these Conditions.

2.4 These Conditions apply to all of the Company's sales with the Buyer. Each Order Acknowledgement made by the Company in relation to orders placed by the Buyer from time to time shall in each instance constitute a separate Contract incorporating these Conditions.

2.5 A Contract may only be cancelled or varied with the Company's written consent and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a duly authorised representative of the Company. The Company can cancel a Contract, without liability to the Buyer on any basis, provided that written notice is given to the Buyer as such prior to the delivery of the relevant Goods.

2.6 Any advice or recommendation given by the Company or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed by the Company in writing is followed or acted upon entirely at the Buyer's own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.

3 Prices

3.1 The Prices for all Goods ordered by the Buyer are those as stated in the Order Acknowledgement.

3.2 The Company shall have the right at any time to revise prices to take account of an increase in costs including, without limitation, costs of labour, materials, carriage, exchange rate variation or overheads.

3.3 Unless otherwise stated, the price set out in the Seller's quotation includes the cost of duty, packaging, carriage, and (save as provided in Condition 3.4) insurance.

3.4 Where the Buyer requests a particular means of delivery, the price set out in the Seller's quotation does not include insurance, which is to be arranged at the responsibility of the Buyer.

4 Payment

4.1 Unless otherwise stated in the Special Conditions, payment shall be made in cleared funds by bank transfer, credit card or by cheque within 30 days of the date of the Company's relevant invoice for such Goods. The Buyer shall make no deduction of any type from such payments unless it has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.

4.2 Time for payment shall be of the essence and failure by the Buyer to pay in accordance with the provisions of this Condition 4 shall entitle the Company, without prejudice to its rights to damages, to suspend any outstanding deliveries or to cancel the Contract.

4.3 In addition to the Company's rights under Condition 4.2, the Buyer shall be liable to pay interest (compounded monthly) on any amounts outstanding (both before and after judgment) at the rate of 4 per cent above The Bank of Scotland base rate for the time being in force, accruing on a daily basis until payment is made. As an alternative, the Company also reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

4.4 All payments payable to the Company under the Contract shall become due immediately upon termination of the Contract despite any other provision.

4.5 The Company reserves the right on giving the Buyer written notice as such to suspend, amend or revoke any credit terms offered from time to time to the Buyer in circumstances where the Buyer is late in making payment for Goods ordered through the Company.

5 Delivery

5.1 Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place at the location specified in the Special Conditions. If the Goods are being dispatched by or on behalf of the Company to the agreed location of the Buyer, delivery will take place at the point the Goods are unloaded at that location. If the Goods are being collected for dispatch by or on behalf of the Buyer at the premises of the Company, delivery will take place at the time specified in the Special Conditions (whether or not the Goods have been collected) or in the absence of such an agreed time, at the point the carrier begins to load the Goods.

5.2 The Company reserves the right to suspend dispatch of any Goods or suspend making them available for delivery on giving the Buyer written notice as such where any amounts remain owing by the Buyer to the Company.

5.3 Any dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice.

5.4 Subject to the other provisions of these Conditions, the Company will not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor will any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 30 days.

5.5 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

6 Risk and Title

6.1 The Goods are at the risk of the Buyer from the time of delivery.

6.2 Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cleared funds) all sums due to it in respect of the Goods and all other sums which are or which become due to the Company from the Buyer on any account.

6.3 Until ownership of the Goods has passed to the Buyer, the Buyer will hold the Goods in a fiduciary capacity and as bailee of the Seller and will at all times take proper care of the same and not obliterate or obscure any identifying mark or their packaging and will keep the Goods separate from any other goods and in such manner that they may be clearly identified as belonging to the Seller. The Buyer hereby grants to the Seller the right to enter the Buyer's premises at any time during

the continuation of the Contract to check that the Buyer is complying with the obligation contained in this condition. The Buyer will return the Goods to the Seller, if it receives a request whether verbally or in Writing to do so prior to payment in full having been made and the Seller will then repay any part of the purchase price it has already received less a reasonable amount in respect of its costs and expenses in connection with the Contract

6.4 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:

6.4.1 any sale shall be effected in the ordinary course of the Buyer's business at full market value and the Buyer shall hold such part of the proceeds of sale as represent the amount owed by the Buyer to the Company on behalf of the Company and the Buyer shall account to the Company accordingly; and

6.4.2 any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.

6.5 The Buyer's right to possession of the Goods shall terminate immediately if:

6.5.1 the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or a notice of intention to appoint an administrator is filed at Court or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or

6.5.2 the Buyers suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe/perform any of his/its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or

6.5.3 the Buyer encumbers or in any way charges any of the Goods.

6.6 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.

6.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

7 Force Majeure

7.1 The Company shall be under no liability for any delay or failure to perform in the event that the manufacture, supply or delivery of the Goods is prevented or delayed by any act or circumstances beyond the Company's reasonable control including but not limited to Act of God, legislation, war, fire, drought, failure of power supply, lock-out, strike or other action taken by employees in contemplation or furtherance of a trade dispute or owing to any inability to procure materials required for their performance of the Contract.

7.2 The Company shall notify the Buyer of any circumstance arising under Condition 7.1 and if such circumstance prevails for more than 35 days then either party shall have the option by giving notice in writing to the other to bring the Contract to an end.

8 Specifications and Intellectual Property

8.1 Where goods are supplied to the Buyer's own specification, or where standard goods of the Seller are altered in accordance with the Buyer's instructions the Buyer warrants and undertakes full responsibility for the suitability and fitness of the specification, pattern or design but also that such specification, pattern or design does not infringe any patent, trade mark, registered design, copyright or any other proprietary right of any third party and the Buyer shall indemnify and keep the Seller indemnified in full against any loss, damage or expense whatsoever (including costs) which the Seller may incur in or arising from the performance of the Contract by reason of any infringement of any such patent, trade mark, registered design, copyright or any other proprietary right

8.2 The Seller reserves the right to change the Buyer's specification as required to ensure that the Goods comply with any health, safety or other statutory requirement or provision and no such change by the Seller will constitute a breach of contract or impose upon the Seller any liability whatsoever

8.3 Unless otherwise agreed in writing, the Seller will be the sole owner of all inventions, formulations, tools, patterns, designs or other similar items and the copyright in all documents and drawings made or produced by it in preparing a quotation for the Buyer or in the course of work on any Contract with the Buyer.

9 Quantities and Instalments

9.1 Where Goods are delivered or Services are by instalment each instalment, shall be deemed to be sold under a separate Contract and dealt with as such.

9.2 If Goods or Services are to be delivered by instalments, the Seller shall be entitled to invoice each instalment as and when delivery is made and payment for all delivered instalments shall be due notwithstanding the non-delivery of other instalments or other default by the Seller. Failure by the Buyer to make payment by the due date for any one instalment shall entitle the Seller to suspend deliveries of Goods or provision of Services under the Contract, but without prejudice to any other right the Seller may have under any of the other provisions of these Conditions.

10 Termination

Without prejudice to any other rights to which it may be entitled under the Contract, the Company may give notice in writing to the Buyer terminating the Contract (and all Contracts) with immediate effect if:

10.1 the Buyer commits a material breach of any of the terms of the Contract and (if such breach is capable of remedy) fails to remedy that breach to the reasonable satisfaction of the Company within 7 days of being notified in writing of the breach; or

10.2 any of the events or circumstances set out in Conditions 6.5.1 to 6.5.3 (inclusive) occur or are applicable.

11 Inspection and Claims for Damages

11.1 The Goods are of a highly specialised nature and must be treated with the utmost care. It is essential that the Buyer checks on receipt that they correspond in all respects with the Buyer's requirements. Any discrepancies should be notified to the Seller immediately and deliveries should be signed unchecked. If any damage is noted on packaging this must be recorded at time of signing for receipt of that delivery. The Buyer undertakes to ensure that all Goods are unpacked and handled only by persons qualified to deal with such specialised products, to safeguard against injury to the Goods or to the Buyer's personnel

11.2 The Buyer shall inspect the Goods and carry out tests to ensure the Goods conform with the description of the Goods or Services in the Buyer's orders within 3 days of Delivery and whether or not the Buyer carries out such obligation to inspect and test no claims for non-delivery, shortages in quantity of units delivered, defective Goods or Services, non-conformity to description or partial loss or damage to Goods will be accepted by the Seller unless:-

11.2.1 they are notified in writing by the Buyer to the Seller within 5 days after the Date of Delivery (in the case of partial loss, damage, non-conforming or defective Goods or Services) or 14 days after the date of the invoice (in the case of non-delivery);

11.2.2 the Goods in respect of which a claim is made together with all the relevant packing are preserved intact as received for a period of 35 days from notification of any such claim and the Buyer permits the Seller or its servants or agents full and free right of access to inspect the Goods and investigate the claim; and

11.2.3 if the Buyer fails to give the appropriate notice as specified in Condition

11.2.1, the Buyer's claim will be deemed to have been waived and will be absolutely barred

11.3 It is in all cases the responsibility of the Buyer to ensure by testing or otherwise that the Goods are fit and suitable for the purposes for which the Buyer requires them in the conditions in which they will be used. The Buyer acknowledges that the Seller shall be under no liability of any description to the Buyer if the Goods prove to be unsuitable for whatever reason for application or use notwithstanding that the Seller may, at the request of the Buyer, have given in good faith technical or other advice in relation to the proposed application or use of the Goods and the Buyer shall indemnify and keep indemnified the Seller in full against any and all liability of any kind arising out of or connected with the application or use of the Goods

11.4 Section 3 Sale and Supply of Goods Act 1994 shall not apply

11.5 The Seller will not accept the return of Goods in any circumstances unless it has first issued a Goods return number and such number is quoted with the returned Goods

12 Warranty

12.1 In substitution for all and any other rights which the Buyer might or would have had, but for these Conditions and subject to Condition 11, the Seller shall make good by replacement any failure in the Goods or Services which results from defects in the Seller's materials or workmanship which appear not later than 2 months, or within stated manufacturers warranty period if different, after the Date of Delivery and shall replace any Goods or Services which do not conform with the description in the Buyer's order

12.2 Notwithstanding the provisions of Condition 12.1, in the case of a claim falling within Condition 12.1, the Seller reserves the right at its sole discretion to credit the Buyer in full the price paid by the Buyer to the Seller

12.3 The Seller's liability under this Condition shall automatically cease if:

12.3.1 the Buyer has not paid for all Goods or Services supplied under any Contract by the due date or is otherwise in breach of this or any other Contract made with the Seller; or

12.3.2 the Seller or its servants or agents are denied full and free right of access to the allegedly defective Goods; or

12.3.3 the Buyer has not properly maintained the Goods or has not complied with any Recommendations for Use; or

12.3.4 the defect or failure is caused by a breach by the Buyer of its undertakings and warranties contained in Condition 17; or

12.3.5 the Buyer has failed to notify the Seller in writing of any defect or suspected defect within 14 days of the same coming to the knowledge of the Buyer

12.4 The warranty set out in Condition 12.1 shall be in lieu of any warranties conditions or undertakings whether express or implied by statute, common law or otherwise howsoever which warranties, conditions and undertakings are hereby expressly excluded, except that such exclusions will not apply to any implied condition that the Seller has or will have the right to sell the Goods when the property is to pass

12.5 Nothing in these Conditions excludes or limits the liability of the Seller for death or personal injury caused by the Seller's negligence or fraudulent misrepresentation

12.6 SUBJECT TO CONDITIONS 12.4 AND 12.5

12.6.1 the seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise (including in connection with the performance or contemplated performance of the contract shall be limited to the price paid for the goods or services under the contract; and

12.6.2 the seller shall not be liable to the buyer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (however caused) which arise out of or in connection with the contract

13 Export terms

13.1 In these Conditions "Inco terms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Inco terms has the same meaning in the Contract

13.2 Where the Goods are supplied for export from the United Kingdom then unless otherwise agreed in writing between the Buyer and the Seller

13.2.1 the provisions of Inco terms shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply but if there is any conflict between the provisions of Inco terms and these Conditions, the latter shall prevail.

13.2.2 the Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and (save in respect of the United States of America, Canada and Japan) for the payment of any duties and taxes thereon unless payment for these is included in the Contract

13.2.3 the Buyer shall be deemed to have satisfied itself that such Goods comply with the safety regulations of any country or state in which the Goods are to be used outside the United Kingdom and the Buyer shall indemnify and keep indemnified the Seller in full for any loss or damage whatsoever which the Seller may incur if such Goods do not comply with such safety regulations

13.3 The Goods shall not be used in any country other than that for which the Seller was aware they were originally ordered without the Seller's consent in writing

13.4 The Buyer undertakes not to offer the Goods for resale in any country notified by the Seller at or before the time the Buyer's order is placed, or to sell the Goods to any person if the Buyer knows or has reason to believe that person intends to resell the Goods in any such country.

14 General

14.1 Any information which the Company discloses relating to the Goods, which is not in the public domain at the time of disclosure, shall be confidential and shall not be disclosed to any third party or used by the Buyer to enable the Buyer to manufacture the Goods or use the same as a springboard to develop the Buyer's own products.

14.2 All notices required to be served by one party upon the other shall be in writing and may be served on the other at its address set out in the Special Conditions. All such notices may be served by first class pre-paid letter or facsimile transfer and (in the absence of proof of earlier receipt) shall be deemed to be served: in the case of an inland letter 24 hours after proven dispatch or posting; in the case of any airmail letter 72 hours after proven dispatch or posting; and in the case of facsimile transfer at 9 a.m. on the business day of the recipient party next following its dispatch and receipt by the transmitting party of machine confirmation of successful transmission to the recipient party's receiver number.

14.3 Any indulgence granted by the Company to the Buyer and any failure by the Company to insist upon strict performance of these Conditions shall not be deemed a waiver of any of the Company's rights or remedies nor be deemed a waiver of any subsequent default by the Buyer.

14.4 The invalidity, illegality or unreasonableness in whole or in part of any of these Conditions shall not affect the validity of the remainder of such Condition or these Conditions.

14.5 The Company reserves the right to amend or replace these Conditions from time to time on giving the Buyer written notice as such.

14.6 No Contract is assignable by the Buyer without the written consent of the Company and each Contract is between the Company and the Buyer as principals but the Company may without consent assign or sub-contract all or any of its rights and obligations under a Contract.

14.7 The interpretation and application of every Contract shall be in accordance with English Law and both parties hereby agree to submit to the non-exclusive jurisdiction of the English Courts.

14.8 The parties to this Contract do not intend that any provisions of this Contract will be enforceable by virtue of the Contract's (Rights of Third Parties) Act 1999 by any person that is not a party to it.